

5. CONSULTATION, COORDINATION, AND PUBLIC INVOLVEMENT

5.1 Interrelationships

The BLM's authority over the OWEF includes FLPMA [43 United States Code (U.S.C.) 1701 et seq.], Section 211 of the Energy Policy Act of 2005 (EPAAct 05) (119 Stat. 594, 600), and BLM's Wind Energy Development Policy of December 19, 2008. The FLPMA authorizes BLM to issue ROW grants for renewable energy projects. Section 211 of EPAAct 05 states that the Secretary of the Interior should seek to have approved a minimum of 10,000 MW of renewable energy generating capacity on public lands by 2015.

5.1.1 Department of Defense

The BLM coordinates with the Department of Defense (DOD) prior to approval of ROWs for renewable energy, utility, and communication facilities to ensure that these facilities would not interfere with military training routes. On May 25, 2010, the BLM received correspondence from the Department of the Navy regarding potential military mission impacts associated with the project. The Department of the Navy requested two mitigation measures be implemented by the Proposed Action to address DOD's concerns. The first measure was to limit total turbine height to 400 feet or less in a small area along the northern edge of the project area, due to the existence of a low-level training route with a centerline to the north of the project area. The second measure relates to utilization of turbine lighting that is compatible with military night-vision goggles. The OWEF will comply with all requirements of the DOD. Mitigation measures that address these concerns are described in the Public Health and Safety Section (4.11) of this EIS/EIR.

5.1.2 Department of Treasury

Pursuant to the provisions of the American Recovery and Reinvestment Act (ARRA), as amended, the Treasury Department is authorized to make direct payments to companies that create and place in service wind and other types of renewable energy production facilities by December 31, 2012. The applicant intends to utilize investment tax credit (ITC), which will allow a credit of 30 percent of the cost of qualified property used in a wind facility. Alternatively, the applicant would also be eligible for production tax credits (PTCs), which are a per-kilowatt hour tax credit for electricity generated by a qualified renewable energy producer during the first ten years of operation.

5.1.3 U.S. Army Corps of Engineers

The U.S. Army Corps of Engineers (ACOE) has jurisdiction to protect the aquatic ecosystem, including water quality and wetland resources under Section 404 of the Clean Water Act. Under that authority, the ACOE regulates the discharge of dredged or fill material into waters of the U.S., including wetlands, by reviewing proposed projects to determine whether they may impact such resources and, thereby, are subject to Section 404's permit requirement. Throughout the Draft PA & Draft EIS/EIR process, the

BLM has provided information to the ACOE to assist the agency in making a determination regarding its jurisdiction and need for a Section 404 permit.

On January 7, 2010, the ACOE provided direction to the Applicant and BLM to run a hydrological model in order to determine the limits of various storm intervals and to conduct field verifications. The ACOE also indicated that they would take jurisdiction of the 10-year storm limits, that no permanent structures would be allowed within the 10-year flood plain, and access roads would be allowed to cross drainages, but would need to be constructed to cross at grade (no culverts). The OWEF has been designed to comply with these requirements. On October 22, 2010, the ACOE indicated that sediment retention basins would not be allowed. During a meeting between the ACOE and the Applicant and BLM that took place on November 12, 2010, the results of the hydrological model and results of preliminary jurisdictional delineation were discussed. The ACOE confirmed initial data collection was done appropriately, agreed with the approach for the jurisdictional delineation, and agreed with the results conducted to date. BLM coordinated with the ACOE on alternatives to be analyzed in this EIS/EIR in March 2011, and the ACOE's input is reflected in the Alternatives identified in Chapter 2.

5.1.4 California Department of Fish and Game

The CDFG protects fish and aquatic habitats within the State through regulation of modifications to streambeds, under Section 1602 of the Fish and Game Code. The BLM and the Applicant have provided information to CDFG to assist the agency in its determination of the impacts to streambeds, and identification of permit and mitigation requirements. The Applicant will file a Streambed Alteration Agreement with CDFG. CDFG also has the authority to regulate potential impacts to species that are protected under the CESA (Fish and Game Code Section 2050, et seq.). Through consultation with CDFG, a determination will be made as to whether the Applicant will need to file the appropriate notice, incidental take permit application, or request for memorandum of understanding, as appropriate based on impacts associated with the Proposed Action.

5.1.5 California Department of Transportation

The California Department of Transportation (Caltrans) has jurisdiction over encroachments to Caltrans facilities and related easements and ROWs. Part of the project's electrical collection would need to cross Caltrans ROW for Interstate 8 (I-8) in order to connect Site 2 (south of I-8) to the project's substation. The Applicant will be responsible for obtaining permission for this crossing and for complying with all relevant Caltrans requirements.

5.1.6 Imperial County Air Pollution Control District

The Proposed Action is located within the jurisdiction of the Imperial County Air Pollution Control District (ICAPCD), which reviews the plans and specifications for construction in the project area. The ICAPCD would assess emissions and possible air contamination resulting from construction and operational activities (e.g., road dust, windblown contaminants, and emissions from construction activities).

5.1.7 Imperial County

The County of Imperial would need to issue discretionary approvals for the construction of certain components of the project located within the County’s jurisdiction. These discretionary approvals include a Conditional Use Permit and a variance for structure heights (turbines and meteorological towers) in accordance with the requirements of the County of Imperial Land Use Ordinance (Title 9 of the Code of Ordinances). The County also has authority to issue building permits for those components of the Proposed Action located on non-federal land. Building permits issued by the County are ministerial in nature and will be issued by the County, as required, if the project complies with all applicable building code regulations. The County also has jurisdiction to issue approvals for any easements, ROWs, and or encroachment permits where County facilities are concerned.

5.2 Consultation Processes for ESA Section 7, NHPA Section 106, and Indian Tribes

5.2.1 ESA Section 7 Compliance

The USFWS has jurisdiction to protect threatened and endangered species under the Endangered Species Act (ESA) [16 U.S.C. Section 1531 et seq.]. Formal consultation with the USFWS under Section 7 of the ESA is required for any federal action that may adversely affect a federally-listed species. This consultation was initiated through a request by the BLM to initiate formal consultation and the submittal of a Biological Assessment (BA). The USFWS accepted the BA on August 8, 2011. Following review of the BA, the USFWS is expected to issue a Biological Opinion (BO) that specifies mitigation measures, which must be implemented for any protected species.

5.2.2 NHPA Section 106 Compliance

Section 106 of the National Historic Preservation Act (NHPA), as amended, through its implementing regulations codified in “Protection of Historic Properties” (36 CFR Part 800) requires federal agencies to take into account the effects of a proposed undertaking on historic properties and to afford the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment. Having determined that the proposed OWEF project constitutes an “undertaking” as defined in 36 CFR Part 800.16(y) and involves the type of activity that could affect historic properties (36 CFR Part 800.3(a)), the BLM, as lead federal agency for the project, has the statutory responsibility for compliance with provisions of Section 106 of the NHPA (36 CFR Part 800.2(a)(2)). 36 CFR Part 800.1(a) states the purpose and goal of the Section 106 process as follows:

The section 106 process seeks to accommodate historic preservation concerns with the needs of Federal undertakings through consultation among the agency official and other parties with an interest in the effects of the undertaking on historic properties commencing at the early stages of project planning. The goal of consultation is to identify historic properties potentially affected by the undertaking, assess its effects and seek ways to avoid, minimize or mitigate any adverse effects on historic properties.

The steps in the Section 106 process are briefly described below. Following the description of the steps is a summary presenting the BLM’s compliance with the process to date:

Step 1: Initiation of the Section 106 Process. The agency official shall determine whether the proposed federal action is an undertaking per 36 CFR § 800.16 and whether it has the potential to cause effects on historic properties. The agency official shall coordinate the steps of the Section 106 process with other concurrent reviews for the project and plan for involving the public in the Section 106 process. The agency official shall also identify the appropriate SHPO, Indian tribes, and other consulting parties to be included in the consultation process.

Step 2: Identification and Evaluation of Historic Properties (Cultural Resources). Properties within a project's area of potential effect (APE) are identified with input from the State Historic Preservation Officer (SHPO), Indian tribes and other consulting parties, and evaluated for eligibility to the NRHP in consultation with the SHPO. See 36 CFR § 800.4. BLM applies NRHP criteria for eligibility for listing found at 36 CFR part 60.4, in conformance with the Secretary of the Interior's Standards and Guidelines for Evaluation (48 Federal Register 44723-44726). In general, NRHP eligibility criteria include:

“The quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

- A. That are associated with events that have made a significant contribution to the broad patterns of our history; or
- B. That are associated with the lives of persons significant in our past; or
- C. That embody the distinctive characteristics or a type, period, method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- D. That have yielded, or may likely yield, information important in prehistory or history.”

Step 3: Assessment of Effects. BLM determines whether or not the undertaking will affect historic properties listed in or eligible for the NRHP (36 CFR § 800.4(d)). BLM must seek concurrence from the SHPO, or Tribal Historic Preservation Officer (THPO) when appropriate, if it determines that no historic properties will be affected. When BLM determines that historic properties will be affected, BLM must assess whether such effects will be adverse through by applying the criteria outline at 36 CFR § 800.5(a)(1). “Effect” is defined in the regulations as an “alternative to the characteristics of a historic property qualifying it for inclusion in or eligibility for the National Register” (36 CFR § 800.16(i)). An effect is deemed to be adverse if when the effect may “alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling or association” (36 CFR § 800.5(a)(1)).

Step 4: Resolution of Adverse Effects. Through consultation with the SHPO, Indian Tribes, other consulting parties, and the ACHP, if they elect to participate in Section 106 consultation (which they have for the OWEF), BLM will seek to resolve potential adverse effects of the proposed undertaking through a Memorandum of Agreement (MOA) or Programmatic Agreement (PA) (36 CFR § 800.6). The purpose of consultation at this phase of the process is to develop treatment measures to avoid, resolve, or minimize potential adverse effects to historic properties, which will be implemented through the MOA or PA. As explained in Section 4.4, the BLM and other consulting parties have determined that an MOA is appropriate for the OWEF. An MOA often includes a treatment plan that takes into account the effects on NRHP-eligible or listed resources, depicts the APE, discusses reporting requirements, addresses

discoveries and unanticipated effects, specifies curation requirements, and provides several administrative provisions. Consulting parties, including Indian tribes, and other parties as appropriate, are invited to participate in this consultation and the development of the MOA, and would typically be invited to sign the MOA as concurring parties. BLM must notify the ACHP of its adverse effect determination and intention to resolve such adverse effects through an MOA or PA. ACHP may elect to participate in consultation for the MOA or PA. The ACHP has elected to participate in consultation for the OWEF; therefore, the BLM, SHPO, and the ACHP, must all sign the MOA for it to be executed.

Upon receipt of the OWEF plan of development (POD), the BLM followed the consultation requirements outlined within the BLM's *Protocol Agreement with the [California] State Historic Preservation Office* (BLM-SHPO, 2007) and its *Supplemental Procedures for Solar and Wind Power Generation Applications: A Cultural Resources Amendment to the Protocol* (BLM-SHPO 2008). This required that the BLM follow the procedures as outlined within the 2008 *Protocol Amendment* and wait to consult formally with SHPO until such time as a threshold event was reached, in this case the level of complexity of the project extended beyond the scope of the California Statewide Protocol Agreement. While informal consultation with SHPO staff on the proposed project began in early 2010, consultation was formally initiated by the BLM by letter on March 22, 2011, by a letter stated the BLM's conclusion that the OWEF project had reached a level of complexity that extended beyond the scope of the *Statewide Protocol Agreement* and stated its desire to initiate formal consultation. The letter also summarized the proposed project, the status of the EIS/EIR, the status of cultural resource studies and the status of consultation with Indian tribes.

With respect to planning for public involvement in the Section 106 process, the December 22, 2010, Notice of Intent published in the Federal Register for the OWEF project stated that the BLM would use and coordinate the NEPA commenting process to satisfy the public involvement process for Section 106 of the NHPA as provided for in 36 CFR 800.2(d)(3). Chapter 4.4 and Chapter 5.2 of the Draft EIS/EIR discussed the Section 106 process and this information has been updated for the Final EIS/EIR. A copy of the draft Section 106 Memorandum of Agreement (MOA) which outlines the agency's effects determinations and proposed measures to resolve the adverse effects is included as Appendix R to this document.

Letters from the BLM were sent to Indian tribes and one non-federally recognized tribe dated February 4, 2010, informing them about the application submitted by Ocotillo Express LLC (Applicant) for a right-of-way (ROW) to conduct wind testing at the project site and to develop a wind energy generation facility near Ocotillo, California. The letters provided notification for both of the proposed projects, explained the role of the BLM and offered an invitation to the Tribes to consult in a government-to-government manner pursuant to the Executive Memorandum of April 29, 1994, and other relevant laws and regulations including Section 106 of the NHPA. The letters also requested assistance from the tribes identifying any issues or concerns about the two proposed projects, including the identification of sacred sites and places of traditional religious and cultural significance which might be affected by the proposed projects and needed to be taken into consideration by the agency.

The BLM sent follow up letters to 14 Indian tribes and one non-federally recognized tribe dated July 28, 2010, about the proposed wind development facility and invited them to enter into government-to-government and Section 106 consultation. The letters provided an update on the status of the environmental review process and cultural resources inventory planning. Attached to this letter was a

copy of the Class II & III Inventory Research Design and Work Plan for their review and comment. These letters also requested assistance from the Tribes in identifying any issues or concerns they might have about the proposed project, including the identification of sacred sites and places of traditional religious and cultural significance that might potentially be affected by the project. The letters specifically asked that tribes let the agency know about areas of concern so that the cultural resources inventory could be adapted to include them. Finally, the letters notified tribes that Tierra Environmental (the archaeological contractor) would be contacting them to determine if they had tribal representatives whom would like participate in the inventory process.

Other consulting parties identified by the BLM to be invited to participate in the Section 106 consultation process include the ACOE, Pattern Energy (Ocotillo Express LLC), the County of Imperial, and the DOE. The DOE was subsequently eliminated from the Section 106 process at the request of DOE and Pattern due to the project no longer being considered for loan guarantee from the DOE. When BLM made an adverse effect determination the ACHP was also invited to participate in Section 106 consultation, including consultation related to the resolution of adverse effects (see below).

As part of the identification and evaluation of historic properties under Section 106, a literature review, record search, built environment survey and archaeological inventory was commissioned to identify historic properties within the OWEF APE. A Native American Heritage Commission Sacred Lands File search was also acquired which included a list of tribal individuals with whom to consult regarding the project and potential effects to sacred sites. The BLM utilized and expanded that list and initiated Section 106 consultation with Indian tribes to ensure that ethnographic resources and places of traditional cultural or religious concern are also taken into account (see Section 5.2.3 below).

Tribes were invited to review the inventory work plan and research design, participate in the fieldwork and provide feedback on the results of inventory. The BLM has continued to seek input from the tribes and from other consulting parties during the identification and evaluation phase of the Section 106 process, by sending a number of follow up informational letters, holding both group and individual meetings with various parties and conducting field visits to visit the OWEF project area and the cultural resources located within it. Formal consultation with the SHPO about this project, the inventory status and survey methodology was initiated on March 22, 2011.

During the inventory process, at the request of the BLM, the applicant worked closely with the archaeological contractor to redesign the project to avoid direct physical impacts to identified archaeological sites. The applicant also eliminated approximately 3000 acres of the original project area due to the sensitive nature of cultural resources found there. These two actions resulted in the complete avoidance of physical effects to the archaeological resources identified during the archaeological survey. The draft cultural resource reports were made available to consulting parties upon completion for their review and input.

To date, the Section 106 consultation process has resulted in the identification and evaluation of one tribally identified traditional cultural property (TCP), 287 archaeological resources and 245 historic built environment resources within the APE. Eligibility recommendations were provided by the archaeological contractors; of the 287 archaeological resources, 127 are recommended eligible (one of these, the Spoke Wheel Geoglyph, is already listed on the NRHP) under one or more of the NRHP criteria, and of the 245 built environment resources 3 were recommended eligible under additional criteria and had already been

determined eligible including Old Highway 80, the San Diego Eastern and Arizona Railway and the Desert View Tower. The BLM has concurred with these recommendations and has provided them to the consulting parties including Tribes for input. The BLM has also found that would be no effect to the values that make the three historic built environment resources eligible to the NRHP should the OWEF or any alternatives be approved. With respect to the TCP, as explained below and in Sections 3.4 and 4.4, the BLM has assumed that the portion of it within the APE is eligible for the NRHP for purposes of Section 106.

As part of step three of the Section 106 process, the BLM applied the criteria of adverse effect and in November 2011 made its initial proposed finding that the Spoke Wheel geoglyph would be adversely affected by the OWEF due to the introduction of visual, audible or atmospheric elements that are out of character with the property and would alter its setting. This finding was provided to the consulting parties for a 45 day consultation period along with a draft MOA to document how the agency would propose to potentially avoid, minimize and resolve the adverse effects to the Spoke Wheel geoglyph. That earlier draft of the MOA also included provisions for a Historic Properties Treatment Plan, and a comprehensive Plan for Archaeological Monitoring, Post-Review Discovery, and Unanticipated Effects.

During the consultation period some Tribes provided information about a TCP that encompasses both the project site and a large area surrounding it. The Tribes assert that that this TCP should be included in the identification and evaluation process under Section 106 and NEPA.

During this time, the BLM held additional group Section 106 meetings to discuss its proposed eligibility determinations, findings of effect and ways to minimize, avoid and resolve the adverse effects as discussed in the draft MOA. The BLM also raised the issue of the TCP and began discussions on it with consulting parties including tribes. The BLM continued to meet individually with Tribes in government-to-government meetings to discuss these topics as well. While the Section 106 consulting party group meetings provide a forum for presenting project updates, presenting the results of cultural resources studies, and open discussion and sharing of ideas about information and concerns with the proposed undertaking, the individual government-to-government meetings with Indian tribes provide a forum for tribes to share information and concerns in an individual context, apart from other consulting parties. As a result of its consultations with Tribes and other parties, the BLM revised its original proposed determinations and findings to assume that the portion of the TCP within the project area is eligible for the NRHP. Using this assumption, the BLM found that there would be an adverse effect on those portions of the TCP and any potentially contributing resources within the APE related to any of the action alternatives for the OWEF. The BLM's revised determinations of eligibility and findings of effects have now been shared with the consulting parties including Tribes for their review and comment for an additional 30 days.

Step four of the Section 106 process requires the agency to consult on the resolution of the adverse effect and seek agreement on ways to avoid, minimize or mitigate the effects of the project should it be approved. Throughout the consultation process the BLM requested information from consulting parties about how the project could be modified to take those effects into account. As stated earlier, the BLM encouraged the applicant early on to: (i) redesign the OWEF to avoid physical effects; and subsequently to (ii) take into consideration views that had been shared about the cultural importance of and relationships between sites within the project area, such as the Spoke Wheel Geoglyph and viewsheds towards culturally significant geologic features such as Signal, Sugarloaf and Coyote Mountains. Based on these

recommendations, the OWEF was redesigned early on in the process to avoid physically affecting all cultural resources identified during the surveys and inventories conducted on the project site. Most recently, a revised project configuration has been proposed and is currently under consideration that removes 43 turbines from the project footprint to avoid obstruction of the main viewsheds from the Spoke Wheel Geoglyph (the Refined Project). Additionally, based on information from Tribes about the sacred, religious, and cultural significance associated with cremations, the Refined Project also removes turbines from areas in close proximity to known cremations and other sensitive resources.

The BLM has identified the Refined Project as its preferred alternative. The current draft of the Section 106 MOA which has been distributed to consulting parties and is under consultation includes various measures that have been proposed by the agency and consulting parties including those that will: physically protect tangible sites within the project area through development of a robust construction and long-term monitoring plan, protect significant viewsheds through the elimination of turbines, and allow continued traditional use of the project area through development of a Tribal Access Plan to accommodate tribal ceremonial or other traditional uses of the TCP and other identified sacred sites to the extent practicable, permitted by law, and not clearly inconsistent with essential agency functions. The MOA also provides for off-site mitigation measures such as tribal language preservation programs and public education and outreach. The current draft of the MOA is included with this Final EIS/FEIR and is located in Appendix R. The BLM is continuing to consult with consulting parties on the draft MOA and anticipates a final executed document on or about April 30, 2012, which will conclude the Section 106 process.

5.2.3 Tribal Consultation

The BLM consults with Indian tribes on a government-to-government basis in accordance with several authorities including NEPA, the NHPA, the American Indian Religious Freedom Act (AIRFA), and Executive Order 13175. Under Section 106 of the NHPA, the BLM consults with Indian tribes as part of its responsibilities to identify, evaluate, and resolve adverse effects on historic properties affected by BLM undertakings. To date, the BLM has identified and invited 14 Indian tribes and one non-federally recognized Indian tribe to consult on the OWEF, including the Barona Band of Diegueno Indians, Campo Band of Mission Indians, Cocopah Indian Tribe, Ewiiapaayp Band of Kumeyaay Indians, Fort Yuma Quechan Indian Tribe, Jamul Indian Village, Kwaaymii Laguna Band of Indians, La Posta Band of Kumeyaay Indians, Manzanita Band of Kumeyaay Indians, Mesa Grande Band of Mission Indians, San Pasqual Band of Diegueno Indians, Santa Ysabel Band of Diegueno Indians, Sycuan Band of Kumeyaay Nation, Torres-Martinez Desert Cahuilla Indians, and Viejas Band of Kumeyaay Indians.

The BLM invited federally recognized Indian tribes to consult on the OWEF on a government-to-government basis at the earliest stages of project planning. Letters from the BLM were sent dated February 4, 2010, informing them about the applications submitted by the Applicant for ROWs to conduct wind testing and to develop a wind energy project at the project site, explaining the BLM's role, and inviting them to consult in a government-to-government manner pursuant to the Executive Memorandum of April 29, 1994, and other relevant laws and regulations including Section 106. As explained above, the letters also requested assistance identifying any issues or concerns about the two proposed projects, including the identification of sacred sites and places of traditional religious and cultural significance that might be affected by the projects.

The BLM sent follow up letters to tribes on July 28, 2010, reiterating its invitation for them to enter into government-to-government and/or Section 106 consultation. This letter also: (i) provided an update on the environmental review process and cultural resources inventory; (ii) included a copy of the Class II & III Inventory Research Design and Work Plan; (iii) reiterated the BLM’s request for assistance identifying tribal issues or concerns, including the identification of sacred sites and places of traditional religious and cultural significance, so that the cultural resources inventory could be adapted accordingly; and (iv) notified the Tribes that the archaeological contractor would be contacting them to determine if they had tribal representatives whom would participate in the inventory process.

Table 5-1 below summarizes the activities and good faith efforts that have been undertaken by the BLM since February 2010 as part of its tribal consultation obligations, including: written correspondence; meetings for the purposes of information and idea exchange; cultural resource site visits; and responses to information requests. Individual government-to-government meetings are discussed separately below.

Date	Type	Content
February 4, 2010	Correspondence	BLM letters to Indian tribes informing them about applications by the Applicant for ROWs to conduct wind testing and to develop a wind energy generation facility near Ocotillo, California. The letters provided notification for both of the proposed projects, explained the role of the BLM, and offered an invitation to the Tribes to initiate or continue government-to-government consultation pursuant to the Executive Memorandum of April 29, 1994, and other relevant laws and regulations including Section 106 of the NHPA. The letters also requested assistance from the Tribes identifying any issues or concerns about the projects, including the identification of sacred sites and places of traditional religious and cultural significance that might be affected by the proposed projects.
July 28, 2010	Correspondence	BLM letters to Indian tribes stating that letters were previously sent in February 2010 to introduce the proposed project and the BLM was inviting them to enter into government-to-government and/or Section 106 consultation. The letters provided an update on the status of the environmental review process and cultural resource inventory planning and extended an invitation to initiate or continue Section 106 or government-to-government consultation. Attached to this letter was a copy of the Draft Class II & III Archaeological Resources Inventory Research Design for review and comment. The letters requested assistance from the Tribes identifying any issues or concerns they might have about the proposed project, including the identification of sacred sites and places of traditional religious and cultural significance which could be affected or that are near the OWEF’s APE. The letters also requested that if areas of Tribal concern exist within the Project site that the notified tribes let the BLM know as soon as possible so that the cultural resources inventory could be adapted to include them.
July 28, 2010	Document	Provided Indian tribes copies of the Draft Class II & Class III Archaeological Resources Inventory Research Design for review and comment.
November 12, 2010	Correspondence	In an effort to better facilitate both Section 106 and government-to-government consultation, the BLM sent letters to Tribes providing overview maps of all the renewable energy projects (including the OWEF) in application, under analysis, or approved within the BLM’s El Centro BLM Field Office. The letters invited Tribes to meet with the BLM to discuss and consult on these projects, including the OWEF.
March 22, 2011	Correspondence	BLM letter to the SHPO stating that the BLM has concluded the OWEF has reached a level of complexity that may extend beyond the scope of the <i>Statewide Protocol Agreement</i> and states a desire to initiate formal consultation with the SHPO. The letter also summarizes the proposed project, the status of the EIS/EIR report, the status of cultural resource studies, and the status of tribal consultation.
April 8, 2011	Correspondence	BLM letters to Tribes again inviting them into government-to-government consultation and consultation pursuant to Section 106 and other relevant laws and regulations. The letters also invited Tribes to a May 12, 2011, meeting and field visit to discuss the preliminary survey results, and stated that the BLM would be happy to consult with them on a government-to-government basis should they so desire.
May 12, 2011	Section 106 Consulting	Group meeting to present and discuss preliminary archaeological survey results and to present avoidance options for sites identified to date. The meeting included a field visit to the

Table 5-1. Significant Events in the BLM Consultation Process		
Date	Type	Content
	Parties Meeting	Spoke Wheel Geoglyph (CA-IMP-6988), a large lithic scatter (temp designation SAC-003) and a ceramic scatter (temp designation AMC-004).
July 27, 2011	Correspondence	BLM letter to Viejas Tribal Chairman, Mr. Anthony Pico, asking to continue the government-to-government consultation process for the proposed project pursuant to Section 106 of the NHPA and other relevant laws and regulations. The letter also sought to coordinate a meeting and field visit with Viejas prior to August 15, 2011, as requested in the July 13, 2011, and July 14, 2011, letters received from Viejas.
August 11, 2011	Correspondence	BLM letters to Tribes providing an update on the environmental review process and the status of the cultural resource inventory for the proposed project. The letters also express the desire to continue consultation to take into account effects on historic properties to which Tribes may attach religious or cultural significance as required by Section 101 and the implementing regulations of Section 106 NHPA. The letters invited Tribes to public meetings on the Draft EIS/EIR scheduled for August 24, 2011, in El Centro and August 25, 2011, in Ocotillo. In addition, the letters stated that the BLM understands through consultations that there are resources of particular concern to Tribes within the overall project area or within the proposed project's viewshed, and requests assistance in further defining these resources, their significant values, and whether those values may be directly or indirectly affected. Finally, the letters stated that the BLM seeks to understand if there are ways that the proposed project could be further modified so that any potential effects to significant cultural resources could be avoided and/or minimized, and request input about whether there are other measures that could be taken to lessen or resolve any potential impacts.
September 14, 2011	Correspondence	BLM letters to Tribes providing an update on the environmental review process and the status of the cultural resource inventory for the proposed project, and inviting to engage in government-to-government consultation. The primary purpose of the letters was to continue consultation to identify and take into account effects on historic properties to which Tribes may attach religious or cultural significance as required by Section 101 and the implementing regulations of Section 106 NHPA. The letters provided an update of on the status of archaeological fieldwork and the participation of tribal consultants. The letter also stated that through the BLM's government-to-government consultations at least one Tribe felt there was a need for an ethnographic study and, as result, the BLM requested input on such a study, and also requested input about whether there are measures that could be taken to lessen or resolve potential impacts from the proposed project. Finally, the letter summarized the examination of possible cremated human remains by San Diego medical examiner Dr. Madeleine Hinkes, and stated that all archaeological sites including those with cremations are outside of direct physical impact areas and would not be physically affected by any project component due to project reconfiguration to protect resources.
September 29, 2011	Correspondence	BLM Letter to Cocopah Indian Tribal Chairperson, Ms. Sherry Cordova, to continue consultation process with the Cocopah, updating them on the status of the Archaeological Survey Report (ARS) and upcoming fieldwork and to address issues presented in an August 12, 2011, letter from Vice Chairman Dale Phillips. The letter addressed cremation issues, stated that the BLM needs to understand if there are other tribal resources that could be indirectly affected, such as properties of traditional religious and cultural significance to the Tribe. The letter provides a list of steps that have been taken to reduce impacts as a result of input from the Cocopah and other Tribes, and asks for input on how an ethnographic study might be undertaken.
October 5, 2011	Correspondence	BLM letter to Viejas Tribal Chairman, Anthony R. Pico, acknowledging receipt of his September 27, 2011, letter dated September 27, 2011, and informing Viejas that any comments received from them on the Draft EIS/EIR by November 4, 2011, would be fully considered in recognition of the BLM's obligation under Section 106 and direction of the Executive Memorandum of April 29, 1994.
October 5, 2011	Correspondence	BLM letters to Tribes providing Draft ASR that was prepared to support, in part, the BLM's obligation to identify historic properties within the proposed project's APE pursuant to Section 106. The letters also requested opportunities to discuss the ASR before November 4, 2011, and also to receive comments on the Draft EIS/EIR by that date. The letters reiterated the BLM's interest in receiving information about tribal resources that could be affected by the proposed project, such as properties of traditional religious and cultural significance to the Tribes that may have landscape-level characteristics that would not necessarily be captured by cultural resources surveys. Finally, the letters asked that meetings and/or site visits be scheduled before October 29, 2011, to discuss conclusions in the ASR and go over potential impacts of the proposed project on cultural resources.

Table 5-1. Significant Events in the BLM Consultation Process

Date	Type	Content
October 5, 2011	Document	Provided Indian tribes copies of the Draft ASR for review and comment.
November 1, 2011	Correspondence	BLM letter to Viejas Tribal Chairman, Anthony R. Pico, to provide additional time to the Viejas to review and comment on the ASR until December 9, 2011. Additionally, the letter also committed to considering any comments on the Draft EIS/EIR that the tribe might submit on or before December 9, 2011, in recognition of the BLM's obligation under Section 106 and direction of the Executive Memorandum of April 29, 1994. In addition to feedback on the ASR and the Draft EIS/EIR, the letter also reiterated the BLM's interest in receiving information about tribal resources that could be indirectly affected by the Proposed Project, such as properties of traditional religious and cultural significance to the Tribes that may have landscape-level characteristics that would not necessarily be captured by cultural resources surveys.
November 17, 2011	Correspondence	BLM letter to Viejas Tribal Chairman, Anthony R. Pico, expressing desire to continue ongoing government-to-government consultation pursuant to Section 106, and to meet to further discuss the Draft ASR.
November 18, 2011	Correspondence	In an effort to continue facilitating both Section 106 and general government-to-government consultation, the BLM sent letters to Tribes providing updated overview maps of all the renewable energy projects (including Ocotillo Express) in application, under analysis, or approved within the BLM's El Centro Field Office. The letters invite Tribes to meet with the BLM to discuss and consult on these projects.
November 23, 2011	Correspondence	BLM letter to Indian tribes requesting continued government-to-government consultation and presenting the BLM's preliminary proposed eligibility determinations and finding of effect. The letter also provided a draft MOA based on that eligibility determination and sought the Tribes' input on the findings and determinations of effects. The letter provided the Tribes with a 45-day response period to the content of the MOA and invited the Tribes to attend group Section 106 meetings to be held on December 14, 2011, and January 5, 2011, where participants were invited to provide feedback on those materials and any other concerns with respect to the proposed action. The letters also made available the confidential appendices of the Draft ASR. Lastly, the BLM offered to meet individually with Tribes on a government-to-government basis at any time to discuss this determination, the initial draft MOA, and/or any other issues.
November 23, 2011	Document	Provided Indian tribes copies of the Draft MOA for review and comment.
November 30, 2011	Correspondence	BLM letter to Mr. Reid Nelson, Director, Office of Federal Agency Programs, ACHP, stating that the proposed project will have an adverse effect on historic properties and that the BLM is proposing to execute an MOA to resolve those effects, and seeking to determine whether the ACHP would like to participate in consultation and join the BLM, SHPO, and other consulting parties in consultation to develop the MOA for the OWEF. The letter provided status updates of the Draft EIS/EIR review process, cultural resources studies, and consultation with Native American Tribes. The letter also provided the BLM's preliminary Section 106 Findings and Determinations to date, and invited the ACHP to participate in Section 106 meetings scheduled for December 14, 2011, and January 5, 2012.
November 30, 2011	Correspondence	BLM letter to Mr. Milford Wayne Donaldson, SHPO, stating that the proposed project will have an adverse effect on historic properties and providing an initial draft MOA to resolve those effects for the SHPO's review and consideration. The letter provided status updates for the Draft EIS/EIR review process, cultural resources studies, and consultation with Native American Tribes. The letter also provided the BLM's preliminary Section 106 Findings and Determinations to date, and invited the SHPO to participate in Section 106 meetings scheduled for December 14, 2011, and January 5, 2012.
December 9, 2011	Correspondence	ACHP letter to Mr. Robert Abbey, Director, BLM, stating that the ACHP has decided to accept the BLM's invitation to participate in Section 106 consultation for the proposed undertaking.
December 14, 2011	Section 106 Consulting Parties Meeting	Group meeting to discuss and obtain input on the BLM's determinations of eligibility, findings of effect, and the content of the MOA.
December 22, 2011	Correspondence	BLM Letter to Viejas Tribal Chairman, Anthony R. Pico, responding to the Tribe's request for information specific to the OWEF project as well as general information about renewable energy projects in Southern California, particularly those in the BLM's desert district.

Table 5-1. Significant Events in the BLM Consultation Process		
Date	Type	Content
January 5, 2012	Section 106 Consulting Parties Meeting	Group meeting to discuss and obtain input on the BLM's determinations of eligibility, findings of effect, and the content of the MOA.
January 10, 2012	Correspondence	BLM Letter to Quechan Tribal Council Member, Virgil Smith, requesting help in scheduling a government-to-government meeting with the Quechan Tribal Council.
January 27, 2012	Correspondence	BLM Letter to Indian tribes requesting continued government-to-government consultation, providing an update on the project, and inviting tribal members to two upcoming Section 106 group meetings being held on February 9, 2012, and March 7, 2012. The purpose of the meetings was stated to provide information on recent developments with the project and to seek input on treatment and mitigation to be included in the MOA. The letter also indicates that the date targeted for the Record of Decision (ROD) has been modified from February to May 2012 to allow for continued consultation. BLM indicated that the Applicant will present a reduced footprint project that specifically addresses some of the concerns raised by the Tribes during the 106 process. Maps of the proposed turbine reductions were included with the letters and feedback was requested. The letter concluded with an invitation for additional site tours for those who are interested and requested that convenient dates for the Tribe be suggested. The letter was accompanied by a milestone schedule that shows key upcoming dates for the project with respect to the BLM's evaluation of the Project's ROW application and continuation of the 106 process.
February 9, 2012	Section 106 Consulting Parties Meeting	Group meeting to obtain input on avoidance ideas, treatment and mitigation to be included in the MOA. Project applicant presentation of 112 turbine reduced project footprint that sought to address concerns raised during Section 106 consultation. Review of project milestone schedule.
February 13, 2012	Correspondence	Email to Indian tribes and consulting parties inviting them to attend a meeting on either March 12 or another date in addition to the meeting being held on March 7 due to the fact that some representatives indicated that they were not being available on March 7. Additionally, the email re-extends an invitation for further site tours to visit archaeological sites and/or proposed facilities' locations. Those interested were encouraged to contact the BLM and provide dates that they are available.
February 27, 2012	Correspondence	BLM Letter to Indian tribes requesting continued government-to-government consultation, providing an update on the project and inviting tribal members to two upcoming Section 106 group meetings being held on March 7, 2012, and March 12, 2012. The letters also provided the BLM's revised Section 106 findings and determinations and the revised MOA for a 30 day consultation period. The purpose of the meetings was stated to discuss the revised MOA and to seek further input on it and its Appendices including the treatment and mitigation measures provided for in the HPTP. The letter also indicates that the dates targeted for the Record of Decision (ROD) have not been modified with the delay in publication of the Final EIS. The letter concluded with an offer to meet individually with Tribes on a government-to-government basis at any time to discuss the revised Section 106 determinations, the revised draft MOA, and/or any other issues.
February 27, 2012	Document	Provided Indian tribes copies of the revised Draft MOA for review and comment.

In addition to the Section 106 consulting parties meetings identified in the table above, numerous individual government-to-government meetings have taken place between the BLM and individual tribes. While the Section 106 consulting party group meetings provide a forum for presenting project updates, presenting the results of cultural resources studies, and open discussion and sharing of ideas about information and concerns with the proposed undertaking, the individual government-to-government meetings with Indian tribes provide a forum for tribes to share information and concerns in an individual context, apart from other consulting parties and about other issues not necessarily related to the Section 106 process. The names of tribes and the dates of the meetings as well as the names of some the tribal members present during these meetings are documented in Tables 5.2 through 5.4. Further description of the information and major concerns brought to light through the correspondence as well shared during group and individual meetings with tribes is discussed below. Following that summary is a discussion of the actions that have been undertaken during the consultation process to address tribal concerns. The

potential measures proposed to respond to tribal views with respect to the proposed project, should it be approved, are also discussed.

Consultation with Indian tribes, and discussions with tribal organizations and individuals has revealed very strong concern about the project and the impacts it would cause under all of the build alternatives. They have stated during meetings and in written correspondence their perception of the importance and sensitivity of cultural resources within and near the OWEF project area. Many Tribes have told the BLM that they attach religious and cultural significance to the project area and the broader landscape and some have proposed that the project area is part of a larger TCP that encompasses the project site and surrounding area. They view the high density of resources as interrelated and consider the area as a whole to be sacred. During consultation, multiple Tribes expressed their direct opposition to the project including the Campo Band of Mission Indians, Kwaaymii Laguna Band of Indians, Manzanita Band of Kumeyaay Indians, Quechan Indian Tribe, San Pasqual Band of Diegueno Indians and the Viejas Band of Kumeyaay Indians. The Southern California Tribal Chairmen's Association has also sent the BLM a resolution in opposition to the OWEF project (No. 2012-02), dated January 24, 2012.

The SCTCA's resolution states that they are opposed to the project due to the fact that it "lies within a rich landscape that is culturally and religiously significant to the SCTCA member tribes and if constructed, the proposed project will cause irreparable harm to those tribes and resources of great cultural value to them." Their earlier resolution, No. 2011-13 dated November 22, 2011, further explains that:

"[T]he SCTCA member Tribes have continuing cultural and religious associations with the lands subject to effect by the OWEF including their natural and cultural features, their plants and animals, the ancestral human remains interred therein, and the vistas across the valley and into the surrounding foothills and mountains..."

In November 2011, the Viejas Band of Kumeyaay Indians provided the BLM with Tribal Council Resolution No. 112311B which stated that the project area is encompassed by a TCP that should be recognized as an Indian Sacred Site under Executive Order 13007 and should also be considered eligible for listing on the NRHP under Section 106. They provided a map with an outline of its proposed boundaries.

Specific to the TCP discussion, some Tribes have indicated that certain geological features including Coyote Mountain and Signal Mountain (Little *Wii Shpaa* or Little Eagle Mountain in the Cocopah language), which are outside the ROW application, and Sugarloaf Mountain, which is within the ROW application area, hold significant value. Specifically, concern about impacts to the view shed towards important cultural locations, as well as impacts to the viewshed from the Spoke Wheel Geoglyph and other geoglyphs and sites of traditional and religious importance. The Cocopah Indian Tribe has expressed in government-to-government meetings that Signal Mountain is a sacred corner marker in their belief system that the area from the project to Signal Mountain was part of a corridor used by the Cocopah people, and that Signal Mountain forms part of their strong connection to the land and power is received from it.

A letter from Viejas Tribal Chairman Anthony Pico dated December 27, 2011, to State Director Jim Kenna explained:

“The proposed project area is a culturally and religiously significant landscape valued by the Kumeyaay, Cocopah and Quechan peoples. It is rich with evidence of our use and occupation, and we maintain a spiritual connection to the landscape, its plants, animals, views and natural features which include not one but three spiritually significant mountains: Coyote Mountain, Signal Mountain and Sugarloaf Mountain.

Our knowledge of who we are and where we come from is passed along in songs, stories and ceremonies that originate from and reference the Ocotillo area. We tell those stories, sing those songs and practice those ceremonies today. The project area is a teaching place, where we teach the youth our traditions and spiritual practices. Our concerns are about much more than simply avoiding archaeological sites, which were identified by a paid archaeological consultant. Proper consultation and analysis of this area, had it been conducted, would have and should have included tribal views and values. To date those views have been ignored and no effort has been made to correct that. This landscape, given that it is the origin of certain songs and ceremonies, and that it contains places integral to our language and stories, is invaluable to us. The proposed project in each of its forms, including a reduction in turbine number, will have serious and irreparable impacts to this landscape and to the tribes' cultural and religious practices. There is no mitigation that can make up for that. We are not opposed to renewable energy; we are opposed to this project in this place...”

Vice-President Ronda Aguero of the Quechan Indian Tribe in a letter to the BLM dated December 9, 2011, states that the cultural resources found in the OWEF project area:

“[R]eflect the repeated, annual migration of the Quechan, and other Yuman Tribes, as they exercised cultural, spiritual/religious, and utilitarian practices in that area. The OD (Ocotillo Desert) is part of the traditional Western Corridor for the Quechan Tribe and it is also an area of transition between the Quechan, Cocopah, Kumeyaay and Kamia/Desert Kumeyaay.”

Her letter goes on to also explain:

“The area of the OD holds tremendous spiritual essence for the Quechan Tribe. The APE lies at the bottom of Coyote Mountain (Carrizo Mountain), which is an important cultural component to the Quechan cosmology. The importance of that mountain is recounted and held sacred in our Creation Story, songs, and other oral traditions. To allow a project of such magnitude to be erected next to one of our sacred sites-which helps form our identity as Quechan-would be a desecration to our culture and way of life.”

The Manzanita Band of Kumeyaay expressed their concerns about the OWEF project to Secretary of the Interior Ken Salazar in the following way by letter dated September 29, 2011, from Chairman Leroy Elliott:

“We respectfully request you to consider that the Kumeyaay people do not record or maintain our history in books and libraries as the white man culture does. We Native Americans record our history on the land where we lived, at the sacred sites where we prayed, and in the communities where we coexisted in harmony with the cultural and environmental landscape. Our people have maintained this way for ten thousand years and it is only in the past two hundred years that we were forced to abandon our way of life as a means of survival....

The vast majority of our heritage history evidencing that our people lived here in the region for over 10 millenniums is now gone due to the development of these prime real estate locations.. All that remains of our history lies in the few remote areas of McCain Valley, Jacumba, and Ocotillo.....

It is on this land in McCain Valley, Jacumba, and Ocotillo where our ancestral people lived, worked, worshiped, sang, danced, and died. It is on this land that our people were cremated ceremoniously and our family bones are placed undisturbed on the land, hopefully for all time. Now, approval of your three priority projects will destroy in one generation what took hundreds, even thousands of generations to establish... All for technology that could well be antiquated within just one twenty-year generation. Let us not rush ahead be so foolish. McCain Valley, Ocotillo, and Jacumba, are all three Traditional Cultural Properties and the last of our Kumeyaay major heritage sites. We request that Cultural Conservation Easements be establish so that the general public has restricted access and these sacred communities can be again preserved for our Native citizens to ceremonially enjoy without energy project structures...

Placing wind turbines and transmission lines between your described and limited archaeological sites desecrates the ancestral communities that were established and in practice long before your written history. Using your science to define and describe our historic cultural communities and spiritual concepts is another example of how your government dishonors ours. These Native American homelands are Traditional Cultural Properties that are cherished and should be protected..."

In a letter to BLM Archaeologist Carrie Simmons, dated May 16, 2010, Ms. Carmen Lucas of the Kwaaymii Laguna Band of Indians provided a list of her concerns regarding the preservation and protection of cultural resources within the desert in the face of increasing renewable energy development. She asked that among other things, "the small fragmented remains (to include Human Remains) that tell the prehistory of the people who knew how to live and move with the rhythm of this environment for thousands of years without destroying it not be impacted", and that "the intangible view sheds that help tell the sacred legends not be obstructed or impacted."

In a letter to BLM El Centro Field Manager Vicki Wood, dated March 23, 2007, on the meteorological towers proposed for wind testing in the OWEF area, Ms. Lucas provided comments that the "visual quality and the essence of those properties cannot be mitigated and the public is better served if such places are left alone and preserved for future generations." In her letter, Ms. Lucas also stated concern that should the testing project be allowed, the area would fail to "retain any of those special places that one goes to experience the sense of discovery, or to visit their creator and to hear the legends of their ancestors." Further, Ms. Lucas stated "It should be understood that what makes up the sacred can and most often is the visual quality and the quietness that is often part of that visual quality of place" and that "the visual impact of the Wind Hunter Ocotillo Met Tower will have a destructive adverse effect on the Intangible Cultural Resource."

To support her concerns, Lucas shared the legend of *Huta-pah*, which tells the story of a father's cremation ritual, and the journey his son (*Huta-pah*) took to reunite his father's heart with the desert valleys and mountains nearby. The legend, relayed to Mary E. Johnson by Maria Alto of the Laguna

Band of Indians of Laguna Mountain (ca. 1914), was passed on to Ms. Lucas by her father Tom Lucas (Ms. Alto's son). Mr. Lucas explained Coyote Mountain is where *Huta-pah* carried his father's heart. Recently, as part of the comments provided on the DEIS/DEIR, Ms. Lucas shared another document, one that she had prepared titled *Wiipuk Uun'Yaw = Desert Trails A Life Style of the Old Ones*. It expressively summarized the continued traditional use of the project area and the surrounding region through a description of the stories and knowledge she had accumulated over the years that had been passed on to her from her ancestors and knowledge she had gained through interacting with the resources and the tribal people who still utilized the project area.

As indicated by the discussion above, in addition to sharing information about the TCP and the connected nature of the cultural resources within and beyond the project area, several Tribes have indicated that they attach sacred, religious, and cultural significance to the cremations/burials that have been identified within the APE for the project. The letter dated December 9, 2011, from the Vice President of the Quechan Indian Tribe states that “[b]y virtue of the fact alone that cremation sites exist within the APE make the area sufficiently hallowed that any disturbance in that area would not only be improper but sacrilegious in nature.” These cremations are recognized by Tribes as being part of the TCP along with trails and other tribally significant sites such as the geoglyphs, rock features and habitation locations. Tribes have also expressed concerns about the potential for additional unknown cremations/burials and other unknown significant resources which may be located within the project area but are as yet undiscovered.

Finally, various Tribes expressed concern about the potential for indirect impacts from the OWEF project to cultural resources through the destruction of the desert crusts associated with project-related construction and erosion, and the potential for resource impacts if there is increased use by off-road enthusiasts and access to vandals and looting.

In a letter to BLM El Centro Field Office Resources Branch Chief Daniel Steward dated March 1, 2010, David Toler, Tribal Council Member of the San Pasqual Band of Diegueño Indians, stated:

“Regarding impacts to Cultural Resources, The Band is very concerned with impacts on Archaeological resources and the related destruction to the Indigenous Cultural Landscape. The proposed impacts to our Cultural Landscape can be equated to severe damage to our Traditional Kumeyaay/Hokan religious freedom. If this project is approved by the BLM, Sacred Site privacy and sanctity will certainly be destroyed. This is due to additional roads, construction disturbances, and increased continuous human impact. On the grounds that this project has a negative impact on our Indigenous religious freedoms, we oppose disturbance of traditional Cremation Grounds, and all Cultural Resources in and adjacent to the proposed project.”

Other general concerns expressed by Indian tribes during consultation are a strong dissatisfaction with the project's environmental review timelines, their relationship to the Section 106 processes, and overall coordination. Many tribes feel that they were not given adequate time to review and properly comment on the necessary documents and that because of this the consultation process has not been a meaningful one. Some tribes expressed concern about impacts to the tribally important plants and animals within the project area and described that they also form an integral part of the traditional landscape. Similarly, many Tribes expressed concern that the October 2011 draft archaeological report did not adequately address tribal values about the area and that the survey methodology was flawed. It should be noted, however, that one tribe, the Ewiiapaayp Band of Kumeyaay Indians, expressed satisfaction with the

consultation process and the efforts that the applicant has made to avoid physically affecting the archaeological resources. They have expressed support for the project.

In response to these concerns and issues, the BLM has carefully considered the information shared and the concerns of the Indian tribes. It has incorporated the same into the decision-making process concerning historic properties and adverse effects to them, as well as the analysis of cultural resources for NEPA purposes. From early on in the consultation processes, the BLM responded to the feedback it received from the various tribes concerning the traditional cultural and religious significance ascribed to the area and the cultural resources. The BLM encouraged the archaeological contractors to contact the tribes that the BLM was consulting with on the project and invite them to participate in the archaeological survey to help facilitate information sharing and consultation on the importance of resources in the OWEF APE. During the survey the BLM also encouraged the project applicant to re-design the OWEF to avoid physically affecting all of the archaeological sites that were identified. Similarly, in response to tribal concerns about the important relationship between sites, such as the Spoke Wheel Geoglyph and Signal and Coyote Mountains, and the information about the religious and cultural significance associated with cremations, the Refined Project configuration was developed, and is currently under consideration as stated above. The Refined Project removes 43 turbines from the project footprint to avoid obstruction of the main viewsheds from the site. The BLM has identified this refined configuration as its preferred alternative.

As part of its consultation under Section 106, AIRFA, and Executive Order 13175 the BLM acknowledges the traditional importance and value of the TCP and the surrounding landscape as an integral part of tribes' history and continuing culture. However, the BLM has not received detailed information about the whole landscape identified by the tribes, sufficient to allow it to assess its eligibility for the National Register, as it is required to do under Section 106. Based on the information received, the BLM assumes the portion of the TCP within the project area is eligible under Criterion A of the National Register for its traditional and cultural significance, and the BLM continues to seek information from tribes about additional measures that could be implemented to protect, minimize and avoid impacts to the TCP beyond the additional reductions in project layout made under the Refined Project.

Table 5-2. Tribal Consultation between February 2010 and August 2011

Tribal Contact	BLM Letter to Tribes 2/4/10	BLM Letter to Tribes 7/28/10	BLM Letter to Tribes 11/12/10	Gov. to Gov. Meeting with Manzanita 1/7/11	Gov. to Gov. Meeting with Campo 2/10/11	BLM Letter to Tribes 4/8/11	Section 106 Consulting Party Mtg. and Field Trip 5/12/11	Gov. to Gov. Mtg. with Cocopah 7/12/11	BLM Letter to the Quechan Culture Committee 7/15/11	BLM Letter to Viejas 7/27/11	Gov. to Gov. Meeting with Ewilaapaayp 7/29/11	Gov. to Gov. Meeting with Manzanita 8/5/11	Gov. to Gov. Meeting with Campo, La Posta, Manzanita and Viejas 8/8/11	BLM Letter to Tribes 8/11/11	Gov. to Gov. Meeting and Field Trip 8/26/11
Mr. Edwin Romero, Chairman, Barona Band of Mission Indians		Yes	Yes			Yes								Yes	
Ms. Bernice Paipa, La Posta/Kumeyaay Cultural Repatriation Committee Representative		Yes-cc	Yes-cc			Yes-cc	Yes							Yes-cc	
Ms. Shiela Alvarez, Barona Band of Mission Indians		Yes-cc	Yes-cc			Yes-cc								Yes-cc	
Ms. Monique LaChappa, Chairwoman, Campo Band of Mission Indians	Yes	Yes	Yes		Yes	Yes							Yes	Yes	
Ms. Lisa Gover, Tribal Administrator (Former), Campo Band of Mission Indians	Yes-cc	Yes-cc													
Ms. Andrea Najera, Cultural Resource Mgr., Campo Band of Mission Indians														Yes-cc	
Ms. Melissa Estes, Director: Campo EPA, Campo Band of Mission Indians					Yes	Yes-cc									
Mr. Harry Paul Cuero, Campo Band of Mission Indians	Yes-cc						Yes								
Mr. Frank J. Salazar III, Campo Band of Mission Indians		Yes-cc	Yes-cc			Yes-cc									
Ms. Sherry Cordova, Chairwoman, Cocopah Indian Tribe	Yes	Yes	Yes			Yes								Yes	
Mr. Dale Philips, Vice Chairman, Cocopah Indian Tribe								Yes							
Mrs. Jill McCormick, Cultural Resources Mgr., Cocopah Indian Tribe	Yes-cc	Yes-cc	Yes-cc			Yes-cc	Yes	Yes						Yes-cc	

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Mr. Robert Pinto, Sr., Chairman, Ewiiapaayp Band of Kumeyaay Indians	Yes, but no Return Receipt	Yes	Yes, Letter Returned			Yes					Yes			Yes	
Mr. Michael Garcia, Vice Chairman, Ewiiapaayp Band of Kumeyaay Indians	Yes-cc, but no Return Receipt	Yes-cc, but no Return Receipt				Yes-cc					Yes			Yes-cc	
Mr. Will Micklin, Executive Director & Chief Operating Officer, Ewiiapaayp Band of Kumeyaay Indians	Yes-cc, but no Return Receipt	Yes-cc, but no Return Receipt	Yes-cc			Yes-cc					Yes			Yes-cc	
Mr. Desiderio Vela, Environmental Program Manager, Ewiiapaayp Band of Kumeyaay Indians							Yes								
Mr. Keeny Escalanti Sr., President, Fort Yuma Quechan Indian Tribe														Yes	
Mr. Michael Jackson, Sr., President (Former), Fort Yuma Quechan Indian Tribe	Yes	Yes	Yes			Yes									
Mr. Virgil Smith, Tribal Council Member, Fort Yuma Quechan Indian Tribe															
Mrs. Bridget Nash-Chrabasz, Historic Preservation Officer (Former), Fort Yuma Quechan Indian Tribe	Yes-cc	Yes-cc	Yes-cc			Yes-cc, but no Return Receipt	Yes							Yes-cc	
Mr. John Bathke, Historic Preservation Officer, Fort Yuma Quechan Indian Tribe															Yes

Table 5-2. Tribal Consultation between February 2010 and August 2011

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Ms. Pauline Jose, Cultural Committee Chair, Fort Yuma Quechan Indian Tribe									Yes						
Mr. Lorey Cachora, Fort Yuma Quechan Indian Tribe		Yes-cc													Yes
Mr. Preston Arrow-Weed, Ah-Mut Pipa Foundation/Fort Yuma Quechan Indian Tribe	Yes-cc	Yes-cc													
Mr. Raymond Hunter, Chairman, Jamul Indian Village															
Mr. Kenneth Meza, Sr., Chairman (Former), Jamul Indian Village		Yes	Yes			Yes								Yes	
Ms. Carlene A. Chamberlain, Executive Councilwoman, Jamul Indian Village		Yes-cc	Yes-cc			Yes-cc								Yes-cc	
Mr. Jesse Pinto, Jamul Indian Village		Yes-cc				Yes, Letter returned	Yes								
Ms. Carmen Lucas, Kwaaymii Laguna Band of Indians	Yes	Yes	Yes			Yes	Yes						Yes	Yes	
Ms. Courtney Ann Coyle, Outside Legal Counsel for the Viejas and Kwaaymii							Yes								
Ms. Gwendolyn Parada, Chairperson, La Posta Band of Kumeyaay Indians	Yes	Yes	Yes			Yes							Yes	Yes	
Mr. Leroy Elliott, Chairman, Manzanita Band of Kumeyaay Indians	Yes	Yes	Yes	Yes		Yes						Yes	Yes	Yes	
Ms. Angela Santos, Tribal Council Member, Manzanita Band of Kumeyaay Indians				Yes								Yes	Yes		
Mr. John Elliott, Tribal Council Member, Manzanita Band of Kumeyaay Indians				Yes								Yes	Yes		

Table 5-2. Tribal Consultation between February 2010 and August 2011

Tribal Contact	BLM Letter to Tribes 2/4/10	BLM Letter to Tribes 7/28/10	BLM Letter to Tribes 11/12/10	Gov. to Gov. Meeting with Manzanita 1/7/11	Gov. to Gov. Meeting with Campo 2/10/11	BLM Letter to Tribes 4/8/11	Section 106 Consulting Party Mtg. and Field Trip 5/12/11	Gov. to Gov. Mtg. with Cocopah 7/12/11	BLM Letter to the Quechan Culture Committee 7/15/11	BLM Letter to Viejas 7/27/11	Gov. to Gov. Meeting with Ewilaapaayp 7/29/11	Gov. to Gov. Meeting with Manzanita 8/5/11	Gov. to Gov. Meeting with Campo, La Posta, Manzanita and Viejas 8/8/11	BLM Letter to Tribes 8/11/11	Gov. to Gov. Meeting and Field Trip 8/26/11
Mr. Jeff Riolo, Legal Counsel for Manzanita			Yes-cc	Yes		Yes-cc	Yes					Yes	Yes	Yes-cc	Yes
Mr. Nick Elliot, Environmental Manager, Manzanita Band of Kumeyaay Indians	Yes-cc	Yes-cc	Yes-cc				Yes								
Mr. Mark Romero, Chairman, Mesa Grande Band of Mission Indians		Yes	Yes			Yes								Yes	
Mr. Allen Lawson, Jr., Chairman, San Pasqual Band of Diegueno Indians	Yes	Yes	Yes			Yes								Yes	
Mr. David Toler, Tribal Council Member, San Pasqual Band of Diegueno Indians	Yes-cc	Yes-cc				Yes-cc								Yes-cc	
Ms. Kristie Orosco, Environmental Director, San Pasqual Band of Diegueno Indians		Yes-cc	Yes-cc			Yes-cc								Yes-cc	
Mr. Virgil Perez, Chairman, Santa Ysabel Band of Diegueno Indians						Yes								Yes	
Mr. Johnny Hernandez, Chairman (Former), Santa Ysabel Band of Diegueno Indians	Yes	Yes	Yes												
Mr. Clint Linton, Santa Ysabel Band of Diegueno Indians	Yes-cc	Yes-cc	Yes-cc			Yes-cc								Yes-cc	
Mr. Daniel Tucker, Chairman, Sycuan Band of Kumeyaay Nation		Yes	Yes			Yes								Yes	
Mr. Jamie LaBrake, Tribal Council Member, Sycuan Band of Kumeyaay Nation															
Ms. Mary L. Resvaloso, Chairwoman, Torres-Martinez Desert Cahuilla Indians	Yes	Yes	Yes			Yes								Yes	

Table 5-2. Tribal Consultation between February 2010 and August 2011

Tribal Contact	BLM Letter to Tribes 2/4/10	BLM Letter to Tribes 7/28/10	BLM Letter to Tribes 11/12/10	Gov. to Gov. Meeting with Manzanita 1/7/11	Gov. to Gov. Meeting with Campo 2/10/11	BLM Letter to Tribes 4/8/11	Section 106 Consulting Party Mtg. and Field Trip 5/12/11	Gov. to Gov. Mtg. with Cocopah 7/12/11	BLM Letter to the Quechan Culture Committee 7/15/11	BLM Letter to Viejas 7/27/11	Gov. to Gov. Meeting with Ewilaapaayp 7/29/11	Gov. to Gov. Meeting with Manzanita 8/5/11	Gov. to Gov. Meeting with Campo, La Posta, Manzanita and Viejas 8/8/11	BLM Letter to Tribes 8/11/11	Gov. to Gov. Meeting and Field Trip 8/26/11
Ms. Diana Chihuahua, Cultural Resources, Torres-Martinez Desert Cahuilla Indians	Yes-cc	Yes-cc	Yes-cc			Yes-cc								Yes-cc	
Mr. Bobby Barrett, Chairman (Former), Viejas Band of Kumeyaay Indians		Yes	Yes												
Mr. Anthony Pico, Chairman, Viejas Band of Kumeyaay Indians						Yes				Yes, but no Return Receipt			Yes	Yes	
Mr. Greybuck Espinoza, Tribal Council Member, Viejas Band of Kumeyaay Indians															Yes
Mr. Raymond Bear Cuero, Tribal Council Member, Viejas Band of Kumeyaay Indians															Yes
Ms. Lisa Haws, Land Use Manager (Former), Viejas Band of Kumeyaay Indians		Yes-cc	Yes-cc			Yes-cc	Yes			Yes-cc				Yes-cc	
Ms. Kim Mettler, Director of Legal Affairs, Viejas Band of Kumeyaay Indians										Yes-cc			Yes		Yes
Mr. Frank Brown, Viejas Band of Kumeyaay Indians/KCRPC Chairman							Yes						Yes		Yes

Table 5-3. Tribal Consultation between September 2011 and December 2011

Tribal Contact	BLM Letter to Tribes 9/14/11	Gov. to Gov. Meeting with Manzanita 9/16/11	Gov. to Gov. Meeting with Cocopah 9/27/11	BLM Letter to Cocopah 9/29/11	BLM Letter to Viejas 10/5/11	BLM Letter to Tribes 10/5/11	Gov. to Gov. Meeting with Manzanita 10/20/11	Gov. to Gov. Meeting with Viejas 10/20/11	Gov. to Gov. Meeting with the Sycuan 10/21/11	BLM Letter to Viejas 11/1/11	BLM Letter to Viejas 11/17/11	BLM Letters to Tribes 11/18/11	BLM Letter to Tribes 11/23/11	Gov. to Gov. Meeting with the Viejas 11/28/11	Gov. to Gov. Meeting with Manzanita 11/29/11	Gov. to Gov. Meeting with the Viejas 12/5/11	Section 106 Consulting Party Meeting 12/14/11	BLM Letter to Viejas 12/22/11	Gov. to Gov. Meeting with Cocopah 12/27/11
Mr. Edwin Romero, Chairman, Barona Band of Mission Indians	Yes					Yes-no Return Receipt						Yes	Yes-no Return Receipt						
Ms. Bernice Paipa, La Posta/Kumeyaay Cultural Repatriation Committee Representative	Yes-cc					Yes-cc, no Return Receipt						Yes-cc	Yes-cc, no Return Receipt				Yes		
Ms. Shiela Alvarez, Barona Band of Mission Indians	Yes-cc					Yes-cc, no return Receipt						Yes-cc	Yes-cc, no Return Receipt						
Ms. Monique LaChappa, Chairwoman, Campo Band of Mission Indians	Yes					Yes						Yes	Yes						
Ms. Lisa Gover, Tribal Administrator (Former), Campo Band of Mission Indians																			
Ms. Andrea Najera, Cultural Resource Manager, Campo Band of Mission Indians	Yes-cc					Yes-cc						Yes-cc	Yes-cc				Yes		
Ms. Melissa Estes, Director: Campo EPA, Campo Band of Mission Indians						Yes-cc							Yes-cc						
Mr. Harry Paul Cuero, Campo Band of Mission Indians																	Yes		

Table 5-3. Tribal Consultation between September 2011 and December 2011

Tribal Contact	BLM Letter to Tribes 9/14/11	Gov. to Gov. Meeting with Manzanita 9/16/11	Gov. to Gov. Meeting with Cocopah 9/27/11	BLM Letter to Cocopah 9/29/11	BLM Letter to Viejas 10/5/11	BLM Letter to Tribes 10/5/11	Gov. to Gov. Meeting with Manzanita 10/20/11	Gov. to Gov. Meeting with Viejas 10/20/11	Gov. to Gov. Meeting with the Sycuan 10/21/11	BLM Letter to Viejas 11/1/11	BLM Letter to Viejas 11/17/11	BLM Letters to Tribes 11/18/11	BLM Letter to Tribes 11/23/11	Gov. to Gov. Meeting with the Viejas 11/28/11	Gov. to Gov. Meeting with Manzanita 11/29/11	Gov. to Gov. Meeting with the Viejas 12/5/11	Section 106 Consulting Party Meeting 12/14/11	BLM Letter to Viejas 12/22/11	Gov. to Gov. Meeting with Cocopah 12/27/11
Mr. Frank J. Salazar III, Campo Band of Mission Indians																			
Ms. Sherry Cordova, Chairwoman, Cocopah Indian Tribe			Yes	Yes		Yes						Yes	Yes						
Mr. Dale Philips, Vice Chairman, Cocopah Indian Tribe			Yes																Yes
Mrs. Jill McCormick, Cultural Resources Manager, Cocopah Indian Tribe			Yes	Yes-cc		Yes-cc						Yes-cc	Yes-cc				Yes		Yes
Mr. Robert Pinto, Sr., Chairman, Ewiiapaayp Band of Kumeyaay Indians	Yes					Yes						Yes	Yes-Emailed						
Mr. Michael Garcia, Vice Chairman, Ewiiapaayp Band of Kumeyaay Indians	Yes-cc					Yes-cc							Yes-cc-Emailed						
Mr. Will Micklin, Executive Director & Chief Operating Officer, Ewiiapaayp Band of Kumeyaay Indians	Yes-cc					Yes-cc						Yes-cc	Yes-cc-Emailed						
Mr. Desiderio Vela, Environmental Program Manager, Ewiiapaayp Band of Kumeyaay Indians																			
Mr. Keeny Escalanti Sr., President, Ft. Yuma Quechan Indian Tribe	Yes					Yes						Yes	Yes						

Table 5-3. Tribal Consultation between September 2011 and December 2011

Tribal Contact	BLM Letter to Tribes 9/14/11	Gov. to Gov. Meeting with Manzanita 9/16/11	Gov. to Gov. Meeting with Cocopah 9/27/11	BLM Letter to Cocopah 9/29/11	BLM Letter to Viejas 10/5/11	BLM Letter to Tribes 10/5/11	Gov. to Gov. Meeting with Manzanita 10/20/11	Gov. to Gov. Meeting with Viejas 10/20/11	Gov. to Gov. Meeting with the Sycuan 10/21/11	BLM Letter to Viejas 11/1/11	BLM Letter to Viejas 11/17/11	BLM Letters to Tribes 11/18/11	BLM Letter to Tribes 11/23/11	Gov. to Gov. Meeting with the Viejas 11/28/11	Gov. to Gov. Meeting with Manzanita 11/29/11	Gov. to Gov. Meeting with the Viejas 12/5/11	Section 106 Consulting Party Meeting 12/14/11	BLM Letter to Viejas 12/22/11	Gov. to Gov. Meeting with Cocopah 12/27/11
Mr. Michael Jackson, Sr., President (Former), Ft. Yuma Quechan Indian Tribe																			
Mr. Virgil Smith, Tribal Council Member, Ft. Yuma Quechan Indian Tribe																			
Mrs. Bridget Nash- Chrabascz, Historic Preservation Officer (Former), Ft. Yuma Quechan Indian Tribe																			
Mr. John Bathke, Historic Preservation Officer, Ft. Yuma Quechan Indian Tribe																Yes			
Ms. Pauline Jose, Cultural Committee Chair, Ft. Yuma Quechan Indian Tribe																			
Mr. Lorey Cachora, Ft. Yuma Quechan Indian Tribe																Yes			
Mr. Preston Arrow-Weed, Ah-Mut Pipa Foundation/ Ft. Yuma Quechan Indian Tribe																			
Mr. Raymond Hunter, Chairman, Jamul Indian Village																			

Table 5-3. Tribal Consultation between September 2011 and December 2011

Tribal Contact	BLM Letter to Tribes 9/14/11	Gov. to Gov. Meeting with Manzanita 9/16/11	Gov. to Gov. Meeting with Cocopah 9/27/11	BLM Letter to Cocopah 9/29/11	BLM Letter to Viejas 10/5/11	BLM Letter to Tribes 10/5/11	Gov. to Gov. Meeting with Manzanita 10/20/11	Gov. to Gov. Meeting with Viejas 10/20/11	Gov. to Gov. Meeting with the Sycuan 10/21/11	BLM Letter to Viejas 11/1/11	BLM Letter to Viejas 11/17/11	BLM Letters to Tribes 11/18/11	BLM Letter to Tribes 11/23/11	Gov. to Gov. Meeting with the Viejas 11/28/11	Gov. to Gov. Meeting with Manzanita 11/29/11	Gov. to Gov. Meeting with the Viejas 12/5/11	Section 106 Consulting Party Meeting 12/14/11	BLM Letter to Viejas 12/22/11	Gov. to Gov. Meeting with Cocopah 12/27/11
Mr. Kenneth Meza, Sr., Chairman (Former), Jamul Indian Village	Yes					Yes						Yes	Yes						
Ms. Carlene A. Chamberlain, Executive Councilwoman, Jamul Indian Village	Yes-cc					Yes-cc						Yes-cc	Yes-cc						
Mr. Jesse Pinto, Jamul Indian Village	Yes-cc Letter returned					Yes-cc Letter returned													
Ms. Carmen Lucas, Kwaaymii Laguna Band of Indians	Yes					Yes							Yes			Yes			
Ms. Courtney Ann Coyle, Outside Legal Counsel for the Viejas and Kwaaymii	Yes-cc					Yes-cc	Yes						Yes-cc						
Ms. Gwendolyn Parada, Chairperson, La Posta Band of Kumeyaay Indians	Yes					Yes						Yes	Yes						
Mr. Leroy Elliott, Chairman, Manzanita Band of Kumeyaay Indians	Yes	Yes				Yes	Yes					Yes	Yes		Yes				
Ms. Angela Santos, Tribal Council Member, Manzanita Band of Kumeyaay Indians		Yes					Yes								Yes				
Mr. John Elliott, Tribal Council Member, Manzanita Band of Kumeyaay Indians		Yes					Yes								Yes				

Table 5-3. Tribal Consultation between September 2011 and December 2011

Tribal Contact	BLM Letter to Tribes 9/14/11	Gov. to Gov. Meeting with Manzanita 9/16/11	Gov. to Gov. Meeting with Cocopah 9/27/11	BLM Letter to Cocopah 9/29/11	BLM Letter to Viejas 10/5/11	BLM Letter to Tribes 10/5/11	Gov. to Gov. Meeting with Manzanita 10/20/11	Gov. to Gov. Meeting with Viejas 10/20/11	Gov. to Gov. Meeting with the Sycuan 10/21/11	BLM Letter to Viejas 11/1/11	BLM Letter to Viejas 11/17/11	BLM Letters to Tribes 11/18/11	BLM Letter to Tribes 11/23/11	Gov. to Gov. Meeting with the Viejas 11/28/11	Gov. to Gov. Meeting with Manzanita 11/29/11	Gov. to Gov. Meeting with the Viejas 12/5/11	Section 106 Consulting Party Meeting 12/14/11	BLM Letter to Viejas 12/22/11	Gov. to Gov. Meeting with Cocopah 12/27/11
Mr. Jeff Riolo, Legal Counsel for Manzanita	Yes-cc	Yes				Yes-cc	Yes					Yes-cc	Yes-cc		Yes				
Mr. Nick Elliot, Environmental Manager, Manzanita Band of Kumeyaay Indians																			
Mr. Mark Romero, Chairman, Mesa Grande Band of Mission Indians	Yes					Yes						Yes	Yes						
Mr. Allen Lawson, Jr., Chairman, San Pasqual Band of Diegueno Indians	Yes					Yes						Yes	Yes						
Mr. David Toler, Tribal Council Member, San Pasqual Band of Diegueno Indians	Yes-cc					Yes-cc						Yes-cc	Yes-cc						
Ms. Kristie Orosco, Environmental Director, San Pasqual Band of Diegueno Indians	Yes-cc					Yes-cc						Yes-cc	Yes-cc						
Mr. Virgil Perez, Chairman, Santa Ysabel Band of Diegueno Indians	Yes					Yes						Yes	Yes						
Mr. Johnny Hernandez, Chairman (Former), Santa Ysabel Band of Diegueno Indians																			
Mr. Clint Linton, Santa Ysabel Band of Diegueno Indians	Yes-cc					Yes-cc						Yes-cc	Yes-cc						

Table 5-3. Tribal Consultation between September 2011 and December 2011

Tribal Contact	BLM Letter to Tribes 9/14/11	Gov. to Gov. Meeting with Manzanita 9/16/11	Gov. to Gov. Meeting with Cocopah 9/27/11	BLM Letter to Cocopah 9/29/11	BLM Letter to Viejas 10/5/11	BLM Letter to Tribes 10/5/11	Gov. to Gov. Meeting with Manzanita 10/20/11	Gov. to Gov. Meeting with Viejas 10/20/11	Gov. to Gov. Meeting with the Sycuan 10/21/11	BLM Letter to Viejas 11/1/11	BLM Letter to Viejas 11/17/11	BLM Letters to Tribes 11/18/11	BLM Letter to Tribes 11/23/11	Gov. to Gov. Meeting with the Viejas 11/28/11	Gov. to Gov. Meeting with Manzanita 11/29/11	Gov. to Gov. Meeting with the Viejas 12/5/11	Section 106 Consulting Party Meeting 12/14/11	BLM Letter to Viejas 12/22/11	Gov. to Gov. Meeting with Cocopah 12/27/11
Mr. Daniel Tucker, Chairman, Sycuan Band of Kumeyaay Nation	Yes					Yes			Yes			Yes	Yes						
Mr. Jamie LaBrake, Tribal Council Member, Sycuan Band of Kumeyaay Nation									Yes				Yes-cc				Yes		
Ms. Mary L. Resvaloso, Chairwoman, Torres-Martinez Desert Cahuilla Indians	Yes					Yes						Yes	Yes						
Ms. Diana Chihuahua, Cultural Resources, Torres-Martinez Desert Cahuilla Indians	Yes-cc					Yes-cc						Yes-cc	Yes-cc						
Mr. Bobby Barrett, Chairman (Former), Viejas Band of Kumeyaay Indians																			
Mr. Anthony Pico, Chairman, Viejas Band of Kumeyaay Indians					Yes	Yes		Yes		Yes	Yes	Yes	Yes	Yes				Yes	
Mr. Greybuck Espinoza, Tribal Council Member, Viejas Band of Kumeyaay Indians																Yes			
Mr. Raymond Bear Cuero, Tribal Council Member, Viejas Band of Kumeyaay Indians																Yes	Yes		

Table 5-3. Tribal Consultation between September 2011 and December 2011

Tribal Contact	BLM Letter to Tribes 9/14/11	Gov. to Gov. Meeting with Manzanita 9/16/11	Gov. to Gov. Meeting with Cocopah 9/27/11	BLM Letter to Cocopah 9/29/11	BLM Letter to Viejas 10/5/11	BLM Letter to Tribes 10/5/11	Gov. to Gov. Meeting with Manzanita 10/20/11	Gov. to Gov. Meeting with Viejas 10/20/11	Gov. to Gov. Meeting with the Sycuan 10/21/11	BLM Letter to Viejas 11/1/11	BLM Letter to Viejas 11/17/11	BLM Letters to Tribes 11/18/11	BLM Letter to Tribes 11/23/11	Gov. to Gov. Meeting with the Viejas 11/28/11	Gov. to Gov. Meeting with Manzanita 11/29/11	Gov. to Gov. Meeting with the Viejas 12/5/11	Section 106 Consulting Party Meeting 12/14/11	BLM Letter to Viejas 12/22/11	Gov. to Gov. Meeting with Cocopah 12/27/11
Ms. Lisa Haws, Land Use Manager (Former), Viejas Band of Kumeyaay Indians																			
Ms. Kim Mettler, Director of Legal Affairs, Viejas Band of Kumeyaay Indians						Yes-cc		Yes			Yes-cc emailed	Yes-cc	Yes-cc				Yes	Yes-cc	
Mr. Frank Brown, Viejas Band of Kumeyaay Indians/KCRPC Chairman																	Yes		

Table 5.4 Tribal Consultation between January 2012 and February 2012

Tribal contact	Section 106 Consulting Party Meeting 01/05/2012	BLM Letter to Quechan 01/10/12	Gov. to Gov. Meeting with Viejas 01/23/2012	BLM Letter to Tribes 01/27/2012	Gov. to Gov. Meeting with Quechan 01/31/2012	Section 106 Consulting Party Meeting 02/09/2012	Gov. to Gov. Meeting with Viejas 02/21/2012	Gov. to Gov. Meeting with the Quechan 02/22/2012	BLM Letter to Tribes 02/27/2012
Mr. Edwin Romero, Chairman, Barona Band of Mission Indians				Yes					Yes
Ms. Bernice Paipa, La Posta/Kumeyaay Cultural Repatriation Committee Representative				Yes-cc					Yes-cc
Ms. Shiela Alvarez, Barona Band of Mission Indians				Yes-cc					Yes-cc
Ms. Monique LaChappa, Chairwoman, Campo Band of Mission Indians				Yes					Yes
Ms. Lisa Gover, Tribal Administrator (Former), Campo Band of Mission Indians									
Ms. Andrea Najera, Cultural Resource Manager, Campo Band of Mission Indians				Yes-cc					Yes-cc
Ms. Melissa Estes, Director: Campo EPA, Campo Band of Mission Indians				Yes-cc					Yes-cc
Mr. Harry Paul Cuero, Campo Band of Mission Indians									
Mr. Frank J. Salazar III, Campo Band of Mission Indians									
Ms. Sherry Cordova, Chairwoman, Cocopah Indian Tribe				Yes					Yes
Mr. Dale Philips, Vice Chairman, Cocopah Indian Tribe	Yes								
Mrs. Jill McCormick, Cultural Resources Manager, Cocopah Indian Tribe	Yes			Yes-cc		Yes			Yes-cc
Mr. Robert Pinto, Sr., Chairman, Ewiiapaayp Band of Kumeyaay Indians				Yes					Yes
Mr. Michael Garcia, Vice Chairman, Ewiiapaayp Band of Kumeyaay Indians				Yes-cc					Yes-cc
Mr. Will Micklin, Executive Director & Chief Operating Officer, Ewiiapaayp Band of Kumeyaay Indians				Yes-cc					Yes-cc
Mr. Desiderio Vela, Environmental Program Manager, Ewiiapaayp Band of Kumeyaay Indians									

Table 5.4 Tribal Consultation between January 2012 and February 2012

Tribal contact	Section 106 Consulting Party Meeting 01/05/2012	BLM Letter to Quechan 01/10/12	Gov. to Gov. Meeting with Viejas 01/23/2012	BLM Letter to Tribes 01/27/2012	Gov. to Gov. Meeting with Quechan 01/31/2012	Section 106 Consulting Party Meeting 02/09/2012	Gov. to Gov. Meeting with Viejas 02/21/2012	Gov. to Gov. Meeting with the Quechan 02/22/2012	BLM Letter to Tribes 02/27/2012
Mr. Keeny Escalanti Sr., President, Fort Yuma Quechan Indian Tribe		Yes-cc		Yes				Yes	Yes
Mr. Michael Jackson, Sr., President (Former), Fort Yuma Quechan Indian Tribe									
Mr. Virgil Smith, Tribal Council Member, Fort Yuma Quechan Indian Tribe		Yes	Yes		Yes			Yes	
Mrs. Bridget Nash-Chrabasz, Historic Preservation Officer (Former), Fort Yuma Quechan Indian Tribe									
Mr. John Bathke, Historic Preservation Officer, Fort Yuma Quechan Indian Tribe	Yes		Yes		Yes	Yes		Yes	Yes-cc
Ms. Pauline Jose, Cultural Committee Chair, Fort Yuma Quechan Indian Tribe									
Mr. Lorey Cachora, Fort Yuma Quechan Indian Tribe	Yes		Yes		Yes			Yes	
Mr. Preston Arrow-Weed, Ah-Mut Pipa Foundation/ Fort Yuma Quechan Indian Tribe									
Mr. Raymond Hunter, Chairman, Jamul Indian Village				Yes					Yes
Mr. Kenneth Meza, Sr., Chairman (Former), Jamul Indian Village									
Ms. Carlene A. Chamberlain, Executive Councilwoman, Jamul Indian Village				Yes-cc					Yes-cc
Mr. Jesse Pinto, Jamul Indian Village									
Ms. Carmen Lucas, Kwaaymii Laguna Band of Indians			Yes	Yes		Yes			Yes
Ms. Courtney Ann Coyle, Outside Legal Council for the Viejas and Kwaaymii	Yes		Yes	Yes-cc		Yes	Yes		Yes-cc
Ms. Gwendolyn Parada, Chairperson, La Posta Band of Kumeyaay Indians	Yes			Yes					Yes
Mr. Leroy Elliott, Chairman, Manzanita Band of Kumeyaay Indians				Yes		Yes			Yes
Ms. Angela Santos, Tribal Council Member, Manzanita Band of Kumeyaay Indians	Yes								

5. Consultation, Coordination, and Public Participation
Ocotillo Wind Energy Facility

Table 5.4 Tribal Consultation between January 2012 and February 2012

Tribal contact	Section 106 Consulting Party Meeting 01/05/2012	BLM Letter to Quechan 01/10/12	Gov. to Gov. Meeting with Viejas 01/23/2012	BLM Letter to Tribes 01/27/2012	Gov. to Gov. Meeting with Quechan 01/31/2012	Section 106 Consulting Party Meeting 02/09/2012	Gov. to Gov. Meeting with Viejas 02/21/2012	Gov. to Gov. Meeting with the Quechan 02/22/2012	BLM Letter to Tribes 02/27/2012
Mr. John Elliott, Tribal Council Member, Manzanita Band of Kumeyaay Indians						Yes			
Mr. Jeff Riolo, Legal Council for Manzanita	Yes			Yes-cc					Yes-cc
Mr. Nick Elliot, Environmental Manager, Manzanita Band of Kumeyaay Indians									
Mr. Mark Romero, Chairman, Mesa Grande Band of Mission Indians				Yes					Yes
Mr. Allen Lawson, Jr., Chairman, San Pasqual Band of Diegueno Indians				Yes					Yes
Mr. David Toler, Tribal Council Member, San Pasqual Band of Diegueno Indians				Yes-cc					Yes-cc
Ms. Kristie Orosco, Environmental Director, San Pasqual Band of Diegueno Indians				Yes-cc					Yes-cc
Mr. Virgil Perez, Chairman, Santa Ysabel Band of Diegueno Indians				Yes					Yes
Mr. Johnny Hernandez, Chairman (Former), Santa Ysabel Band of Diegueno Indians									
Mr. Clint Linton, Santa Ysabel Band of Diegueno Indians				Yes-cc					Yes-cc
Mr. Daniel Tucker, Chairman, Sycuan Band Of Kumeyaay Nation				Yes					Yes
Mr. Jamie LaBrake, Tribal Council Member, Sycuan Band Of Kumeyaay Nation				Yes-cc		Yes			Yes-cc
Ms. Mary L. Resvaloso, Chairwoman, Torres-Martinez Desert Cahuilla Indians				Yes					Yes
Ms. Diana Chihuahua, Cultural Resources, Torres-Martinez Desert Cahuilla Indians				Yes-cc					Yes-cc
Mr. Bobby Barrett, Chairman (Former), Viejas Band of Kumeyaay Indians									
Mr. Anthony Pico, Chairman, Viejas Band of Kumeyaay Indians				Yes			Yes		Yes
Mr. Greybuck Espinoza, Tribal Council Member, Viejas Band of Kumeyaay Indians			Yes				Yes		
Mr. Raymond Bear Cuero, Tribal Council Member, Viejas Band of Kumeyaay Indians			Yes			Yes	Yes		

Table 5.4 Tribal Consultation between January 2012 and February 2012

Tribal contact	Section 106 Consulting Party Meeting 01/05/2012	BLM Letter to Quechan 01/10/12	Gov. to Gov. Meeting with Viejas 01/23/2012	BLM Letter to Tribes 01/27/2012	Gov. to Gov. Meeting with Quechan 01/31/2012	Section 106 Consulting Party Meeting 02/09/2012	Gov. to Gov. Meeting with Viejas 02/21/2012	Gov. to Gov. Meeting with the Quechan 02/22/2012	BLM Letter to Tribes 02/27/2012
Ms. Lisa Haws, Land Use Manager (Former), Viejas Band of Kumeyaay Indians									
Ms. Kim Mettler, Director of Legal Affairs, Viejas Band of Kumeyaay Indians	Yes		Yes	Yes-cc		Yes	Yes		Yes-cc
Mr. Frank Brown, Viejas Band of Kumeyaay Indians/KCRPC Chairman	Yes		Yes			Yes	Yes		

The draft MOA (attached as Appendix R) includes measures to respond to the concerns expressed above by Indian tribes including the requirement of a Tribal Access Plan recognizing the importance of the TCP and their ability to access federally managed lands to conduct cultural and religious practices, as variously specified in EO 13007 and the AIRFA. It also includes a draft Historic Properties Treatment Plan which describes in further detail the measure to resolve and minimize adverse effects should the project be approved. Additionally, to address the concerns related to the discovery of previously unidentified cultural resources during construction, the MOA imposes a robust construction monitoring plan that provides for tribal participation, as well as a draft NAGPRA Plan of Action to ensure the proper treatment and protection of prehistoric human remains should any be found during construction. The MOA also provides for increased BLM ranger patrols and the funding and the development of a long-term cultural resource monitoring program in response to concerns regarding the potential for degradation associated with increased access. Finally, to address the concerns raised about the lack of tribal values within the archaeological report itself, the BLM is considering compiling all the tribal information received to date, as well as summaries of prior ethnographic information collected from the project area into a separate stand-alone document that supplements the archaeological survey report. The latter has been discussed with some tribes and tribal members during government-to-government meetings and appears to be an idea that is received favorably.

5.3 Implementation, Monitoring, and Enforcement

5.3.1 Implementation

The BLM will continue to involve and collaborate with the public during implementation of this Proposed Action. Opportunities to become involved during implementation and monitoring could include development of partnerships and community-based citizen working groups. The BLM invites citizens and user groups within the vicinity of the Proposed Action to become actively involved in implementation, monitoring, and enforcement of decisions. The BLM and citizens could collaboratively develop site-specific goals and objectives that mutually benefit public land resources, local communities, and the people who live, work, or play on the public lands.

5.3.2 Monitoring

The BLM would monitor activities throughout the life of the Proposed Action to ensure that decisions are implemented in accordance with the approved ROD and ROW grant. Monitoring would be conducted to determine whether decisions, BMPs and approved mitigation are achieving the desired effects. Effectiveness monitoring would provide an empirical data base on impacts of decisions and effectiveness of mitigation. Effectiveness monitoring also would be useful for improving analytical procedures for future impact analyses and for designing or improving mitigation and enhancement measures. The County of Imperial also has an obligation under the CEQA to monitor the implementation of adopted mitigation measures within the area of its jurisdiction.

5.3.3 Enforcement and Adaptive Management

The BLM would incorporate adaptive management into mitigation for the Proposed Action. Adaptive management is a system of management practices based on clearly identified outcomes, monitoring to

determine if management actions are meeting outcomes, and, if not, facilitating management changes that will best ensure that outcomes are met or to re-evaluate the outcomes (DOI, 2003). This system is in effect developing an adaptive NEPA process as an implementation tool that goes beyond the traditional “predict-mitigate-implement” model and incorporates the “predict-mitigate-implement-monitor-adapt” adaptive management model.

Procedures include (DOI, 2003):

- Determining environmental effects of a project and identifying mitigation needs along with other permitting and regulatory requirements. Analysis should indicate where data are lacking and uncertainty exists with respect to the intended outcomes and the significance of this lack (see 40 CFR 1502.22);
- Monitoring designed for adaptive management must be able to result in appropriate adjustments in project activities as the project is constructed and planned mitigation is installed;
- Striving to ensure public input into and understanding of the principles of adaptive management;
- Maintaining open channels of information to the public and affected regulatory and permitting agencies during the application of adaptive management, including transparency of the monitoring process that precedes adaptive management and the decision-making process that implements it. This involves: (a) identifying indicators of change, (b) assessing monitoring activities for accuracy and usefulness, and (c) making changes in tactics, activities and/or strategies; and
- Providing post-activity opportunity for public and affected outside agency review of adaptive management practices, including practices that were exceptions to any resource management plans or that had permitting and other regulatory requirements not satisfied by prior coordination.

Adaptive management allows agencies, in their NEPA reviews, to establish and analyze mitigation measures that are projected to result in the desired environmental outcomes, and identify those mitigation principles or measures that it would apply in the event the initial mitigation commitments are not implemented or effective (CEQ, 2011).

5.4 Public Involvement

5.4.1 Introduction

Public participation is a dynamic process that continues throughout the preparation of the EIS/EIR. Scoping meetings were conducted after the publication of the Notice of Intent (NOI) and Notice of Preparation (NOP) to formally solicit public and agency input on issues to be addressed in the EIS/EIR. In addition, BLM and Imperial County have coordinated with affected local, state, and federal agencies on issues of concern, as described in Sections 5.1 and 5.2 above. As explained in the NOI, the BLM used and coordinated the NEPA commenting process to satisfy the public involvement process for Section 106 of the National Historic Preservation Act (16 U.S.C. 470(f)) as provided for in 36 CFR 800.2(d)(3).

The results of the scoping process are summarized below.

5.4.4 Scoping

The NOI was published in the Federal Register (Volume 75, No. 238) on December 13, 2010. On January 5 and 6, 2011, the BLM and Imperial County held publicly noticed Scoping Meetings at the Board of Supervisors Chambers, 2nd Floor, County Administration Center and the Ocotillo Community

Park in El Centro, California, and Ocotillo, California, respectively. A Public Scoping Report was released for public review in March 2011 and is included as Appendix C.

Scoping Requirements

The BLM authorization of a ROW grant for the project would require a resource management land use PA to the CDCA Plan. Scoping is required by NEPA pursuant to CEQ (40 CFR 1501.7) regulations. The process ensures that significant issues, alternatives, and impacts are addressed in environmental documents and determines the degree to which these issues and impacts will be analyzed in the EIS.

Scoping Process

The scoping process for the Ocotillo Wind Energy Facility EIS/EIR included the following:

- Publishing the Notice of Intent (NOI)/Notice of Preparation (NOP) to prepare an EIS/EIR.
- Conducting public scoping meetings and agency consultation meetings.
- Documenting all public and agency comments received for the proposed project in a Public Scoping Report (Appendix C).

Each of these components is discussed below.

Notice of Intent

In compliance with NEPA (40 CFR 1501.7), the BLM published a NOI in the Federal Register to prepare an EIS for the Ocotillo Express Wind Project (FR Vol. 75, No. 238, page 77654, December 13, 2010). The project name was subsequently changed to the OWEF. The scoping period ended on February 7, 2011. The BLM established a website with project information describing the various methods for providing public comment on the project, including an e-mail address where comments could be sent electronically.

Notice of Preparation

As required by CEQA Guidelines §15082 (14 CCR 15000 et seq.), the County of Imperial issued an NOP on December 21, 2010, that summarized the Ocotillo Wind Energy Facility project and stated its intention to prepare a joint EIS/EIR, and requested comments from interested or affected parties.

Public Scoping Meeting

Notification for public scoping meetings held on January 5, 2011, at El Centro and January 6, 2011, at Ocotillo, was made available to the public on BLM's website for the OWEF¹ and ran in the Imperial Valley Press on December 21, 2010. In addition, notices were sent to stakeholders, including the state clearinghouse; federal, state, and local agencies and organizations; local property owners, local libraries; and Native American groups.

Two public scoping meetings were held on January 5 and 6, 2011, in El Centro and Ocotillo, CA, respectively. Presentations describing the environmental review process were delivered by representatives of the BLM and County of Imperial. Pattern Energy also delivered a presentation describing the project. Approximately 70 and 100 persons attended the meetings in El Centro and Ocotillo respectively, including

¹ http://www.blm.gov/ca/st/en/fo/elcentro/nepa/ocotillo_express_wind.html

representatives from local and state agencies, organizations, and private citizens. Thirty-three letters were received during the scoping comment period that ended on February 7, 2011: three from federal, state, and local agencies and organizations; and thirty from individuals. Comments were received on the following categories: project description; human environment issues; natural environment issues; indirect and cumulative impacts; project alternatives; and EIS/EIR administrative and permitting issues. A summary of these comments is provided in the Public Scoping Report (Appendix C). Comments received during scoping are addressed in the analysis of impacts in this EIS/EIR, and were also considered in the formulation of alternatives.

Scoping Report

The BLM produced a scoping report in March 2011, which contained information received during the public scoping comment period. Comments received during the scoping period were grouped into the following three categories:

- Issues or concerns that could be addressed by effects analysis;
- Issues or concerns that could develop an alternative and/or a better description or qualification of the alternatives; and
- Issues or concerns outside the scope of the EIS/EIR.

5.5 Public Comment Process

5.5.1 Introduction

The BLM and the County distributed the joint Draft EIS/EIR for the proposed OWEF for public and agency review and comment on July 8, 2011. The comment period ended October 6, 2011. A total of 405 comment letters, including e-mails, were received. Eight comment letters were received after the close of the comment period. In connection with the Section 106 and government-to-government processes, the Lead Agencies committed to fully consider any additional comments submitted by federally recognized Native American Tribes through February 17, 2012.

This section is organized as follows:

5.5.1 Introduction

5.5.2 Format of the Responses to Comments. This section describes the format and organization of the comments received on the Draft EIS/EIR and the responses to those comments.

5.5.3 Index of Comments Received. This section provides a list of the comments received on the Draft EIS/EIR, by member of the public, agency, or organization, and lists the unique letter/number code for each comment.

5.5.4 Common Responses. This section provides consolidated responses for topics on which a number of similar and related comments were received.

5.5.5 Responses to the Comments. This section lists the individual comment numbers for each comment and provides a response for each comment.

5.5.6 Comments. This section contains all the comments received on the Draft EIS/EIR, with the individual numeric code assigned to each individual comment within each comment letter/email.

5.5.2 Format of the Responses to Comments

The comments received on the Draft EIS/EIR are organized by agency, organization, or member of the general public. Each comment letter/e-mail is assigned a unique number. Individual comments/issues within each comment letter/email are numbered individually along the right-hand margins. Comments, so delineated, are provided in Appendix O.

5.5.3 Index of Comments Received

Table 5-5 lists all individuals, agencies, and organizations that provided written comments on the Draft EIS/EIR. As described above, each comment letter, upon receipt, was assigned a unique number with each comment individually numbered as well. For example, Comment 1-01 is the first substantive comment in Comment Letter 1. “1” represents the commenter; the “01” refers to the first comment in that letter.

Table 5-5. Comments on the OWEF Draft EIS/EIR	
Comment Letter	Commenter
Federal Agencies	
F1	U.S. Department of Homeland Security
F2	U.S. Environmental Protection Agency, Region IX
F3	U.S. Department of the Interior, National Park Service
F4	U.S. Fish & Wildlife Service, California Department of Fish and Game
State Agencies	
S1	Department of Transportation
S2	Regional Water Quality Control Board
S3	Native American Heritage Commission
S4	Department of Parks and Recreation
S5	Department of Parks and Recreation
Local Agencies	
L1	County of Imperial, Department of Public Works
L2	Imperial County Fire Department
L3	Imperial Irrigation District
L4	Imperial County Fire Department
L5	Imperial County Air Pollution Control District
L6	County of San Diego, Department of Planning and Land Use
Native American Tribes	
N1	Viejas Tribal Government
N2	Viejas Tribal Government
N3	Viejas Tribal Government
N4	Viejas Tribal Government
N5	Viejas Tribal Government
N6	Viejas Tribal Government
N7	Viejas Tribal Government
N8	Viejas Office of Legal Affairs
N9	Viejas Office of Legal Affairs
N10	Ewiiapaayp Tribal Office
N11	Ewiiapaayp Tribal Office
N12	Ewiiapaayp Tribal Office
N13	Manzanita Band of the Kumeyaay Nation

Table 5-5. Comments on the OWEF Draft EIS/EIR	
Comment Letter	Commenter
N14	Kwaaymii, Laguna Band of Indians
N15	Kwaaymii, Laguna Band of Indians
N16	San Pasqual Band of Diegueno Mission Indians of California
Organizations	
O1	Center for Biological Diversity
O2	Anza Borrego Foundation
O3	Desert Protective Council
O4	Save the Eagles International
O5	Calexico Chamber of Commerce
O6	El Centro Chamber of Commerce
O7	Audubon California
O8	Defenders of Wildlife/Natural Resources Defense Council/Sierra Club
O9	Imperial Chamber of Commerce
O10	California State Parks Foundation
O11	Stephan C. Volker (Desert Protective Council, The Protect Our Communities Foundation, Backcountry Against Dumps, East County Community Action Coalition, and Donna Tisdale)
O12	Center for Biological Diversity
O13	Backcountry Against Dumps
O14	San Diego Gas & Electric
Public	
P1	Megan Ahn
P2	Marijo Ahnger
P3	John and Karen Andersen
P4	Cynthia Anderson and Bill Dahl
P5	Carl Atwood
P6	Stephanie Austin
P7	Vikki Bay
P8	Linda Bosshart
P9	Teri Brewer
P10	Kathy Brigger
P11	Cindy Buxton
P12	Nancy Callahan
P13	Betty Thale Cloud
P14	Hal Cohen
P15	Alison Coppola
P16	Foss and Esther Corley
P17	Susan W. Cramer
P18	Susan W. Cramer
P19	Helen Davis
P20	eirian@comcast.net
P21	Carole and Ivan Edelman
P22	Edward Engle
P23	Thomas A. Enslow
P24	Parke Ewing
P25	Parke Ewing
P26	Parke Ewing
P27	Parke Ewing
P28	Parke Ewing
P29	Parke Ewing
P30	Parke Ewing
P31	Parke Ewing
P32	Parke Ewing

Comment Letter	Commenter
P33	Parke Ewing
P34	Parke Ewing
P35	Parke Ewing
P36	Parke Ewing
P37	Parke Ewing
P38	Parke Ewing
P39	Parke Ewing
P40	Parke Ewing
P41	Parke Ewing
P42	Parke Ewing
P43	Parke Ewing
P44	Parke Ewing
P45	Parke Ewing
P46	Parke Ewing
P47	Parke Ewing
P48	Parke Ewing
P49	Parke Ewing
P50	Parke Ewing
P51	Linda Foote
P52	Dave and Tina Gunall
P53	Rick Hamilton
P54	Mel (Mary Ellen) Harte, Ph.D
P55	Daniel Hellyer
P56	Ann Howell
P57	Randolph C. Houts
P58	Brendan Hughes
P59	Jerry Hughes
P60	Dr. Pam Kersey
P61	James Knotter
P62	Conrad Kramer and Lisa A. Gonzales-Kramer
P63	Kevin Kraus
P64	Ray Kumli
P65	Gerald A. Lieberman, Ph.D
P66	Diana Lindsay
P67	Jim and Sue Liskovec
P68	Carmen Lucas
P69	Cornelia Lieb-Lundell, PT, DPT, PCS
P70	Anita Mallin
P71	Scot Martin
P72	Susan Massey
P73	Kym J. McNabb
P74	Mark C. Jorgensen
P75	Marilyn Moskowitz
P76	Dr. Edward M. Nolan
P77	Tony Palermo
P78	Ruth Porter
P79	Larry M. Powell
P80	Robert Raney
P81	K. Brooks Reid, Ph.D
P82	Kerry Rich
P83	Evan Roman
P84	Beverly Sabo
P85	Susan Schaffner

Comment Letter	Commenter
P86	Paulette Schindele
P87	Daren Sefcik
P88	Britta Lee Shain
P89	Peter Shapiro
P90	Rachel D. Shaw
P91	Ralph Singer, Anza Borrego Foundation
P92	Joann Stang
P93	Sandy Steinman
P94	Donna Tisdale, Backcountry Against Dumps
P95	Donna Tisdale, Backcountry Against Dumps
P96	Magnus von Unge, MD, Ph.D
P97	Gabriel Vogeli
P98	Marvin Wayrynen
P99	Sam Webb
P100	Sam and Astrid Webb
P101	Carolyn Westelaken
P102	Robert F. Wieser
P103	Howard G. Wilshire, Ph.D
P104	Howard G. Wilshire, Ph.D
P105	Don Wood, Pacific Energy Policy Center
P106	David Worthy
P107	Sandy Zelasko
P108	Anne Seeman
P109	Bob McCulley
P110	Bonnie Nickel
P111	Brian Silvey
P112	Chad Bird
P113	Charlene Aron
P114	Charles and Laurie Baker
P115	Charles and Lara Leavitt
P116	Cheryl Griffin
P117	Christa Vragel
P118	Cindy Walsh
P119	Vincent Loverde and Cynthia Kunishige
P120	Erica Daniel
P121	Carolyn Straub and Steve McHenry
P122	Arnold Mroz
P123	Barbara J. Halle and Peter A. Halle
P124	Janene Colby
P125	Alex and Nancy Boss
P126	Norm Gallagher
P127	William A. Reavey
P128	Dr. Anthony D. McIvor
P129	Jim and Ellen LaMotte
P130	Barbara M. Tracy
P131	Graeme Kinsey
P132	Cynthia Anderson and Bill Dahl
P133	Cynthia Collins
P134	Richard Tavern
P135	Kathleen Beck, Communities United for Sensible Power
P136	Fred Fernandez
P137	Fred Lamb
P138	Gidon Singer

Comment Letter	Commenter
P139	H. Nick Ervin
P140	Jack Ellwanger, Pelican Network
P141	John H. Eisenhart
P142	Kevin Walsh
P143	Kristina Rood
P144	Lee Oler
P145	Les Doak
P146	Leslie Bellah
P147	Lisa Spoon
P148	Lynn T. Teel
P149	Mark Meech
P150	Mark Ostrander
P151	Melvin and Ellen Sweet
P152	Nuri Pierce
P153	Paul Zablony
P154	Paulette D. Ache
P155	Ralph Singer
P156	Rand Newman
P157	Randall Ricketts
P158	Ray Cochran
P159	Richard Caputo
P160	Robert Dallezotte
P161	Ronald W. Schuelke
P162	Rose Hartman
P163	Sandy Zelasko
P164	Scott E. Smith
P165	Theresa Acerro
P166	Walter R. Tschinkel
P167	William Taylor
P168	Andrew Renfrow
P169	Michael W. Cuff
P170	Richard R. James
P171	Parke Ewing
P172	Parke Ewing
P173	Parke Ewing
P174	Parke Ewing
P175	Parke Ewing
P176	Parke Ewing
P177	Parke Ewing
P178	Parke Ewing
P179	Parke Ewing
P180	Parke Ewing
P181	Parke Ewing
P182	Parke Ewing
P183	Parke Ewing
P184	Parke Ewing
P185	Parke Ewing
P186	Parke Ewing
P187	Parke Ewing
P188	Parke Ewing
P189	Parke Ewing
P190	Parke Ewing
P191	Parke Ewing

Comment Letter	Commenter
P192	Parke Ewing
P193	Parke Ewing
P194	Parke Ewing
P195	Parke Ewing
P196	Parke Ewing
P197	Parke Ewing
P198	Parke Ewing
P199	Parke Ewing
P200	Parke Ewing
P201	Parke Ewing
P202	Parke Ewing
P203	Parke Ewing
P204	Parke Ewing
P205	Parke Ewing
P206	Parke Ewing
P207	Parke Ewing
P208	Parke Ewing
P209	Parke Ewing
P210	Parke Ewing
P211	Parke Ewing
P212	Parke Ewing
P213	Parke Ewing
P214	Parke Ewing
P215	Parke Ewing
P216	Parke Ewing
P217	Leslie Palomino
P218	Laurel Ware
P219	Kim Petersen
P220	Rosemary Cortez
P221	Alfred DeVico
P222	Michael Beckage
P223	Celia Lawley
P224	Gail M. Adams
P225	Gail M. Adams
P226	Susan Massey
P227	Kate Harper
P228	John and Patricia Campbell
P229	Carol Black
P230	Gene R. Trapp, Ph.D
P231	Connie Spears
P232	Michael A. Frizzell
P233	Stacy and Greg Kline
P234	Larry Banks
P235	Wilma Katz
P236	Renee Cox
P237	Dan Hicks
P238	Alan Madrigal
P239	Jerry Hutchins
P240	Greg Littell
P241	Beth and Bob Hon
P242	Dean G. Frazer
P243	Helena Quintana Arrow-weed
P244	Jane Higginson

Comment Letter	Commenter
P245	Paul Woolery
P246	Callie Mack
P247	Edalia Olivo-Gomez
P248	Arnold F. Schoeck
P249	Julian E. Hurt, M.D.
P250	Robert M. Brock
P251	Kay Schroer
P252	Diahna Garcia-Ruiz
P253	Kristina Rood
P254	Monica Ketchum
P255	Rolando Vizcarra
P256	Sylvia Gonzalez
P257	Marjorie E. Seybold
P258	Victor Nava
P259	Aaron F. Popejoy
P260	Aaron F. Popejoy
P261	Becky Estrada-McWane
P262	George A. Nava
P263	Myrna Wosk
P264	Kevin Emmerich and Laura Cunningham, Basin and Range Watch
P265	Nicole D'Angelo
P266	Rafael Vargas
P267	Patsy Wilson
P268	Misty R. Houser
P269	Scott Cashen
P270	ladeekittee@aol.com
P271	Joan Leopold
P272	Susan Hancock and Richard Orne
P273	Deborah Alice Jones
P274	Akshay Khatri
P275	Diana Palacios
P276	Robert Cavanaugh
P277	Lilla Hangay
P278	Frank Tagaban
P279	Anisa Devine
P280	Roland and Suzanne Lajoie
P281	Jenny Wilder, Mojave Group, Sierra Club
P282	M. Carmen Ramirez
P283	Jared G. Fuller
P284	David Andreoli
P285	Michael Peterson
P286	Daren R. Sefcik
P287	Greg Smith
P288	Mark C. Jorgensen
P289	Bill Howell
P290	Abram Perlstein
P291	Bonnie L. McClees
P292	David Wimpfheimer
P293	James Roller
P294	Walter J. Lukina and Delores Lukina
P295	James H. Smith
P296	Judith A. Ramirez
P297	Briana Ross

Comment Letter	Commenter
P298	Richard and Jane Wagner
P299	Michael Pouston
P300	Don Endicott
P301	Dorothy Weisheit
P302	Dr. Jackson Underwood
P303	Fred Brown
P304	Fred Wollman
P305	Herbert Petrillo
P306	John Barth
P307	Jon Vick
P308	Linda Tandle
P309	Mack Ray
P310	Mike Dusharme
P311	Kathy Marquand
P312	Eric Mustonen
P313	Mark Rich
P314	Joseph Ascitutto
P315	Camille Rothenburg
P316	Lyle Brecht
P317	Darren Smith
P318	Roy Long
P319	Kevin C. Smith
P320	Joan Caballero
P321	Kathleen Thayer
P322	Greg Smith
P323	Robert Baran
P324	Jimmy Ray Jones
P325	Jerry Tuck
P326	Jerry Tuck
P327	Alejandra Marquez
P328	Kevin Emmerich and Laura Cunningham, Basin and Range Watch
P329	Michael Gordon
P330	Gustavo Arguelles Jr.
P331	Debra Palma
P332	Diahna Garcia-Ruiz
P333	Joan S. Schneider, Ph.D
P334	Joan S. Schneider, Ph.D
P335	Harry F McCann
P336	Lee M. Johnson
P337	James and Cheryl Pelley
P338	James and Cheryl Pelley
P339	James and Cheryl Pelley
P340	James and Cheryl Pelley
P341	James and Cheryl Pelley
P342	James and Cheryl Pelley
P343	James and Cheryl Pelley
P344	Edie Harmon
P345	Atul Kumar
P346	Scotty Baldwin
P347	Parke Ewing
P348	loconoco@netzero.com
P349	Mark Meech
P350	Mark Meech

Comment Letter	Commenter
P351	Harold and Lambertha Stier
P352	Lynn Fulks
P353	Gail L. Ellestad
P354	Fred Jee
P355	Kelley Jorgensen
P356	Dick Troy
P357	Joy M. Johnson
P358	Alyce Golding, Melissa McVicar, Myrna Horn and Robert Horn
P359	Thomas A. Enslow
P360	Harrison Karr

*Letter was resent on December 13, 2011. Responses have only been provided to the letter submitted on October 6, 2011.

Table 5-6 lists all individuals who provided written comments on the Draft EIS/EIR after the close of the public comment period on October 6, 2011. Additionally, Table 5-6 lists all Native American Tribes that provided written comments on the Draft EIS/EIR after the close of the public comment period. As described above, each comment letter, upon receipt, was assigned a unique number with each comment individually numbered as well. For example, Comment LC1-01 is the first substantive comment in Comment Letter LC1. “1” represents the commenter; the “01” refers to the first comment in that letter.

Comment Letter	Commenter
Late Comments	
LC1	Derik Martin
LC2	Jack Hettinger
LC3	Rick and Paul Huls
LC4	Chris Gruenwald
LC5	Steen Hillestrøm
LC6	Susan Massey
LC7	Jacob Sierra
LC8	Jose Barber
LC9	Barbara Hill
LC10	Eddie Harmon
Comments from Native American Tribes Submitted After Public Comment Period	
EC1	lipay Nation of Santa Ysabel
EC2	Viejas Tribal Government
EC3	Cocopah Indian Tribe
EC4	Cocopah Indian Tribe
EC5	Sycuan Band of the Kumeyaay Nation
EC6a	Viejas Tribal Government
EC6b	Viejas Tribal Government
EC6c	Viejas Tribal Government
EC6d	Thomas F. King, Ph.D. (on behalf of the Viejas Tribal Government)
EC6e	Thomas F. King, Ph.D. (on behalf of the Viejas Tribal Government)
EC6f	Thomas F. King, Ph.D. (on behalf of the Viejas Tribal Government)
EC6g	Daniel F. McCarthy (on behalf of the Viejas Tribal Government)
EC6h	Carmen Lucas (on behalf of the Viejas Tribal Government)
EC6i	Jon P. Rebman (on behalf of the Viejas Tribal Government)
EC6j	Ray Clark (on behalf of the Viejas Tribal Government)
EC6k	Owen Schmidt (on behalf of the Viejas Tribal Government)
EC6l	Charles H. Eccleston (on behalf of the Viejas Tribal Government)

Comment Letter	Commenter
EC6m	Courtney Ann Coyle (on behalf of the Viejas Tribal Government)
EC7	Campo Band of Mission Indians
EC8	H. Jill McCormick (Cocopah Indian Tribe)
EC9	Viejas Office of Legal Affairs

5.5.4 Common Responses

A number of the comments received on the Draft EIS/EIR discussed the same issues or environmental concerns. Rather than repeat responses, the Common Responses identified here and set forth below were prepared:

Common Response 1: Comments Received that are not Substantive

Common Response 2: Purpose and Need

Common Response 3: Range of Alternatives

Common Response 4: Health Concerns

Common Response 5: CDCA Plan Limited Use Areas

Common Response 6: Incorporation by Reference of Material Submitted and Comments on other Documents

Common Response 7: Project Greenhouse Gas Emissions

Common Response 8: Fugitive Dust Emissions and Mitigation

Common Response 9: Adequacy of Use of Plans for Mitigation

Common Response 10: Water Supply

Common Response 11: Anza Borrego Desert State Park / Juan Bautista de Anza National Historic Trail

Common Response 12: Section 106 Government-to-Government Consultation

Common Response 13: Traditional Cultural Properties, Cultural Landscapes, and Districts

Common Response 1: Comments Received that are not Substantive

Many comments submitted on the Draft EIS/EIR expressed opposition to or support for the OWEF and did not necessitate any changes to the analysis or conclusions pertaining to the Proposed Action or alternatives. The Lead Agencies determined that these were not substantive comments as they were not relevant to the EIS/EIR scope, analysis, or process as stated in CFR 1503.4(c). For example, these comments expressed philosophy, values, and/or support or opposition to the Proposed Action, but did not comment on the adequacy or accuracy of the analysis presented in the Draft EIS/EIR. Some of these comments made statements or assertions about impacts, but did not provide any details and did not attempt to relate their statements to the information or analysis in the Draft EIS/EIR. See also CEQ publication NEPA's 40 Most Asked Questions #29a.

In some cases, the information provided in these comments resulted in factual corrections that are presented in the Final EIS/EIR. However, those corrections did not result in a change in the analysis or conclusions, and as a result, are not considered a substantive comment as identified in 40 CFR 1503.4(c)).

Common Response 2: Purpose and Need

Some comments indicated that the EIS/EIR purpose and need statement needs to be modified or broadened. For example, some comments suggested that the purpose and need statement should be expanded to include protection of environmental resources or reflect additional federal land management policies and regulations.

Under CEQ's regulations, the BLM's purpose and need statement describes the problem or opportunity to which the BLM is responding and what the BLM hopes to accomplish by the action, not the applicant's interests and objectives (BLM NEPA Handbook Section 6.2; 40 C.F.R. § 1513). However, because the BLM is not required to consider alternatives that are not practical or feasible from the technical and economic standpoint and using common sense, the applicant's interests and objectives, including any constraints or flexibility with respect to their proposal, help to inform the BLM's decision, as it helps determine which alternatives are analyzed in detail through the NEPA process and may also provide a basis for eliminating some alternatives from detailed analysis.

For most renewable energy projects, like the OWEF, the BLM's purpose and need for action will arise from the BLM's responsibility under the Federal Land Policy and Management Act (FLPMA) to respond to a ROW application requesting authorized use of public lands for a specific type of renewable energy development by a particular project proponent.

Consistent with Title IV of the FLPMA, the BLM, as land management agency, relies on industry to identify renewable energy technologies and general project locations and configurations that are technically and economically viable given current market conditions, renewable portfolio standards, technological advancements, and transmission access. Through pre-application and NEPA processes for such projects, the BLM works with applicants, federal land and resource management agencies, and stakeholders in identifying appropriate project locations that conform with federal law, regulation, and policy, and with existing land use plans. These activities result in refinements to proposal and/or the identification of alternate location.

The purpose and need statement also describes the BLM's authorities and management objectives with respect to renewable energy and public lands. In accordance with FLPMA (Section 103 (c)), public lands are to be managed for multiple use in a manner that takes into account the long-term needs of future generations for renewable and non-renewable resources. The Secretary of the Interior is authorized to grant ROWs on public lands for systems of generation, transmission, and distribution of electric energy (Section 501 (a)(4)). In responding to a ROW grant application under this authority, the BLM may decide to deny the proposed row, grant the row, or grant the ROW with modifications. In accordance with the row regulations, modifications may include modifying the proposed use or changing the route or location of the proposed facilities (43 CFR 2805.10(a)(1)).

As explained in the purpose and need statement for this EIS/EIR, this Proposed Action would, if approved, assist the BLM in addressing the management objectives in: (i) the Energy Policy Act of 2005, which set forth the "sense of Congress" that the Secretary of the Interior to approve 10,000 MW of

electricity from non-hydropower renewable energy projects located on public lands by 2015; and (ii) Secretarial Order 3285A1 (March 11, 2009) which establishes the development of environmentally responsible renewable energy as a priority for the Department of the Interior.

Courts generally defer to agency judgment in defining the objectives of proposed projects as long as the statement is reasonable. Generally, agencies need to follow only a “rule of reason” in preparing an EIS. This rule of reason governs both the purpose/need statement and the alternatives the agency must discuss, and the extent to which it must discuss them. The agency bears the responsibility for defining at the outset the objectives of an action. In *Citizens Against Burlington, Inc. v. Busey*, 938 F.2d 190, 198 (D.C. Cir 1991) the court stated that “[t]he goals of an action delimit the universe of the action’s reasonable alternatives” and held that an agency “may not define the objectives of its action in terms so unreasonably narrow that only one alternative from among the environmentally benign ones in the agency’s power would accomplish the goals of the agency’s action, and the EIS would become a foreordained formality. Nor may any agency frame its goals in terms so unreasonably broad that an infinite number of alternatives would accomplish these goals and the project would collapse under the weight of the possibilities.”

For example, need was addressed in *Roosevelt Campobello International Park Commission v. E.P.A.*, 684 F.2d 1034 (1st Cir. 1982) which dealt with EPA’s decision of whether to grant a permit under the National Pollutant Discharge Elimination System to a company proposing a refinery and deep-water terminal in Maine. The criteria used by EPA in its select of alternative sites to evaluate was “focused by the primary objectives of the permit applicant,” and EPA had limited its consideration of sites only to those sites that were considered feasible when considering the applicant’s stated goals. The court found that these criteria for selection of alternative sites were sufficient to meet its NEPA responsibilities.

The purpose and need section of this EIS/EIR presents the problem being addressed and the actions being addressed. The purpose and need as formulated permitted the BLM to develop a reasonable range of alternatives that would resolve the problem (namely responding to the proponent’s ROW application), including alternatives that partly meet the purpose and need while resulting in fewer environmental impacts, thereby allowing the decision makers to evaluate trade-offs, and the benefits of the Proposed Action. It appropriately distinguishes between the need for the proposed action and the desires or preferences of the agency or applicant, and provides the parameters for defining a reasonable range or alternatives to be considered.

Common Response 3: Range of Alternatives

Numerous comments were submitted with similar language stating that the range of alternatives in the NEPA and CEQA analysis is not adequate, is unnecessarily restrictive, or unreasonably narrows the alternatives to the objectives of the Applicant rather than a range of alternatives for the “production and transmission of energy in a safe and environmentally sound manner” per authorities granted to the BLM.

A range of alternatives was evaluated for inclusion in the EIS/EIR and is described in Section 2.8. Courts have held that an agency need not consider all of the possible alternative actions in the environmental analysis, but is only required to look at those that are reasonable in light of the stated purpose and need of the project.

Potential alternatives were considered and evaluated in order to establish a reasonable range of alternatives to be evaluated in detail in this EIS/EIR. Potential alternatives were developed by the EIS/EIR

preparers at the direction of and in coordination with BLM, Imperial County, and the ACOE, using appropriate screening criteria pursuant to NEPA and CEQA. These criteria were used to evaluate whether a potential alternative would: achieve the project purpose and meet most project objectives; be feasible; and offer environmental advantages over the proposed project, including avoidance or reduction of significant environmental impacts.

A total of 18 potential alternatives to the Applicant's proposed project were initially considered for evaluation in the EIS/EIR, which included the original project, reduced size projects, alternative configurations/phasing of the project site, alternative sites, and other types of energy projects. Six alternatives were carried forward for detailed analysis in the EIS/EIR, including the No Project/Action Alternatives.

With respect to NEPA requirements, the range of alternatives evaluated by the BLM was developed to evaluate alternatives to a proposed action developed by an applicant for a federal permit or license.

Neither NEPA nor the CEQ regulations make a distinction between actions initiated by a federal agency and by applicants. Early NEPA case law, while emphasizing the need for a rigorous examination of alternatives, did not specifically address this issue. In 1981, the CEQ addressed the question in its document "Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations." CEQ indicated that the emphasis in determining the scope of alternatives should be on what is "reasonable" and clarified that "Reasonable alternatives include those that are practical or feasible from the technical and economic standpoint and using common sense rather than simply desirable from the standpoint of the applicant."

In a memorandum published in the Federal Register at 48 Fed. Reg. 34263 (1983), the CEQ provided further clarification of this question as it related to the appellate court decision for *Roosevelt Campobello International Park Commission v. EPA*, 684 F.2d 1034 (1st Cir. 1982). The court determined that EPA's choice of alternative sites was "focused by the primary objectives of the permit applicant . . ." and that EPA properly had limited its consideration of sites to only those sites which were considered feasible, given the applicant's stated goals. The court found that EPA's criteria for selection of alternative sites was sufficient to meet its NEPA responsibilities.

The CEQ memorandum noted that "Other factors to be developed during the scoping process -- comments received from the public, other government agencies and institutions, and development of the agency's own environmental data -- should certainly be incorporated into the decision of which alternatives to seriously evaluate in the EIS. There is, however, no need to disregard the applicant's purposes and needs and the common sense realities of a given situation in the development of alternatives."

Consistent with this authority and guidance, the alternatives developed for this EIS/EIR represent a practicable and feasible means of achieving BLM's purpose and need for the Proposed Action, provide a clear basis for choice among alternatives, and address unresolved resource conflicts, including modified site configurations, while remaining cognizant of issues of feasibility. Consistent with the Proposed Action's purpose and need, this EIS/EIR did not analyze alternative or different generation technologies because the BLM was responding to a right-of-way application for a specific technology. NEPA does not specify the nature and number of alternatives that must be analyzed as it varies from project to project.

Similarly, a number of comments submitted on the Draft EIS/EIR stated that a distributed generation alternative, specifically installation of roof-top solar panels, should have been analyzed. Distributed

generation refers to the installation of small-scale renewable energy facilities (typically solar) at individual locations at or near the point of consumption (e.g., use of solar photovoltaic panels on a business or home to generate electricity for on-site consumption). Individual distributed generation systems typically generate less than 10,000 kilowatts. Current research by the DOE indicates that development of both distributed generation and utility-scale renewable energy development will be needed to meet future energy needs in the United States, along with other energy resources and energy efficiency technologies.

Distributed solar generation was described and considered in Section 2.8. It was noted that the alternative would partially meet objectives (renewable energy). However, it would not meet the primary objective of wind power generation and would not likely be implemented in a timeframe to meet the Renewables Portfolio Standard requirements. Implementation of this alternative would likely be economically infeasible for the Applicant to implement. Additionally, barriers exist for distributed solar generation related to interconnection with the electrical distribution grid.

Finally, the Energy Policy Act of 2005 established a goal for the Secretary of the Interior to approve 10,000 MW of electricity from non-hydropower renewable energy projects located on public lands. The Act reflects Congress' conclusion that installation of renewable energy technologies on the public lands capable of producing at least 10,000 MW is appropriate. Given the current state of the technology, only utility-scale renewable energy generation projects are reasonable alternatives to achieve this level of renewable energy generation on public lands. Furthermore, the BLM has no authority or influence over the installation of distributed generation systems, other than on its own lands. Based on these considerations, the distributed generation alternative was not retained for detailed analysis in the EIR/EIS because it does not respond to the purpose and need to consider an application for the authorized use of public lands for a specific renewable energy technology.

A number of comments submitted on the Draft EIS/EIR stated that off-site energy generation alternatives should have been analyzed. Off-site alternatives within Imperial County were considered but eliminated from analysis for various reasons. Please see section 2.8 of the Final EIS/EIR. As Figure 2.7-1 of the Final EIS/EIR shows, two general areas of Imperial County have a "fair" to "superb" wind resource, as defined by the National Renewable Energy Laboratory: a "fair" to "excellent" wind resource in a small portion of the eastern third of the County, and a "good" to "superb" wind resource in a small portion of the southwestern corner of the County.

A majority of the wind resource area within the eastern part of the County is located on Department of Defense (DOD) land, and the remainder in the eastern part of the County is located on BLM land scattered with small in-holdings of private land. However, based on mapping showing both wind resource and environmental/land constraints, BLM concluded that the DOD lands were unable to support construction of a comparably-sized wind energy facility capable of meeting the project's purpose. The remainder of eastern Imperial County land with "fair" to "excellent" wind resources is located within the Chuckwalla Desert Wildlife Management Area of Critical or Environmental Concern ("ACEC"). Areas with special designations such as wilderness or ACEC are precluded from wind energy development.

The southwestern corner of the County is primarily BLM land scattered with small in-holdings of private land. The southwestern-most corner of the County where the wind resource is "excellent" to "superb" is within the Jacumba Wilderness and the Yuha Basin ACEC, located south and southwest of the project site. As noted above, areas with these special designations are precluded from wind energy development.

Sites on other BLM-administered lands and private lands were considered. Much of the BLM-administered lands with the highest wind energy resource values are precluded from wind development by special designations such as wilderness or ACEC. Many potentially suitable areas of BLM-administered land outside these designated areas are precluded because they are in use or are proposed for other wind energy projects. One large area of BLM-administered land, located in northeastern Imperial County directly east of the Chocolate Mountain Naval Aerial Gunnery Range, was eliminated from consideration due to the substantially lower quality of its wind resource. Finally, large areas of private land that could accommodate a wind energy facility similar in size to the Proposed Action are located in the central and northwestern portion of the County, but wind resources in these areas are only “poor” to “marginal.”

Common Response 4: Health Concerns

Several comments expressed health concerns related to shadow flicker, low frequency noise, and electric and magnetic fields (EMF).

Shadow Flicker

With the installation of WTGs, the proposed project has the potential to result in a phenomenon known as “shadow flicker”. Shadow flicker is the alternating change in light intensity that occurs when rotating WTG blades cast moving shadows on the ground or on structures. Shadow flicker occurs only when the following conditions are met: the sun is shining with no clouds obscuring the sun; rotor blades are spinning; the WTG is located between the sun (whose path changes daily) and the receptor; and the receptor is sufficiently close to WTG. If these conditions are met, shadow flicker would likely only occur at sunset and sunrise.

In the past, concerns have been raised about the potential for wind turbine shadow flicker to cause seizures in some epileptics. Photosensitive epilepsy occurs in 1 person per 4,000 individuals, with a higher prevalence in children between 7 and 19 years of age (Douaud et al., 2011). Seizures are triggered in individuals with this form of epilepsy at frequencies greater than 3 Hz or 180 revolutions per minute (Harding et al., 2008).

The rotor speed of the proposed WTGs is between 6 and 14.8 rotations per minute (see Table 2-1 in Section 2 of the Draft EIS/EIR), which is substantially slower than the slowest speed that has the potential to cause photosensitive epilepsy. Two studies published in the scientific journal *Epilepsia* (Harding and Wilkins, 2008; Smedley et al., 2010) support this claim as they concluded that modern turbines, as described above, would not result in shadow flicker frequency at a rate that would induce seizures.

Although not dangerous *per se*, these flickers have been described by some as being annoying and detracting from enjoyment of their property for a limited amount of time a year. Therefore, as discussed in the Final EIR/EIS for this project, BLM Best Management Practices include site-specific recommendations (i.e. sufficient setback) to eliminate shadow flicker in the project design. Furthermore, the OWEF has been designed to avoid shadow flicker on sensitive receptors through a combination of careful siting of turbines in relation to residences, and the commitment to deploy Siemens technology that prevents blade rotation on individual turbines as needed to avoid causing shadow flicker on residences.

Audible Noise, Low Frequency Noise and Infrasound

The audible noise frequency range is considered to be between 20 – 20,000 Hz. Over the years audible noise tended to be the driving force behind the concerns around citing wind turbine projects. As a result governments around the world have established set-back distances that are typically based on a combination of: (1) audible noise levels; and (2) distances required to achieve these levels at non-participating residents. Imperial County has established a daytime noise limit of 50 dBA 1-hour Leq and a nighttime level of 45 dBA Leq. These levels are consistent with many other US and international guidelines governing noise limits for wind turbine projects. It is not anticipated that adherence to these guidelines will result in physiological health effects in neighbors. However, on occasion during the worst-case meteorological conditions, it is possible that the turbine noise may be audible and cause some annoyance in a small percent of the population.

Some in the wind turbine health debate that have argued that even if appropriate audible noise setbacks are enforced that other factors, such as exposure to low frequency noise may cause health effects. Low frequency noise is generally considered to be in the 20 – 200 Hz range. The claims by people like Dr. Pierpont or Dr. Salt are merely hypothesis and have been made without supporting documentation of wind turbine low frequency noise measurements. For example, the often cited Salt and Hullar (2010) research demonstrated that at very low frequencies in the laboratory that the outer hair cells (OHC) of the cochlea of guinea pigs may be stimulated. The researchers have only theorized that this could be the case for people living around wind turbines and have not actually measured LFN or infrasound surrounding wind turbines.

According to Geoff Leventhall, Ph.D. (an internationally recognized expert in noise vibration and acoustics from the UK), in “Low Frequency Noise from Wind Turbines and Other Sources,” broad band infrasound and low frequency noise is not normally a disturbance for people.

Recently, O’Neal et al. (2011) published the first study that actually measured LFN outside and inside nearby homes (305 m (1,001 feet) and 457 m (1,499.34 feet)) from the Horse Hollow Wind Farm in Taylor and Nolan Counties, Texas. Similar measurements were collected at the GE 1.5-MW turbines and the Siemens 2.3-MW turbines (the same model proposed for the Ocotillo Wind Energy Facility). They determined that LFN and infrasound at both homes were less than any internally recognized standards and criteria published in the UK, US, and Japan. The authors concluded that no adverse public health effects from LFN or infrasound would be expected from the types of turbines studied at distances greater than 300 m (984.25 feet). Given that the closest turbine is 804.67 m (2,640 feet) from the nearest home, the project LFN and infrasound are unlikely to be cause for concern to health.

Electric and Magnetic Fields

Electric and magnetic fields (EMF) are physical fields produced by electrically charged objects, affecting the behavior of charged objects in the vicinity. Currently, the State of California has not adopted any specific limits or regulation on EMF levels related to electric power facilities. The proposed OWEF involves the installation of an electrical collection system that would primarily be installed underground as well as a short overhead connection to the new Sunrise Powerlink 500-kV transmission line. Due to the lack of nearby sensitive receptors, long-term exposure to EMFs related to the collection and transmission lines is not expected to occur.

As discussed in the EIR/EIS, research since 2001 concerning possible health effects associated with EMF has been consistent with earlier studies. Although the health effects of EMF are uncertain, field intensity, transients, harmonics, and changes in intensity over time are some of the EMF characteristics that may need to be considered to assess human exposure effect.

Havas and Colling (2011) recently published an article in a non-medical/science journal that speculates that EMF emissions from wind turbines and connecting power cables could be the cause of adverse health effects in people living near wind turbines. However, at best this article is speculative in nature and is not founded on reproducible sound scientific methods for establishing the link between EMF (that they believe could result in “dirty electricity”) and adverse health effects. That being said, their article does suggest that burying the collection line system can improve power quality and reduce the potential for these theoretical adverse effects. Given that the proposed project involves the burying the electrical collection system, it addresses any concerns raised in this paper.

The electrical wiring of the WTG itself is surrounded by an electrically conductive metal cover, resulting in very minimal EMF levels outside of the wind turbine. The closest residence to the project site is location L1, approximately 2,640 feet from the closest proposed wind turbine. The underground collection lines generally reduce magnetic fields much more rapidly with distance than do overhead lines, but could have a higher magnetic field directly over the centerline (than would occur directly under an overhead line). These collection lines would be located within the project boundary, except for the segment connecting across I-8 to Site 2; they would be at least 0.5 mile from any sensitive receptor, which would provide sufficient distance to dampen the level of EMF such that EMF levels at the nearest receptors would be no greater than existing ambient levels.

This conclusion is supported by a recent paper published by Israel et al. (2011). The aim of their study was to examine the levels of EMF, noise and vibration, emitted by Vestas V90 3-MW wind turbines along the Black Sea in Bulgaria. The study included a series of EMF field measurements around power cables that connect to the wind turbines near the closest four villages to the project. They concluded that EMF surrounding wind turbines and cables is so small that it is insignificant when compared to measurements in residential areas and homes and well below limits recommended by the European Council.

Popular Literature on Health Effects Associated with Wind Turbines - Wind Turbine Syndrome

Publication in reputable peer-reviewed scientific and medical journals is considered by the research community as the most appropriate way to disseminate scientific findings. Publication in these journals ensures that the research has been scrutinized by others and ultimately the findings could be reproduced. However, the general public does not often have access to these scientific journals (many require the researcher to conduct a search in academic databases and if retrieved many cost money to download and read) and often get their information and form opinions on sources that are less accountable (for example, the numerous claims on internet websites and from the popular literature (e.g., Dr. Nina Pierpont’s book)). These internet articles or books opining or speculating on theories related on living in proximity to wind turbines and health effect should be viewed with a certain amount of skepticism.

In 2009, Dr. Pierpont from New York released her wind turbine study in a book entitled *Wind Turbine Syndrome: A Report on a Natural Experiment*. Within her book she coined the phrase Wind Turbine Syndrome (WTS) and describes it as an illness in certain individuals that is potentially caused by wind

turbine noise and vibration resulting in sleep disturbance, nausea, tinnitus, and other symptoms. Her book describes a case series of interviews that she conducted with 10 families that claim to be experiencing health effects of residing near turbines. However, although she speculates that these symptoms are related to noise or infrasound she did not conduct any of these measurements around the homes, and to our knowledge has never followed up.

Other commonly cited internet studies include those by Dr. Michael Nissenbaum from Mars Hill, Maine, and some claiming to have information on health effects in Ontario, Canada. Similar to those findings of Dr. Pierpont, none of these studies has been published in a credible peer-reviewed scientific journal that describes a dose-response relationship between noise, infrasound or any other emission from a turbine or power lines and people's self-reported health effects. In fact, in a recent Environmental Review Tribunal (ERT) decision in Ontario, Canada much of this internet research was presented by the authors and the tribunal found that their evidence was not sufficient to demonstrate that wind turbines would cause serious harm to health (ERT, 2011). Instead the tribunal appeared to place a higher weight of evidence on studies and researchers who had published their findings in scientific journals and the experts who had summarized that data.

A number of international governmental health agencies have also agreed during their review of the issue that noise from wind turbines is not loud enough to cause hearing impairment and are not causally related to adverse effects. These include

- Chief Medical Officer of Health (CMOH) Ontario: The Potential Health Impact of Wind Turbines. 2010.
- Australian Government. National Health and Medical Research Council: Wind Turbines and Health: A Rapid Review of the Evidence; 2010.

The same conclusion was also reached by the American Wind Energy Association (AWEA)/Canadian Wind Association (CanWEA) commissioned work entitled "Wind Turbine Sound and Health Effects: An Expert Panel Review" (Coby et al., 2009).

Annoyance and Wind Turbines

What both the popular literature and scientific publication on wind turbines have in common is the conclusion that wind turbines can be a source of annoyance for some people. The difference between the two opposing views is the reason for this annoyance and the extent to which it poses a health concern.

The peer reviewed and scientifically defensible studies suggest that annoyance and health effects are more strongly related to subjective factors like visual impact and attitude towards wind turbines, rather than the noise (both audible and LFN) itself (Pedersen, 2011; Pederson and Persson Waye, 2007). Self-reported health effects are more likely attributed to physical manifestation from an annoyed state than from wind turbines themselves. In other words, it appears that it is the change in the environment that is associated with reported health effects and not a turbine-specific variable like audible noise or infrasound (Knopper and Ollson, 2011).

Common Response 5: CDCA Plan Limited Use Areas

Several comments expressed concern that the Limited Use designation may change due to the Proposed Action or they opposed including the OWEF as a recognized element within the CDCA Plan.

The applicable BLM land use plan for purposes of the BLM-administered lands relevant to the Proposed Action is the California Desert Conservation Area Plan 1980, as amended (CDCA Plan). The CDCA Plan classifies the location of the proposed OWEF facility as Multiple-Use Class (MUC) L (Limited Use). As outlined in Table 1 (Multiple-Use Class Guidelines) of the CDCA Plan, wind energy facilities may be allowed within Limited Use areas after NEPA requirements are met. This Plan Amendment & EIS/EIR satisfies that requirement, and as a result the Proposed Action (including the Plan Amendment) would not change the multiple-use classification of the project site which would remain within the Limited Use designation.

In addition to MUC Class requirements applicable to locating a wind energy facility on MUC Class L lands designations, the “Energy Production and Utility Corridors Element” of the CDCA Plan requires that newly proposed power facilities that are not already identified in the CDCA Plan be considered through the Plan Amendment process. Since the proposed OWEF site is not currently identified within the CDCA Plan, the BLM had to consider, in connection with its consideration of the right-of-way application for the OWEF, a Plan Amendment that would include the facility as a recognized element within the CDCA Plan.

With completion of this EIS/EIR and approval of the Plan Amendment, the Proposed Action would be consistent with the CDCA Plan’s Limited Use designation or other requirements of the CDCA Plan applicable to the construction of a wind generation facility on the OWEF project site.

Common Response 6: Incorporation by Reference of Material Submitted and Comments on other Documents

BLM recognizes that scientific research is very active in many areas addressed in this document. Several commenters referenced articles, reports, and studies as part of their technical and scientific comments and requested that materials be incorporated by reference (e.g., comments submitted by an organization for other projects), but were not submitted to BLM. BLM made every effort to retrieve and review publicly available material. BLM did not individually respond to each and every piece of literature submitted or incorporated by reference in comments. As with the comments, there was overlap in the literature received. BLM identified the relevant literature and previous comments on other projects that related to the substantive comments for the EIS/EIR and responded to those significant issues raised in the literature and comments incorporated by reference.

Common Response 7: Project Greenhouse Gas Emissions

While the proposed OWEF would have both direct and indirect GHG emissions, this renewable energy project would displace significantly more GHG emissions from fossil fuel combustion than it would ever cause to be emitted. While there is no doubt that the proper integration of renewable energy would substantially reduce GHG emissions, a number of comments on this issue were provided. So, to respond more completely to the comments on this topic, a general comment response has been provided.

This general response has been divided into three subparts: (1) renewable energy’s role in reducing GHG emissions for the electricity sector; (2) wind energy’s GHG emissions reduction potential; and (3) natural CO₂ uptake and release.

Renewable Energy’s Role in Reducing GHG Emissions for the Electricity Sector

The State of California’s mandated Renewable Portfolio Standard (RPS) is one of the State’s primary measures meant to reduce GHG emissions from the electricity generation sector. The State has proposed long-term emissions reductions from the electricity generation sector that are disproportionately large in order to achieve overall state-wide reductions. Renewable energy is a “must-take” resource that is integrated into the resource mix for State of California both as part of the regulated dispatch order and also as required for utilities to meet the current RPS of 20 percent and the future RPS that ramps up to 33 percent by 2020. Renewable energy has lower GHG emissions than traditional fossil fuel fired engines, boilers, or gas turbines. Properly integrated renewable energy will help create the emission reduction necessary for the State of California to meet its GHG emission reduction goals. There are some issues with renewable energy integration in areas that are dominated by coal or hydroelectric power; however, in California the large amount of highly dispatchable natural gas fired generating resources allows renewable energy to be integrated effectively without loss of hydroelectric power potential or cycling of coal-fired power plants that could potentially cause increases of CO2 emissions. Additionally, in the future if energy storage technologies become more cost effective, the issues concerning renewable energy integration will be significantly reduced.

Wind Energy’s GHG Emissions Reduction Potential

Wind power has the lowest overall GHG footprint of any current renewable energy resource (Lenzen, 2008). Wind energy has no carbon emissions from electricity generation, a very small amount from maintenance operations, and smaller cradle-to-grave lifecycle emissions than other renewable energy sources like thermal or photovoltaic solar energy. The emission reduction potentials can range from 0.35 million tons (MT) CO2/MWh up to over 1 MT CO2/MWh in comparison to fossil-fuel fired resources. A comparison of life-cycle greenhouse gas intensity by technology is as follows:

Electricity Technology	Greenhouse Gas Intensity (MT CO2e/MWh)
Coal (various grades and technologies)	0.774 – 1.506
Natural Gas Simple Cycle Turbines	0.627 – 0.891
Natural Gas Combined Cycle Turbines	0.491 – 0.655
Photovoltaics	0.053 – 0.217
Wind Turbines	0.013 – 0.040

Source: Lenzen, 2008

The table above includes the direct stack emissions and the other life-cycle emissions sources, such as equipment and facility construction, fuel extraction and processing, transportation of fuels and wastes, etc. This table illustrates how much lower wind energy greenhouse gas emissions are in comparison with fossil fuel generation technologies.

Natural CO2 Uptake Loss and Release

The determination of natural CO2 uptake loss and potential soil disturbance CO2 release in desert environments is currently an inexact science. While reducing acres of vegetation will clearly reduce natural CO2 uptake the exact amount of that loss from vegetation and cryptobiotic soils and loss of potential additional caliche (calcium carbonate) formation in the soil is uncertain. Similarly, the potential for CO2 release from caliche due to soil disturbance is not well understood. In fact, the results of the gas exchange studies that have established high desert environment CO2 uptake values have been questioned as unreasonable considering the lack of corresponding physical biomass changes and the low annual

potential for new caliche accumulation (Schlesinger, 2008). However, even assuming very conservative estimates for CO₂ uptake loss and CO₂ release from soils, the values are minor in comparison with the indirect CO₂ emissions reductions from the OWEF electricity generation. The highest value of CO₂ uptake loss plus CO₂ release in the references provided in the public comments (150 grams per square meter per year) is only 50 percent higher than what was evaluated in the Draft EIS/EIR, where the Draft EIS/EIR using a CO₂ uptake loss of 100 grams per square meter per year showed a more than three orders of magnitude difference between this effect and the indirect emission reductions from displacing fossil fuel fired energy generation (0.00027 MT CO₂/MWh vs. 0.38 to 1.1 MT CO₂/MWh). So, while the exact value of the CO₂ uptake loss and CO₂ release from disturbed soils may be at issue, the finding that it is a comparatively negligible effect is not at doubt.

It should be also noted that wind energy requires a site that has adequate wind, which is a much more constrained siting issue than adequate sunshine for solar power. Therefore, the argument that there should be a priority that distressed lands be used for renewable energy to reduce impacts, which is an argument provided in comment exhibits, including indirect GHG impacts from natural CO₂ uptake loss and release, isn't a reasonable argument for wind power. In fact, the OWEF project site, given the very limited biologic production at this site, is probably as well suited or more suited to reduce GHG emissions than several of the other major wind energy resource areas in the state.

Common Response 8: Fugitive Dust Emissions and Mitigation

Fugitive dust emissions are a significant concern at the site as identified in the comments received. Part of this concern is the nearby location of the Ocotillo residential receptors that would often be directly downwind of these emissions sources. The magnitude of fugitive dust emissions during construction and operation has been conservatively estimated and feasible mitigation has been recommended to minimize the fugitive dust emissions potential. Diesel engine mitigation measures are also recommended that will reduce construction equipment engine tailpipe emissions. However, due to the construction activity intensity, the mitigated emissions estimate remains above the ICAPCD significance thresholds for both PM₁₀ and for NO_x and these temporary construction impacts have been identified as significant and unavoidable.

The mitigation measures include specific mitigation activities and mitigation performance requirements that are above and beyond the ICAPCD rule requirements to control fugitive dust generation from construction activities and from unpaved road travel. These mitigation measures will significantly reduce the fugitive dust emissions potential, including reducing the potential exposures to any *Coccidioidomycosis* spores, which cause Valley Fever, that may exist at the site. One commenter provided many references regarding Valley Fever but none was specifically relevant to the project area, and review of available California Department of Public Health incidence data (CDPH, 2010) suggests a comparatively low incidence of Valley Fever in Imperial County even though the county is known for periodic high wind caused dust events.

A number of public comments note the fact that the existing desert crust would be disturbed by the project's construction, and this would increase fugitive dust emissions potential. While it is true that the project would disturb the existing desert crust, the mitigation measures are designed to limit the amount of disturbance and also to mitigate this disturbance by requiring that all disturbed areas are stabilized and that those stabilized surfaces be maintained throughout the project life. This requirement in effect requires that

new soil crusts be created and maintained in disturbed areas. It should also be noted that current recreational activities that occur at the project site also disturb the desert crust and these activities are unmitigated.

A review of the public comments and the recommended mitigation measures in the EIS/EIR indicates that the intent of requiring stabilized surfaces to be created and maintained through the project life through the use of non-toxic means may not be clear, so the measures have been edited to clarify this intent. To address the issues noted above and make the intent of the fugitive dust mitigation measures more clear, the following revisions have been made to the mitigation measures.

AIR-1...

2. All other onsite unpaved roads shall be effectively stabilized using non-toxic soil stabilizers that can be determined to be as efficient as or more efficient for fugitive dust control than California Air Resources Board approved soil stabilizers, and that shall not increase any other environmental impacts including loss of vegetation. The proposed soil stabilizer(s) MSDS sheet and application strategy (method, frequency, and quantity) shall be provided to the BLM for approval prior to use.

...

14. Disturbed areas, after active construction activity has ceased, shall be stabilized using non-toxic soil stabilizers approved for project use and should be revegetated as soon as possible after disturbance.

AIR-3...

- The other unpaved roads at the site shall be stabilized using water or non-toxic soil stabilizers so that vehicle travel on these roads, or high winds, does not cause visible dust plumes.
- Disturbed areas that have been stabilized after active construction activity has ceased, shall be maintained as stabilized surfaces throughout the project's life.

Common Response 9: Adequacy of Use of Plans for Mitigation

The EIS/EIR does not improperly defer mitigation to a later date through the requirement of preparation of plans. The BLM and County are required to formulate measures to mitigate those impacts before the project is approved. (Cal. Code Regs., § 15126.4(a)(1)(B); *see Cal. Native Plant Society v. City of Rancho Cordova* (2009) 172 Cal.App.4th 603, 621.) The NEPA requires an evaluation of all impacts and to propose mitigation to lessen those impacts. The CEQA, per the County's responsibility, is required to determine whether an action will have significant impacts, based on the impact reaching a specific threshold, and is required to propose mitigation measures that reduce the level of impact to less than significant. Establishing a commitment to mitigate the impacts of a project before it is approved, even if the details of a particular mitigation measure are unknown, satisfies this requirement. (*Cal. Native Plant Society, supra*, 172 Cal.App.4th at p. 621–22.) This may be especially appropriate where, as here, further studies are needed to determine the exact placement and design of the mitigation. (*See National Parks & Conservation Ass'n v. County of Riverside* (1999) 71 Cal.App.4th 1341, 1366.) For example, a Sedimentation and Erosion Control Plan needs to be customized for individual features of the project site (taking into account topography, surface soils, drainage, and nearby features that need protection) and for the specific activities that would occur at each location. The Plan also needs to be adapted to reflect different phases of construction activity. Therefore, the details regarding exactly where erosion control devices would be placed can be deferred pending the completion of engineering and construction designs. (*See, e.g., Cal. Native Plant Society, supra*, 172 Cal.App.4th at p. 621–22 [“[T]he details of exactly how

mitigation will be achieved under the identified measures can be deferred pending completion of a future study.”]; *Sacramento Old City Ass’n v. City Council* (1991) 229 Cal.App.3d 1011, 1035–37 [holding that a mitigation measure stating that “[t]he City will require preparation of a Transportation Management Plan (TMP) to reduce project related traffic and parking impacts” and listing the City’s goals for parking and traffic did not improperly defer mitigation].) This same principle applies to other plans required by the EIS/EIR as mitigation measures.

Those measures in the EIS/EIR that call for the preparation of plans as a component of a mitigation measure provide adequate descriptions of the intent of these plans, the required content for these plans, and performance standards for implementation of mitigation actions, as feasible. The mitigation measures also indicate where certain plans must be reviewed and approved by appropriate agencies and, where applicable, must conform to established protocols or guidance promulgated by responsible resource agencies, such as the US Fish and Wildlife Service. A list of the plans called out in comment letters and analysis of the adequacy of the mitigation is provided in section **9A** below.

Several comments have stated that various plans mentioned in the Draft EIS/EIR, such as the Construction Waste Management Plan, improperly defer mitigation but those plans are not proposed as mitigation measures. Rather, they are plans that the Applicant has volunteered to prepare to demonstrate how they intend to manage various aspects of project construction and operation. The EIS/EIR does not rely on these plans for mitigation of impacts, although the measures in these plans may very well help reduce impacts and could be used as a means to help implement required mitigation adopted by the Lead Agencies. Because such plans are not mitigation measures, they are not subject to claims of improper deferment. Plans that fall into this category are listed in section **9B**, which follows section 9A, below.

9A: Plans Constituting Mitigation Measures

Air Resources

Fugitive Dust Control Plan (Mitigation Measure Air-1): This mitigation measure, found in Section 4.2, has been modified in part as shown below:

The following dust control measures shall be implemented:

1. The road leading to the operations and maintenance facility shall be paved as early as practical during construction.
2. All other onsite unpaved roads shall be effectively stabilized using soil stabilizers that can be determined to be as efficient as or more efficient for fugitive dust control than California Air Resources Board approved soil stabilizers, and that shall not increase any other environmental impacts including loss of vegetation.
3. All material excavated or graded will be sufficiently watered to prevent excessive dust. Watering will occur as needed with complete coverage of disturbed areas. The excavated soil piles are watered hourly for the duration of construction or covered with temporary coverings.
4. Construction activities that occur on unpaved surfaces will be discontinued during windy conditions when winds exceed 25 miles per hour and when those activities cause visible dust

plumes. All grading activities shall be suspended when wind speeds are greater than 30 miles per hour.

5. Track-out shall not extend 25 feet or more from an active operation and track-out shall be removed at the conclusion of each workday.
6. A wheel-washing system shall be installed and used to remove bulk material from tires and vehicle undercarriages before vehicles exit the proposed project property.
7. All hauling materials shall be moist while being loaded into dump trucks. All haul trucks hauling soil, sand, and other loose materials shall be covered (e.g., with tarps or other enclosures that would reduce fugitive dust emissions).
8. Soil loads shall be kept below 18 inches or the freeboard of the truck.
9. Drop heights shall be minimized when loaders dump soil into trucks.
10. Gate seals should be tight on dump trucks.
11. Traffic speeds on unpaved roads shall be limited to 15 miles per hour.
12. Other fugitive dust control measures as necessary to comply with Imperial County Air Pollution Control District Rules and Regulations.
13. Disturbed areas shall be minimized.
14. Disturbed areas shall be revegetated as soon as possible after disturbance.

This mitigation measure does not impermissibly defer analysis. The mitigation measure states that the intent of this plan is “to reduce Particulate Matter 10 and Fine Particulate Matter 2.5 emissions during construction.” The mitigation measure lists the specific information to be included in the plan and the plan’s performance criteria. Further, the plan must meet the criteria set forth in Regulation VIII of the rules (rules 800-806) for the Imperial County Air Pollution Control District.

Cultural Resources

Cultural Resources Management Plan (CRMP) (Mitigation Measure Cul-3): This mitigation measure, found in Section 4.4, does not impermissibly defer analysis. The mitigation measure states that the plan’s intent is “to ensure the effectiveness of [Environmentally Sensitive Areas (ESAs)].” The mitigation measure also specifies the information that will be in the CRMP, and explains the procedures that must be followed if there are unanticipated discoveries of cultural resources.

Lands & Realty

Decommissioning Plan (Mitigation Measure Lands-3): This mitigation measure, found in Section 4.6, does not impermissibly defer analysis. The mitigation measure states that the plan’s intent is to “ensure that decommissioning is conducted in accordance with then-current land use plans, policies, or regulations.” The mitigation measure also lists the items that will be included in the plan and performance standards. For example, property owners must “be provided with a detailed decommissioning schedule at least 30 days prior to decommissioning” that informs the owners of “the time and location of [the] disturbance.”

Noise

BMPs for Construction Activities (Section 4.9): This mitigation measure does not impermissibly defer analysis. The stated intent of these best management practices is to limit noise. The Final EIS/EIR lists six specific methods that explain the various techniques that will be used to minimize noise from the project, and for unavoidable construction noise, ensure that those affected by the noise will have advance notice of it.

Public Health & Safety

Geotechnical Study (Mitigation Measure PHS-3): This mitigation measure, found in Section 4.11, does not impermissibly defer analysis. The mitigation measure explains that the purpose of the study is “to evaluate soil conditions and geologic hazards on the project site.” The mitigation measure lists what must be in the study and that a California-registered professional engineer must sign the study. The mitigation measure also requires the Applicant to use the study to determine the final siting of project facilities. If the study indicates that there is a fault trace, the mitigation measure requires the Applicant to avoid siting structures on it or adjacent to it. Final siting design will be evaluated by the BLM and Imperial County Planning & Development Services to ensure that geological constraints have been avoided.

Soil Resources

Conduct Geotechnical Studies to Assess Soil Characteristics and Aid in Appropriate Foundation Design (Mitigation Measure Soil-1): This mitigation measure, found in Section 4.14, does not impermissibly defer analysis. The mitigation measure has the purpose of ensuring that foundations are designed to resist corrosion and be safe. The mitigation measure lists examples of the types of methods that may be suitable for designing corrosion-resistant foundations and steps that must be taken to avoid being surprised by the presence of expansive or collapsible soils during construction. The soil studies must “conform to industry standards of care and American Society for Testing and Materials (ASTM) standards for field and laboratory testing,” which provides the necessary performance criteria. Further, study results and proposed solutions shall be provided for review and approval to the BLM, for actions on BLM lands, and to Imperial County, for actions on County lands, at least 60 days before final project design.

Transportation & Public Access

Transportation Plan (BMPs from BLM’s Wind Programmatic EIS): The Transportation Plan, found in Section 4.16, has been revised as shown below:

A transportation plan shall be developed, ~~particularly~~ for the transport of turbine components, main assembly cranes, and other large pieces of equipment that may be necessary to complete the project to ensure compliance with all state and local transportation laws. The plan shall consider specific object sizes, weights, origin, destination, and unique handling requirements and shall evaluate alternative transportation approaches. Based on the conclusions drawn from those considerations and evaluations, the Applicant shall use the approach that minimizes traffic disruption and miles driven. In addition, the process ~~to~~ that will be used to comply with unique state requirements and to obtain all necessary permits shall be clearly identified and followed.

This mitigation measure does not impermissibly defer analysis. The intent of the mitigation is “to ensure compliance with all state and local transportation laws.” And, the measure states that such laws will be

followed. The mitigation measure also states the contents of the plan and the performance criteria that will be used to determine if the measure has been satisfied.

Traffic Management Plan (BMPs from BLM's Wind Programmatic EIS): The Traffic Management Plan, found in Section 4.16, has been revised as shown below:

A traffic management plan shall be prepared for the site access roads to ensure that no hazards would result from the increased truck traffic and that traffic flow would not be adversely impacted. ~~This plan shall incorporate measures such as informational signs, flaggers when equipment may result in~~ Under this plan, informational signs will be used to inform the public of temporary traffic hazards, flaggers will be employed when equipment will block throughways, and traffic cones will be used to identify any necessary changes in temporary lane configuration.

This mitigation measure does not impermissibly defer analysis. The mitigation measure defines the intent of the plan, which is “to ensure that no hazards will result from the increased truck traffic” and to ensure “that traffic flow will not be adversely impacted.” The measure also includes a description of the plan's directives and the criteria that will be used to implement the plan.

Wildland Fire Resources

Fire Safety Plan (Mitigation Measure Fire-1): This mitigation measure, found in Section 4.20, does not impermissibly defer analysis. The mitigation measure discloses that the intent of the plan is to ensure that there are “notification procedures and emergency fire precautions” in place. The mitigation measure includes a list of procedures that must be followed and states that the BLM FIRE and Imperial County Fire Marshall must approve the plan.

Vegetation Resources

Special Status Plant Species Avoidance/Restoration/Compensation (Mitigation Measure Veg-1c): This mitigation measure, found in Section 4.17, does not impermissibly defer analysis. The mitigation measure describes who must conduct surveys for special status plant species and when and where those surveys must occur. The mitigation measure also gives criteria for determining where construction activity should occur, which is a place other than where there are special status species if at all feasible. The mitigation measure explains that there will be descriptions of methods to salvage soil and seed in areas containing special status plant species for use in the revegetation of temporary impact areas, including the use of container stock and seed of the affected special status plant species for use in restoration/revegetation areas.

Integrated Weed Management Plan (Mitigation Measure Veg-1d): This mitigation measure, found in Section 4.17, does not impermissibly defer analysis. The mitigation measure explains that the intent of this plan is “to control non-native invasive weeds.” The mitigation measure also lists the contents of the plan; the plan “shall include a risk assessment of the invasive weed species currently known within the proposed OWEF site, procedures to control their spread on site and to adjacent off-site areas, and procedures to help minimize the introduction of new weed species.” Finally, the mitigation measure states how and when the plan must be implemented: “The Integrated Weed Management Plan shall be submitted to the BLM and County for review and approval prior to the start of construction and shall be implemented prior to, during, and following the completion of construction for the life of the project.”

Habitat Restoration / Revegetation Plan (“HRRP”) (Mitigation Measure Veg-2b): This mitigation measure, found in Section 4.17, has been modified as shown below:

Temporarily disturbed areas shall be revegetated according to a Habitat Restoration/ Revegetation Plan (HRRP) approved by the BLM and Wildlife Agencies. The HRRP must be approved in writing prior to the initiation of any vegetation disturbing activities. Restoration involves recontouring the land and replacing topsoil (if it was collected). Revegetation also involves planting seed and/or container stock, maintaining the plantings (e.g., weeding, replacement planting, supplemental watering), and monitoring the restored/revegetated areas for a period of at least five years (or until the restoration/ revegetation meets all success criteria). The HRRP shall include methods to salvage soil and seed in areas containing special status plant species for use in the revegetation of temporary impact areas, and shall include container stock and seed of the affected special status plant species for use in restoration/revegetation areas. Restoration measures in desert environments include alleviating soil compaction, returning the surface to its original contours, pitting or imprinting the surface to allow small areas where seeds and rain water can be captured, planting seedlings with root mass necessary to survive without watering, planting seedlings in the spring with herbivory cages, broadcasting locally collected seed immediately prior to the rainy season, and covering seeds with mulch. The final success criteria for restored/revegetated areas are as follows: (1) Native vegetation cover measured within revegetated areas should be at least 70 percent of that measured at reference sites located in similar habitat; (2) non-native vegetation cover within revegetated areas should be equal to or less than that measured at reference sites located in similar habitat, and (3) recruitment (the successful, natural reproduction and/or establishment of plants in a given area) of native plants should demonstrate at least 40 percent of the recruitment observed in a reference site located in similar habitat. If after five years of monitoring there are areas that do not meet the success criteria ~~outlined in the HRRP~~, these areas shall be compensated off site at a 1:1 ratio of equal or better quality habitat compared to what was impacted, in accordance with Mitigation Measure Veg-2a.

This mitigation measure does not impermissibly defer analysis. The mitigation measure states that the intent of this plan is to ensure that “[t]emporarily disturbed areas shall be revegetated” through “restoration” and/or “revegetation.” The mitigation measure also explains the required content for the HRRP, offers examples of the types of restoration measures that may be used, and outlines the performance criteria that will be used to determine whether restoration or revegetation has been successful. The HRRP must be approved by the BLM and wildlife agencies prior to any vegetation disturbing activities occurring.

Jurisdictional Mitigation Plan (Mitigation Measure Veg-3): This mitigation measure, found in Section 4.17, has been revised as shown below:

The Applicant shall implement a Jurisdictional Mitigation Plan to describe the mitigation for impacts to jurisdictional areas within the proposed OWEF site. The Jurisdictional Mitigation Plan shall be submitted to the ACOE, Regional Water Quality Control Board (RWQCB), and CDFG for review and approval and shall describe the location and size of the mitigation proposed, description of the habitat creation/restoration effort, success criteria, and maintenance and monitoring specifications. The Applicant proposes to remove dense, mature stands of tamarisk within the approximately 318-acre Carrizo Marsh to mitigate impacts to jurisdictional areas,

which is described in the Draft Off-site Habitat Restoration Plan. The final success criteria in the Draft Off-site Habitat Restoration Plan are as follows: 0 percent cover of tamarisk in the shrub layer; less than 5 percent cover of tamarisk in the herb layer; less than 5 percent cover by other noxious weed species; and less than 20 percent cover by other non-native species at the end of 5 years of maintenance.

This mitigation measure does not impermissibly defer analysis. The mitigation measure states that the plan's purpose is to "describe the mitigation for impacts to jurisdictional areas within the proposed OWEF site." The contents of the plan must include the location and size of the proposed mitigation, a description of the habitat creation/restoration effort, the success criteria that will be used to judge the habitat creation/restoration effort, and maintenance and monitoring specifications. The mitigation measure includes performance criteria and the plan must be reviewed and approved by the ACOE, Regional Water Quality Control Board, and CDFG.

Water Resources

Water Supply Contingency Plan for Construction (Mitigation Measure Water-2): This mitigation measure, found in Section 4.19, does not impermissibly defer analysis. The mitigation measure states that the intent of the plan is to "identify the well sites, proximity to other active wells, estimated total depth, well screen depth, diameter, estimated yield and water quality, and time required to have the wells drilled, constructed, developed and fully operational (if the wells are to be drilled specifically for the project, as opposed to use of existing wells)." The mitigation measure outlines procedures for the use of the wells and specifies that an Environmental Monitor will ensure compliance with the plan.

Groundwater Monitoring and Reporting Plan (Mitigation Measure Water-3): This mitigation measure, found in Section 4.19, does not impermissibly defer analysis. The mitigation measure states that the intent of the plan is to "provide detailed methodology for monitoring background and site groundwater levels, water quality, and flow." The measure lists the content that must be in the reports, including the types of sampling and tests that must be done, as well as a schedule for submitting quarterly monitoring data reports to the BLM. The measure also includes criteria for choosing the location of the monitoring wells and determining when monitoring must be performed. The plan must be approved by the BLM before construction begins, and the BLM will review the quarterly monitoring reports. The text for how the BLM will review the quarterly monitoring reports has now been revised to include additional performance criteria, as shown below:

The Plan shall include a schedule for submittal of quarterly monitoring data reports by the Applicant to the BLM. The BLM shall review these quarterly reports with consideration to the following criteria:

- Where water level monitoring has indicated drawdown of five feet or more, the Applicant has immediately reduced groundwater pumping until water levels recover and stabilize or the Applicant has provided compensation to the well owner;
- Sustained drawdown of five feet or more has not occurred at off-site wells; and
- Substantial groundwater quality degradation has not occurred in water drawn from the project's supply well(s) or off-site wells (such as increased TDS concentrations that may result from over-pumping).

Per the criteria listed above, the BLM shall determine whether groundwater wells surrounding the project site and project supply well(s) are affected by project activities in a way that requires

additional mitigation is necessary to reduce adverse impacts to groundwater resources and groundwater wells surrounding the project site. Such additional mitigation efforts, as determined by the BLM to be appropriate, may include but are not limited to the following: reduced rate of groundwater pumping; use of an alternative water source; water conservation activities. ~~and, if so, shall determine what measures are needed.~~

Install Pervious and/or High-Roughness Groundcover Where Applicable (Mitigation Measure Water-4): This mitigation measure, found in Section 4.19, which calls for a “drainage design and hydrologic and hydraulic analysis” to be submitted to the BLM for review and approval and to the Imperial County Department of Planning and Building for review and comment, does not impermissibly defer analysis. The intent of the mitigation measure is to provide sufficient “percolation” after rain and “erosion protection.” The measure provides performance criteria for the design of the groundcover for the new substation, the placement of detention/retention basins, and the design of the downstream drainage discharge points.

Design onsite drainage improvements to maximize groundwater recharge (Mitigation Measure Water-5): This mitigation measure, found in Section 4.19, which requires the Applicant to design on-site drainage improvements, does not impermissibly defer analysis. The intent of the mitigation measure is to “maximize groundwater basin recharge.” The measure states that the Applicant’s design must adhere to the following criteria to accomplish this goal: “drainage from impervious surfaces (e.g., roads, driveways, buildings) shall be directed to a common drainage basin; the project shall design as few basins as possible for the entire development; and where feasible, mass grading and contouring shall be done in a way to direct surface runoff towards the above-referenced basins (and/or closed depressions).”

Construction Site Dewatering Management (Mitigation Measure Water-6): This mitigation measure, found in Section 4.19, does not impermissibly defer analysis. The mitigation measure explains that the intent of this measure is to address what to do if groundwater is “unexpectedly encountered during construction, operation, or decommissioning of the OWEF.” The measure states where to find the performance criteria for dewatering activities: “dewatering activities shall be performed in compliance with the California Stormwater Quality Association (CASQA) Handbook for Construction or other similar guidelines, as approved by the BLM, for actions on BLM lands, and/or by Imperial County, for actions on County lands.” The mitigation measure requires the Applicant to “notify the BLM and applicable County (Imperial and/or San Diego) and RWQCB (Colorado River Basin RWQCB for activities at the proposed OWEF site, and/or San Diego Basin RWQCB for activities at the proposed water source in Pine Valley) at the onset of dewatering” and describes the contents of the written descriptions of dewatering efforts that must be submitted to the relevant agency. Further, the mitigation measure requires that dewatering efforts “be verified by the recognized local authority (RWQCB or Department of Planning and Building).”

Develop Master Drought Water Management and Water Conservation Education Programs (Mitigation Measure Water-7): This mitigation measure, found in Section 4.19, does not impermissibly defer analysis. The mitigation measure requires the preparation of a master Drought Water Management Program, which must be approved by the BLM. The mitigation measure explains that the purpose of the master Drought Water Management Program is to “provide guidelines on how all future water use will be managed during ‘severe’ drought year(s).” The mitigation measure lists the contents of this plan and states the criteria that will be used to determine when the guidelines in this plan must be implemented. The

mitigation measure also requires the preparation of a master Water Conservation Education Program. The mitigation measure states that the purpose of the program is to ensure that “future operators and employees” are informed about what to do during drought periods. The measure includes the contents of the program, which must address “each on-site activity using water.” The mitigation measure also states that the program must explain “the means by which this information will be disseminated to any future operators of the project.”

Flood and Erosion Structure Damage Protection (Mitigation Measure Water-8): This mitigation measure, found in Section 4.19, does not impermissibly defer analysis. The mitigation measure has specific rules for design and placement of aboveground project features, such that those features do not increase flood or erosion risks. The applicable floodplain development guidelines offer performance criteria for the design of aboveground structures that must be placed within 100-year floodplain boundaries or Flood Hazard Areas.

Storm Water Pollution Prevention Plan (SWPPP) (Mitigation Measure Water-9): The Storm Water Pollution Prevention Plan, found in Section 4.19, does not impermissibly defer analysis. The mitigation measure includes the plan’s intent, which is to provide methods “to stabilize graded areas and waterways, and reduce erosion and sedimentation.” In addition, the methods that are to be used to achieve the goal are listed, and an Environmental Monitor will ensure that the listed methods are properly implemented.

Wildlife Resources

Property Assessment Report (part of Mitigation Measure Wild-1h): This mitigation measure, found in Section 4.21, does not impermissibly defer analysis. The mitigation measure explains the method required to compensate the loss of occupied FTHL habitat. If off-site purchase of FTHL habitat is proposed as a way to compensate for the loss of FTHL habitat, the Applicant must obtain approval of the BLM, FTHL Interagency Coordinating Committee, and Wildlife Agencies prior to the purchase, and shall ensure long-term management and protection of the land in part by preparing a Property Assessment Report. The mitigation measure discloses that the purpose of the report is to determine the long-term management funding for protection of the purchased FTHL habitat and specifies performance criteria for the report, as the report must be tailored to the specific acquisition proposed.

Raven Control Plan (Mitigation Measure Wild-1j): This mitigation measure, found in Section 4.21, does not impermissibly defer analysis. The mitigation measure states that the intent of the plan is to explain to operators and employees the purpose of conducting raven control and how to do so. The mitigation measure outlines the contents of the plan, and proscribes the performance criteria that were used in the Raven Control Plan prepared for the Sunrise Powerlink project, which crosses through the proposed OWEF.

Wildlife Mortality Reporting Program (Wild-1ee): This mitigation measure, found in Section 4.21, does not impermissibly defer analysis. The purpose of the program, found in Section 4.21, is to ensure that impacts to wildlife species from O&M of the proposed OWEF are avoided or reduced by requiring reporting during construction and O&M. The reports will be used to determine if the Applicant has complied with the avoidance and minimization measures, to assess the effectiveness of the measures, and to make recommendations, if necessary, for future compliance. The mitigation measure lists the actions required by the program as “the identification and reporting of any dead or injured animals observed by personnel conducting O&M activities.”

Burrowing Owl Mitigation & Monitoring Program (Mitigation Measure Wild-2a): This mitigation measure, found in Section 4.21, does not impermissibly defer analysis. The mitigation measure states that the intent of the program is to “determine the presence or absence of the burrowing owl in the construction zone plus 250 feet beyond” prior to construction. The mitigation measure states that the program shall consist of a survey performed by a qualified biologist and the steps that must be taken if the biologist detects a burrowing owl. In addition, the BLM and CDFG will review the survey and must concur with it prior to the start of construction.

Bighorn Sheep Mitigation & Monitoring Program (Mitigation Measures Wild-1s and Wild-1t): This mitigation measure, found in Section 4.21, has been modified as shown below:

Prior to construction, a Bighorn Sheep Mitigation and Monitoring Plan shall be submitted to the BLM, USFWS, and CDFG for review and approval. The monitoring plan shall describe the monitoring and reporting procedures and the construction limitations to be implemented if sheep are observed in the proposed OWEF site. The monitoring procedures must comply with the standards set by USFWS and CDFG for performing bighorn sheep monitoring.

A biological consultant approved by the BLM, USFWS, and CDFG shall be retained by the Applicant to serve as the Bighorn Sheep Monitor of construction activities within USFWS Essential Habitat on the proposed OWEF site, in accordance with the Bighorn Sheep Mitigation and Monitoring Plan for the proposed OWEF. The Bighorn Sheep Monitor shall be present if proposed OWEF activities are planned within 300 meters (approximately 1,000 feet) of Essential Habitat. If PBS are observed within the Action Area, no construction activities shall be conducted within 1,000 feet of the sheep until the Bighorn Sheep Monitor verifies that the sheep have moved to at least 1,000 feet from planned activities. If the Bighorn Sheep Monitor determines that proposed OWEF activities are unlikely to adversely affect or disrupt normal behavior of the PBS, planned activities may proceed. If the Bighorn Sheep Monitor is not present on site when sheep are observed, all proposed OWEF activities within 1,000 feet of Essential Habitat will stop, and the Bighorn Sheep Monitor shall be contacted immediately for guidance on how to proceed with planned activities. The Bighorn Sheep Monitor shall have complete access to the Applicant’s proposed biological observation tower and radar and camera system. The Bighorn Sheep Monitor shall prepare daily monitoring reports that will be submitted to the Designated Biologist and BLM, as well as to the USFWS and CDFG ~~(if requested)~~.

This mitigation measure does not impermissibly defer analysis. The mitigation measure explains that the intent of the plan is to protect Bighorn Sheep. The mitigation measure sets forth that the plan will contain monitoring and reporting procedures and states the performance criteria for monitoring and the method required for reporting, as well as the procedures that must be followed if a bighorn sheep is spotted during construction activities.

Avian and Bat Protection Plan (Mitigation Measure Wild-1p): This mitigation measure, found in Section 4.21, does not impermissibly defer analysis. The mitigation measure states that the intent of the plan is to “address proposed OWEF impacts to special status avian and bat species.” According to the mitigation measure, the plan must include monitoring, adaptive management, and reporting procedures; the post-construction monitoring methods must be based on the California Guidelines for Reducing Impacts to Birds and Bats from Wind Energy Development. The mitigation measure sets performance standards by

mandating that the Applicant develop an Avian and Bat Protection Plan in accordance with the interim guidance provided by USFWS. A draft of the plan is available on Imperial County Planning & Development Services website, which is at <http://www.icpds.com/?pid=2843>, and in Appendix L6 of the Final EIS/EIR.

Eagle Conservation Plan (Mitigation Measure Wild-1o): This mitigation measure, found in Section 4.21, does not impermissibly defer analysis. The mitigation measure states that the plan’s intent is to “address proposed OWEF impacts to golden eagles.” The mitigation measure also explains that the plan will consist of a description “of the golden eagle studies completed for the proposed OWEF; a risk analysis; advanced conservation practices to be implemented during operations, including a description of the adaptive management strategy for the proposed OWEF and compensatory mitigation; and post-construction monitoring and reporting procedures for golden eagles.” The mitigation measure sets performance standards by requiring that the plan be prepared in accordance with the Draft Eagle Conservation Plan Guidance, published by the USFWS. A draft of the plan is available on Imperial County Planning & Development Services website, which is at <http://www.icpds.com/?pid=2843>, and in Appendix L9 of the Final EIS/EIR.

Barefoot Banded Gecko Survey (Mitigation Measure Wild-1k): This mitigation measure, found in Section 4.21, does not impermissibly defer analysis. The mitigation measure describes the actions that must be taken prior to the start of construction to determine the presence of barefoot banded geckos. The mitigation measure proscribes where and how the gecko surveys must be performed, and sets forth procedures that the Applicant must follow if a gecko is detected.

Additional Burrowing Owl Surveys (Mitigation Measure Wild-1l): This mitigation measure, found in Section 4.21, does not impermissibly defer analysis. The mitigation measure describes when, where, and how additional burrowing owl surveys must be performed. The California Burrowing Owl Consortium Guidelines provide the performance criteria for the surveys.

American Badger Surveys (Mitigation Measure Wild-2c): This mitigation measure, found in Section 4.21, does not impermissibly defer analysis. The mitigation measure describes when a badger survey must occur, who must perform the survey, and the steps that must be taken if a badger or active den or inactive den is detected.

9B: Plans that are not Required Mitigation Measures

The table below lists plans that the Applicant has proposed to create or that comprise part of the regulatory framework for the project, but that were not adopted as required mitigation measures:

Title / Description	Page
Dust Abatement Plan	2-18
Construction Waste Management Plan	2-19
Noxious Weed Control Program	2-20
Integrated Pest Management Program	2-20
Construction, Operation & Maintenance (COM) Plan	3.12-4
Spill Prevention Containment and Countermeasure Plan & Monitoring	3.12-8
Risk Management Plan	3.12-10
Hazardous Materials Business Plan	3.12-10
Hazardous Materials Release Response Plan	3.12-10
Construction Waste Management Plan	3.12-11

Common Response 10: Water Supply

Water Demands of the Proposed OWEF Project

As discussed in the Draft EIS/EIR, construction of the proposed OWEF would require a water supply for concrete batching, road maintenance, and dust suppression totaling 50 acre-feet. Water for dust suppression would only be required during construction of the project; construction and operational water requirements are assessed in Section 4.19 of the Final EIS/EIR. Water demands associated with construction of the project are described in Table 4.19-1 on page 4.19-4 of the Final EIS/EIR, while water demands associated with operation and maintenance of the project are described on pages 4.19-14 and 4.19-15 of the Final EIS/EIR.

Sources of Water for the Proposed OWEF

Since the date of publication of the Draft EIS/EIR, the project Applicant has provided additional information regarding the potential sources of water for the proposed OWEF. Revisions incorporated into the Final EIS/EIR regarding source(s) of water for the proposed OWEF are shown below.

Pages 3.20-2 and 3.20-3

Surface water and groundwater resources in the proposed OWEF area are discussed in Sections 3.20.1.1 and 3.20.1.2, respectively. The water supply required for construction, operation, and decommissioning of the proposed OWEF is proposed to be obtained from a private groundwater well in the Pine Valley area of eastern San Diego County (groundwater resources are described in detail in Section 3.20.1.2). In addition to the Pine Valley groundwater source, other sources of water that may be used to meet the project's water supply requirements include the following: City of Brawley treated municipal water, Vulcan Materials Dixieland Mine groundwater supply well, Seeley County Water District (SCWD) treated municipal water, and Imperial Irrigation District (IID) West-Side Canal water. Each of these water sources are summarized below and further discussed throughout this section and in Section 4.19, as applicable.

- **Pine Valley – private groundwater supply well.** Water may be purchased from a private well owner near Pine Valley, approximately 50 miles west of the Proposed Action site, and trucked to the project site. Pine Valley groundwater resources are discussed in detail, in Section 3.20.1.2 (see “Campo-Cottonwood Sole Source Aquifer”), and in the discussions under “Water Supply Reliability” subheadings throughout Section 4.19. Pine Valley groundwater resources are also discussed in a report provided by the Applicant and included as Appendix P to this EIS/EIR. The discussions of water supply reliability presented throughout this section and Section 4.19 focus primarily on Pine Valley groundwater because the other potential water sources identified for the project are either regulated under existing management plans and/or have been assessed under other studies or plans which demonstrate their supply reliability and are incorporated by reference throughout this EIS/EIR; the Pine Valley area is non-adjudicated (discussed further in Section 3.20.1.2) and this groundwater source is the only potential water source for the project which is not regulated or managed under an existing law, plan, or permit with respect to supply reliability.

The County of San Diego, Department of Planning and Land Use, has determined that the selling (or giving) of groundwater pumped from this Pine Valley well can be considered legal

nonconforming and therefore subject to Nonconformity Regulations of the San Diego County Zoning Ordinance §6852, and that Existing Groundwater Extraction Operations as described in San Diego County Zoning Ordinance §6864 may occur (County of San Diego, 2003). Accordingly, the same quantity of water which has historically been exported from this well (understood to be 28 afy) may continue to be exported as a permissible activity, and would not require a modification permit from San Diego County. Increasing the quantity of water exported from this well would require a Major Use Permit from the County. The private well owner and the project Applicant are actively coordinating with the County to ensure compliance with all Zoning Ordinances and associated permitting requirements; for instance, if it is determined that the project's use of this Pine Valley well would cause the groundwater export rate to exceed 28 afy and require a modification permit from San Diego County. The County's ordinances are discussed in Section 3.20.2.3, under "San Diego County."

- **City of Brawley - treated municipal wastewater.** The City of Brawley, located approximately 45 miles northeast of the community of Ocotillo, has provided written confirmation to the project Applicant that the City is able to provide up to 250,000 gallons of water per day, or approximately 0.76 acre-feet per day, for the period commencing December 2011 through December 2012 (City of Brawley, 2011); this is a peak pumpage rate and it is anticipated that the actual daily quantity of water provided by the City of Brawley for the project would fluctuate, and would total a quantity agreed upon between the Applicant and the City of Brawley in a written contract that would be finalized prior to the onset of project construction, if this source is used to meet the project's water supply requirements. City of Brawley water would be provided as treated municipal wastewater from the city's water treatment plant, which has existing capacity to treat 16,800 acre-feet per year (afy) of water and an anticipated capability of expanding to 33,600 afy (City of Brawley, 2010). The City of Brawley completed an Urban Water Management Plan (UWMP) in 2010; in accordance with California Water Code §10612(b), the UWMP includes assessment of current demands and supplies over a 20-year planning horizon and consider various drought scenarios. The Brawley water source is east of the project site, with a travel distance for water trucks of approximately 39 miles one way.
- **SCWD – treated municipal wastewater.** The Seeley County Water District owns and operates the water treatment and distribution system infrastructure in the unincorporated community of Seeley, located approximately eight miles west of El Centro and ten miles north of the U.S.-Mexico border (BECC, 2011). Due to the size of the SCWD water distribution system, an UWMP is not required per California Water Code Sections 10610 through 10656 (IID, 2009). However, the SCWD enacts demand management measures (DDMs) published by the California Urban Water Conservation Council (CUWCC) and supported by DWR, which are typically included as part of an UWMP (IID, 2009). SCWD could provide a source water for the proposed OWEF, in the form of treated municipal water from the Seeley County Wastewater Treatment Plant (WWTP). The Seeley County WWTP houses a series of five treatment ponds, including two 0.12-acre "reactor" ponds and three 0.14-acre sedimentation ponds (CEC, 2010). The treatment facility discharges effluent treated to secondary standards via an unlined channel to the New River, and operates under a New River discharge permit from the RWQCB (CEC, 2010). The Seeley County WWTP has an

average demand of 0.245 million gallons per day (gpd), although the current capacity of the WWTP is 1.08 million gpd (IID, 2009). As such, the WWTP has sufficient capacity to meet the water supply requirements of the proposed OWEF.

- **Vulcan Materials - Dixieland Mine groundwater supply well.** Water pumped from an existing supply well at the Dixieland Mine, east of the project site, may be purchased from the Vulcan Materials Company, which operates the well under a Conditional Use Permit (CUP) issued by Imperial County. The existing CUP allows for brackish water from the Dixieland Mine well to be used on-site for dust control and mining operations (Imperial County, 2005). The CUP limits annual groundwater pumping from this well to 200 afy, and specifies that the groundwater may only be used on the Dixieland Mine property (Imperial County, 2005). The County of Imperial has indicated that an amendment to the CUP may be sought to allow for off-site use of this water (Pattern, 2011). A groundwater investigation was conducted at the Dixieland Mine site in 2005, prior to installation of the well (EMKO, 2005). This investigation is discussed in Section 3.20.1.2 (see “Dixieland Mine Groundwater”). The Dixieland water source is east of the project site, with a travel distance for water trucks of approximately 15 miles one way.
- **IID - West-Site Canal water.** Water may be purchased from the IID and transported by truck from canals near Dixieland, approximately 20 miles to the east of the OWEF site. Only lands within the All-American Canal (AAC) Service Area Boundary can receive water from the IID, unless IID agrees to sell or lease conserved water pursuant to a water conservation and transfer agreement. The Applicant has contacted the IID about obtaining raw canal water from the West-Side Canal for the project, and IID indicated that approximately 25 afy of canal water may be obtained through the Interim Water Supply Policy for Non-Agricultural Projects (Pattern, 2011). The IWSP for Non-Agricultural Projects currently designates up to 25,000 afy of water for potential Non-Agricultural Projects within IID’s water service area, to be available for other users until such Non-Agricultural Projects are implemented and require the reserved water supply (IID, 2009c). Use of IID canal water outside of the IID service area, but within Imperial County, would require approval from the San Diego County Water Authority (SDCWA) due to contractual water conservation and transfer agreements between Imperial County and the SDCWA; negotiations between IID and SDCEA are near completion to allow the use of IID canal water for construction purposes throughout Imperial County (Pattern, 2011).

The following sections characterize the existing environmental setting for the proposed OWEF Study Area, including information relevant to surface water drainage, flooding, water quality, and groundwater resources.

Pages 3.20-5 and 3.20-6

The proposed OWEF is located within the surface recharge area of the Ocotillo-Coyote Wells Sole Source Aquifer (SSA), and the construction water source identified near Pine Valley is located within the surface recharge area of the Campo-Cottonwood SSA (see Figures 3.20-4 and 3.20-5). A sole source aquifer is an area of groundwater resources defined by the U.S. Environmental Protection Agency (EPA) as an aquifer which supplies more than 50 percent of a

community's drinking water. Any project which receives a federal grant or loan guarantee and which has the potential to contaminate a sole source aquifer, as determined by the EPA, should be modified to reduce or eliminate the risk. As described below in Section 3.20.2.1, Section 1424(e) of the U.S. Safe Drinking Water Act (SDWA) authorizes the EPA to evaluate projects located within a designated SSA, if the project is financially assisted by federal grants or federal loan guarantees. The proposed OWEF is subject to EPA review to determine whether the project should be modified to reduce or eliminate potential risk of contamination to a designated SSA. Since publication of the Draft EIS/EIR for the proposed OWEF, the EPA has determined that the project will not adversely affect the Ocotillo-Coyote Wells sole source aquifer (EPA, 2011b).

Pages 3.20-12 through 3.20-14

Monitoring and/or modeling data sufficient to indicate whether this area is affected by groundwater overdraft is not currently available. As described above, in the absence of quantitative long-term data, the presence of environmental effects of overdraft including consistently declining water levels, water quality degradation, and/or land subsidence may be used to make reasonable assumptions about overdraft conditions. In the Pine Valley area, there is no record of declining groundwater levels, declining groundwater quality, and/or land subsidence. In addition, the groundwater well proposed for use under the proposed OWEF is currently used as a water supply for other projects on non-overlying lands, which would be prohibited if the groundwater were in overdraft conditions. Due to all of these factors, it is reasonably assumed that the Pine Valley area is not affected by long-term overdraft conditions. Based on anecdotal information from the private well owner, groundwater supply availability is unaffected by normal year, dry year, and multiple dry years conditions; based on the well owner's experience, the well has historically not experienced variation in supply during drought years (NAA, 2011b). This issue is discussed further in Section 4.19.

In May of 2003, the County of San Diego Board of Supervisors directed the Chief Administrative Officer to conduct a comprehensive groundwater study for the Pine Valley area. The area assessed in this study included 29.3 square miles and two basins identified as "Pine North" and "Pine South." This groundwater study included a groundwater availability analysis, which determined that the sustainable yield for Pine South is not sufficient to meet water demand associated with the County's General Plan theoretical build-out, while the sustainable yield for Pine North is sufficient to meet water demands associated with all build-out scenarios. The County's groundwater study concluded that groundwater resources are adequate in both Pine South and Pine North basins to meet the demands under existing conditions and with the addition of additional residences if all discretionary permits currently in process were approved. (San Diego County, 2010)

The private Pine Valley groundwater well proposed for use under the project is approximately 200 feet below ground surface, cored and cased in upper alluvium near the surface and then fractured rock further below. The static water level in this well is approximately 30 feet below ground surface. Water from this well is often used for construction demand for other projects and is not typically sold for human consumption; water quality information is not available for this well. Although specific numbers for water supply for this well are unavailable, based on anecdotal evidence and historical use, the potential water supply available from this well is

estimated to be approximately 121 afy. Existing demand from other users of this water supply may vary widely depending on the time of year and active construction projects; however, based on anecdotal evidence of historical water sales from this well owner, the estimated existing demand associated with other users of this well is approximately 28 afy. For purposes of this analysis, this demand is estimated to grow at a steady rate for the next 20 years. (NAA, 2011b)

An assessment of water supply has been prepared for the Pine Valley water source under the proposed OWEF (see discussion in Section 3.20.2.2) and is incorporated by reference throughout Section 4.19 of this EIS/EIR, and included as Appendix P. Table 3.20-3, below, identifies estimated water availability for the Pine Valley water source described above.

Water Supply / Demand	Year				
	2012	2017	2022	2026	2032
Projected Availability					
FDB Licensed Bottled Water Distributor	0.01	0.01	0.01	0.01	0.01
Private Pine Valley Groundwater Well	121	121	121	121	121
<i>Total Projected Availability</i>	<i>121.01</i>	<i>121.01</i>	<i>121.01</i>	<i>121.01</i>	<i>121.01</i>
Projected Demands					
Other Users of the Well	28	33	38	43	48
OWEF Construction	50	0	0	0	0
OWEF Fire Suppression	0.03	0	0	0	0
OWEF Toilet Flushing	0.18	0.18	0.18	0.18	0.18
OWEF Drinking Water	0.01	0.01	0.01	0.01	0.01
<i>Total Projected Demand</i>	<i>78.22</i>	<i>33.19</i>	<i>33.19</i>	<i>43.19</i>	<i>48.19</i>
Difference (Availability minus Demand)	42.79	87.82	82.82	77.82	72.82

Source: NAA, 2011b.

Table 3.20-3 does not identify water supply availability for the overall Campo-Cottonwood SSA or the Pine Valley as a whole, but rather presents estimates of production capabilities for the private groundwater well that would be used to meet the project’s water supply requirements. In addition, Due to the well’s location within the surface recharge area of a designated Sole Source Aquifer, it is subject to review by the EPA, per Section 1424(e) of the U.S. Safe Drinking Water Act (SDWA).

Dixieland Mine Groundwater

As described above, one potential water source for the project is an existing groundwater supply well located at the Dixieland Mine site and operated by Vulcan Materials Company under a CUP issued by Imperial County (Imperial County, 2005). A groundwater investigation was conducted at the Dixieland Mine site in 2005, prior to installation of the well (EMKO, 2005). This investigation is summarized below and referenced as applicable in Section 4.19.

The Dixieland Mine groundwater well is located more than 12 miles east of the community of Ocotillo, along the eastern border of the Coyote Wells Valley Groundwater Basin (also discussed above; see “Ocotillo-Coyote Wells Sole Source Aquifer”). The eastern portion of the Coyote Wells Valley Groundwater Basin consists primarily of Tertiary marine sediments which typically contain saline water with TDS levels of 1,000 mg/L or greater. Groundwater modeling studies indicate that flow in this basin generally occurs from the northwest to the southeast. The high-TDS saline water within the Tertiary marine sediments (which underlie Quaternary Alluvium)

flows both southward and eastward from the Ocotillo area. Groundwater modeling studies have shown that the fresh water in the Quaternary Alluvium in the western part of the Coyote Wells Valley Groundwater Basin does not flow into the eastern portion of the basin. (EMKO, 2005)

The investigation conducted prior to construction of the Dixieland Mine well indicated that geologic units at the site are characterized by sand from zero to three feet bgs, red clay from three to 120 feet bgs, clean gravel from 120 to 200 feet bgs, and red clay from 200 to the total depth of the borehole at 240 feet bgs. A test well at the site measured depth to water at 60 ft bgs; the well was pumped for two hours at a rate of 225 to 235 gpm, after which the water level was again measured at 60 feet bgs. The test well was then pumped at approximately 230 gpm for 24 hours, after which the static water level was measured at 47 feet bgs. Additional pumping indicated that the water level did not decline more than about one foot during pumping. (EMKO, 2005)

The nearest groundwater wells to the Dixieland Mine site are located eight to twelve miles to the west and upgradient from the Dixieland Mine site. The pumping of 200 afy of water from the Dixieland Mine supply well is understood to have little to no effect on upgradient wells. There are no naturally-occurring surface waters in the vicinity of the Dixieland Mine supply well, and man-made surface waters comprised of the Imperial Lakes development and IID's West Side Canal have no measurable interaction with local groundwater due to the presence of more than 100 feet of clay between the ground surface and the gravel aquifer at 120 feet bgs which supplies the Dixieland Mine well. (EMKO, 2005)

The Dixieland Mine supply well produces high-saline groundwater which is not suitable for potable or agricultural uses, without treatment to reduce TDS concentrations.

The existing Dixieland Mine groundwater supply well is capable of producing at least 325 gpm to 350 gpm, with very little drawdown in the surrounding aquifer (EMKO, 2005). This production rate is more than adequate to meet the 200 afy of withdrawal authorized by the CUP (EMKO, 2005). If the Dixieland Mine well is used to provide water for the project, the existing CUP would be amended by Imperial County to allow for use of the water at the proposed OWEF site (Pattern, 2011).

Pages 3.20-21 and 3.20-22

San Diego County

As discussed in Section 3.20.1, the County of San Diego has determined that groundwater pumped from the private Pine Valley well identified as a source for the project can be considered legal nonconforming and therefore subject to Nonconformity Regulations of the San Diego County Zoning Ordinance §6852, and that Existing Groundwater Extraction Operations as described in San Diego County Zoning Ordinance §6864 may occur. These sections of the Zoning Ordinance are presented below.

- **Zoning Ordinance §6852: Right to Continue a Nonconformity.** A nonconformity which is in existence prior to the effective date of the Zoning Ordinance or of any subsequent rezoning or other amendment thereto which creates such use or structure nonconformity, may be continued and maintained, except as otherwise specified in these Nonconformity Regulations. No expansion, extension, substitution or other change in

activities and no alteration or other change in facilities is permitted except as expressly required by law or as expressly provided herein. (Renumbered and amended by Ord. No. 5508 (N.S.) adopted 5-16-79. Formerly 6952) (Amended by Ord. No. 10095 (N.S.) adopted 12-8-10)

- **Zoning Ordinance §6864: Existing Groundwater Extraction Operations.** Any existing activity meeting the definition of a “Groundwater Extraction Operation,” as determined by the Director, shall be considered a nonconforming use and may continue said operations after May 8, 1992. However, the Nonconformity Regulations commencing at Section 6850 shall apply to such operation. (Added by Ord. No. 8050 (N.S.) adopted 4-8-92)
- **Zoning Ordinance §6870: Modification of Nonconforming Use or Buildings when Nonconformity is Due to Lack of Major Use Permit.** Subparagraph (e), Groundwater Extraction Operation, states that a nonconforming Groundwater Extraction Operation, established as nonconforming pursuant to Section 6864, may be modified, in addition to other modifications that would be allowed by this section, to allow an increase in the amount of water exported or to change the location or method of off-site distribution, provided the findings required by subparagraph (b) can be made, where subparagraph (b) states that modifications may be authorized only after finding that: (1) The use was legally established prior to the requirement for a Major Use Permit; and (2) The requested modification does not constitute a substantial change to the use; and (3) The requested modification will not adversely affect adjacent property or property owners. (4) There is no increase in the size of the parcel. (5) The buildings are located in substantially the same location as shown on the plot plan.

Other relevant Zoning Ordinances include the following:

- **Zoning Ordinance §1810, §6552, and §6654.** The sale of groundwater from a private well owner is a “Groundwater Extraction Operation,” requiring a Major Use Permit from the County of San Diego.

In addition to the Zoning Ordinance, San Diego County’s General Plan includes an Open Space and Conservation Element, which identifies goals and policies to help guide decision makers on issues concerning water resources in San Diego County, including the Pine Valley area, a potential groundwater source.

- **COS-4.4 Groundwater Contamination.** Require land uses with a high potential to contaminate groundwater to take appropriate measures to protect water supply sources. Potential sources of groundwater contamination include, but are not limited to, landfills, fertilizer, pesticide, manure storage and sales, petroleum product storage tanks, manufacturing plants, and on-site wastewater treatment systems.

Pages 4.29-2 through 4.19-4

Potential water sources for the Proposed Action are described in Section 3.20, and include the following: Pine Valley groundwater; City of Brawley (treated municipal water); Seeley County Water District (treated municipal water); Vulcan Materials (Dixieland Mine groundwater supply

well); and the IID West-Side Canal (Colorado River water). Of these potential water sources, two would provide treated municipal water (City of Brawley and Seeley County Water District), one would provide Colorado River water (IID West Side Canal), and two would pump groundwater for the project (Pine Valley and Dixieland Mine). Water supply reliability associated with the City of Brawley source, the Seeley County Water District source, and the IID source is managed through existing plans and policies, which are described in the following bulleted discussion. Groundwater that would be provided by the Vulcan Materials Dixieland Mine would be pumped from a non-adjudicated area (discussed below), but would occur within the constraints of an existing Conditional Use Permit (CUP) which restricts annual groundwater pumpage to 200 afy. Use of the Dixieland Mine source for the proposed OWEF would not alter the quantity of groundwater to be pumped from this well on an annual basis; total uses would continue to be subject to the CUP's constraint of 200 afy and use of this source for the project would therefore represent the persistence of existing conditions relevant to groundwater pumping from this site. In comparison, use of the identified private groundwater well in Pine Valley to meet the project's water requirements would not be subject to an existing maximum usage requirement such as is applicable to the Dixieland Mine well, and use of the Pine Valley source would therefore not represent the persistence of existing conditions. Existing plans and permits applicable to each of the potential water sources for the project are discussed below.

- **City of Brawley - treated municipal water.** The City of Brawley has confirmed in writing to the project Applicant that the city is able to provide 250,000 gallons per day of water for the proposed OWEF, for the period commencing December 2011 through December 2012 (City of Brawley, 2011). Assuming that water would be delivered six days per week to coincide with the proposed construction schedule, this equates to water delivery of 0.767 acre-feet per day, or approximately 250 acre-feet over the proposed year. As described in Section 2.1.3 (see "Water/Wastewater"), approximately 50 acre-feet of water will be needed for construction of the proposed OWEF. The amount of water available from the City of Brawley would be sufficient to meet water supply requirements of the proposed OWEF. In addition, the proposed OWEF may include use of either one temporary pond or up to ten 12,000-gallon temporary water storage tanks (see discussion below under "Surface Water and Drainage Patterns"); water delivered from the City of Brawley supply may be stored in these facilities as needed to meet project requirements.

Water obtained from the City of Brawley would be treated municipal wastewater; as described in the City's existing UWMP, the water treatment plant has a capacity of treating 16,800 acre-feet per year (afy), with a capability of expanding to 33,600 afy (City of Brawley, 2010). In addition, as described in Section 3.20, any delivery of water by the City of Brawley for use at the proposed OWEF site would occur in compliance with the city's existing UWMP, which assesses current water demands and supplies over a 20-year planning horizon under various drought scenarios (per California Water Code §10612(b)), and provides water supply management direction for the 20-year planning horizon. Use of treated municipal water from the City of Brawley for the proposed OWEF would be consistent with the UWMP, and would not result in adverse impacts to the water supply or to water supply availability.

- **SCWD – treated municipal wastewater.** As with the City of Brawley source described above, the Seeley County Water District water supply would be provided in the form of treated municipal water. As described in Section 3.22, there is no UWMP for this water supply, but the SCWD does implement demand management measures (DDMs) published by the California Urban Water Conservation Council (CUWCC) and supported by DWR, which are typically included as part of an UWMP (IID, 2009). The SCWD’s Seeley County Wastewater Treatment Plant (WWTP) has sufficient capacity to meet the water supply requirements of the proposed OWEF. Use of treated municipal water from the SCWD for the proposed OWEF would not result in adverse impacts to the water supply or to water supply availability.
- **Vulcan Materials – Dixieland Mine groundwater supply well.** The Dixieland Mine groundwater supply well is used to pump water for dust control and product washing at the Dixieland Mine site, in accordance with a Conditional Use Permit (CUP) from Imperial County authorizing such uses up to 200 afy per year. If the Dixieland Mine well is used to meet the proposed OWEF water requirements, the CUP would need to be revised by the county to authorize such uses; the quantity of water authorized for consumption is expected to remain 200 afy, which would include any uses for the proposed OWEF as well as ongoing uses at the Dixieland Mine site.

As described in Section 3.20.1.2 (see “Dixieland Mine Groundwater”), the existing Dixieland Mine groundwater supply well is capable of producing at least 325 gpm to 350 gpm, with very little drawdown in the surrounding aquifer; this production rate is more than adequate to meet the 200 afy of withdrawal authorized by the CUP. The groundwater investigation that was conducted at the Dixieland Mine site prior to installation of the well determined that pumping up to 200 afy of groundwater from this location would not have any impacts on other groundwater wells, on the groundwater basin, or on other water users in the vicinity (EMKO, 2005). The 200 afy of groundwater use authorized under the CUP for the Dixieland Mine site would be sufficient to meet the project’s water requirements, and compliance with a revised CUP would avoid potential adverse impacts to the water supply and water supply reliability.

Groundwater pumped from the Dixieland Mine site is high in TDS concentrations, and would need to be treated prior to use at the OWEF site, particularly for mixing concrete. The Dixieland Mine site is currently equipped with a Reverse Osmosis (RO) system and evaporation ponds; it is anticipated that if this water supply is used for the proposed OWEF, the Dixieland Mine RO system and evaporation ponds would be used to reduce TDS concentrations in the water prior to transporting it (via truck) to the proposed OWEF site.

- **IID – West-Side Canal water.** As described in Section 3.20, water may be purchased from the IID and transported by truck from the IID West-Side Canal. IID has indicated to the project Applicant that approximately 25 afy of canal water may be obtained for the proposed OWEF through the Interim Water Supply Policy for Non-Agricultural Projects (Pattern, 2011). The ID Board of Directors adopted a Strategic Plan in 2008 which included an objective to develop an integrated water resources plan by the end of 2009, adopt recommendations outlined in the plan in the first quarter of 2010, and implement the actions by mid-year 2010 (IID, 2009a). The purpose of the Integrated Water Resources Management

Plan (IID Plan) is to address the changing water needs of the community and provide water for economic development while meeting its agricultural water needs and complying with existing agreements and regulations (IID, 2009a). The Draft Final IID Plan, dated September 21, 2009, describes immediate (2010), near-term (2011 – 2015), mid-term (2016 – 2020), and long-term (2021 – 2047) actions to be implemented over a 37-year planning horizon (IID, 2009b). The IID Plan addresses the entire IID service area, including the Proposed Action site, and includes thorough analysis of future water supply and demand requirements, including increasing water demands associated with projects such as the Proposed Action. The IID Plan is currently in draft form and is not considered an UWMP because it has not yet been adopted and no implementation activities are contained within the IID Plan. If IID West-Side Canal water is used for the proposed OWEF, compliance with the IID’s transfer agreement, Interim Water Supply Policy, and pending IID Plan would ensure that no adverse impacts to the water supply or water supply reliability would occur.

As mentioned, Pine Valley groundwater has also be identified as a potential source for the project; however, this source is not subject to maximum groundwater pumping restrictions per an existing plan or permit and therefore use of this source could result in impacts to water supply and reliability that would be avoided by the plans and/or permits associated with other potential water sources. As described in Section 3.20, use of the Pine Valley groundwater source is subject to the Nonconformity Regulations of the San Diego County Zoning Ordinance §6852. Accordingly, if more than 28 afy of water is exported from this well, then a Major Use Permit from the County of San Diego would be required. It is understood that the Major Use Permit would address the use of Pine Valley groundwater on a site that does not overlie the affected groundwater resource; it may also address a maximum quantity of groundwater that may be pumped from the Pine Valley well, but at the time of preparation of this Final EIS/EIR the specifics of the Major Use Permit requirements are not known. Therefore it is assumed that the Pine Valley groundwater source would not be subject to the same pumping restrictions as the Dixieland Mine groundwater source. As a result, the analysis of potential water supply impacts presented in this section is focused on the Pine Valley groundwater source more than other potential sources which, as described above, are managed under existing plans and/or permits.

All potential water sources identified for the OWEF, as discussed above and introduced in Section 3.20 are referenced as applicable throughout the following analysis of potential impacts of the proposed OWEF.

Page 4.19-5

Approximately 50 acre-feet of water would be required over the project’s construction period, to be obtained from one or more of the potential water sources described above (Pine Valley; City of Brawley; Seeley County Water District; Vulcan Materials Dixieland Mine groundwater; IID West-Side Canal). Also as described above, with the exception of the Pine Valley source, each potential water source identified for the project is managed per existing plans and/or permits. Use of one or more of these potential sources to meet the project’s water supply requirements would not result in substantial adverse effects because such use would occur in compliance with existing plans and/or permits that are implemented to avoid adverse effects and ensure water supply reliability. Therefore, in order to be conservative in assessing potential impacts of OWEF

associated with the project's water source, it is assumed that all project water would be obtained from the private groundwater well located in Pine Valley.

~~As mentioned, Pine Valley groundwater has also be identified as a potential source for the project; however, this source is not subject to maximum groundwater pumping restrictions per an existing plan or permit and therefore use of this source could result in impacts to water supply and reliability that would be avoided by the plans and/or permits associated with other potential water sources. As described in Section 3.20, use of the Pine Valley groundwater source is subject to the Nonconformity Regulations of the San Diego County Zoning Ordinance §6852. Accordingly, if more than 28 afy of water is exported from this well, then a Major Use Permit from the County of San Diego would be required. It is understood that the Major Use Permit would address the use of Pine Valley groundwater on a site that does not overlie the affected groundwater resource; it may also address a maximum quantity of groundwater that may be pumped from the Pine Valley well, but at the time of preparation of this Final EIS/EIR the specifics of the Major Use Permit requirements are not known. Therefore it is assumed that the Pine Valley groundwater source would not be subject to the same pumping restrictions as the Dixieland Mine groundwater source. As a result, the analysis of potential water supply impacts presented in this section is focused on the Pine Valley groundwater source more than other potential sources which, as described above, are managed under existing plans and/or permits.~~

~~All potential water sources identified for the OWEF, as discussed above and introduced in Section 3.20 are referenced as applicable throughout the following analysis of potential impacts of the proposed OWEF.~~

Page 4.19-7

~~*Imperial Irrigation District.* A portion of the water required during construction may be purchased from the existing Imperial Irrigation District (IID) system. Section 3.20 of this EIS/EIR describes that the water supply for the Proposed Action may also be purchased from the City of Brawley (treated municipal water), from Seeley County Water District (treated municipal water), from Vulcan Materials (Dixieland Mine groundwater supply well), and/or the IID (West-Side Canal water); these water sources, if secured for the proposed OWEF, IID has an Integrated Water Resources Management Plan in place, which addresses the entire IID service area, including the proposed OWEF site, and includes thorough analysis of future water supply and demand requirements, including increasing water demands associated with projects such as the Proposed Action. The IID is responsible for minimizing and mitigating potential environmental effects of its actions and programs; however, due to the active implementation of the Integrated Water Resources Management Plan mentioned above, if the proposed OWEF purchases water from the IID, which is not anticipated to occur, such an agreement would not be expected to result in overdraft or drawdown conditions.~~

Page 4.19-9

- Campo-Cottonwood SSA. As previously discussed, this analysis of potential water supply impacts focuses on the Pine Valley groundwater source in order to be conservative in characterizing potential impacts, as the other potential sources are managed under existing plans and/or permits to avoid adverse effects. Therefore, for the purposes of this analysis, it is assumed that

Groundwater from the Pine Valley area would be used to meet construction water requirements and would be obtained from an existing groundwater well, and no excavation activities or permanent infrastructure installation would occur. Use of Pine Valley groundwater is not anticipated to result in encountering shallow groundwater such that dewatering activities would be required, resulting in no impact.

Page 4.19-11

The Imperial County Fire Department will also require that a separate 10,000-gallon water supply at a minimum be provided at the O&M facility for fire suppression. The source of the water for toilets and fire suppression may be the Pine Valley location or one of the alternate locations discussed above; it is anticipated that the same water source(s) would be used for construction, operation and maintenance, and decommissioning of the project.

4.19-15 – 4.19-16

Overdraft and Drawdown. The Coyote Wells Valley Groundwater Basin, which underlies the proposed OWEF site, is currently in a state of long-term groundwater overdraft, or the condition where the quantity of water removed from a groundwater basin exceeds the rate of recharge to the basin over an extended duration. The introduction of any new groundwater pumping activities in this basin would exacerbate existing overdraft conditions. The Vulcan Materials Dixieland Mine groundwater supply well, which has been identified as a potential water source for the project, is located on the eastern edge of the Coyote Wells Valley Groundwater Basin, outside of the Ocotillo-Coyote Wells SSA; as previously mentioned with regards to this potential water source, if it is used to meet project water requirements, such use would occur in compliance with an existing CUP which restricts total use from the well at 200 afy. Use of this well for the project's water supply would not alter existing conditions relevant to groundwater use at the site and therefore, if this well is used for the project, such use would not result in an adverse impact to overdraft and drawdown. ~~However, as described above, operation and maintenance of the proposed OWEF would not utilize groundwater resources from within the Ocotillo-Coyote Wells SSA, and would not introduce new uses of Coyote Wells Valley Groundwater Basin water to meet operational water requirements. Rather~~ In order to be conservative for the purposes of this analysis, it is assumed that operational water for the project would be obtained from the same Pine Valley groundwater well(s) that would be used to meet construction water requirements.

Page 4.19-17

Decommissioning of the proposed OWEF would include the removal and disposal of turbine towers, above-ground electrical tower components, and substation components, as well as the removal of all below-ground infrastructure to three feet below the ground surface. The decommissioning activities that are anticipated to require water include dust control for road usage, soil conditioning and dust control during foundation removal and backfill, road restoration, ground re-contouring, and reseeding/revegetation. Decommissioning details such as schedule, total length of road restoration, and extent of re-contouring are unknown at this time; therefore, water demand associated with decommissioning is reasonably estimated as a percentage of construction water requirements. Decommissioning activities would be substantially less water-

intensive that construction activities, largely because decommissioning would require no water for concrete mixing. A reasonable and conservative estimate of decommissioning water requirements is considered to be approximately 50 percent of construction water requirements, or not more than 25 acre-feet. It is also reasonably assumed that the same water source used during construction would be used to meet decommissioning requirements.

A decommissioning plan would be developed consistent with the BLM Wind Energy Programmatic EIS and Record of Decision (ROD), and approved by the BLM. The BMPs and stipulations developed for construction activities would be applied to similar activities during the decommissioning phase, including as related to the protection of hydrology and water resources from potentially adverse impacts.

~~No water requirements associated with decommissioning the proposed OWEF have been identified. However, based on the description of decommissioning activities provided in Section 2.1.3.4 of this EIS/EIR, it is reasonably anticipated that a water source would be required for soil conditioning and dust control associated with earth-disturbing activities that would occur during decommissioning, including but not limited to the removal of concrete foundations, backfilling of foundation holes, and restoration of natural grade. A water source for decommissioning has not been identified; however, it is also reasonably assumed that the same water source used during construction would be used to meet decommissioning requirements. Therefore, for the purposes of this analysis it is assumed that water for decommissioning would be obtained from a private well in the Pine Valley area of eastern San Diego County, within the surface recharge area of the Campo Cottonwood SSA. Local groundwater resources within the Ocotillo Coyote Wells SSA would not be used to meet decommissioning water requirements.~~

Page 4.19-18 and 4.19-19

Overdraft and Drawdown. As previously described, the Coyote Wells Valley Groundwater Basin underlies the proposed OWEF site and is currently in a long-term state of overdraft, which occurs when the quantity of water removed from a groundwater basin exceeds the rate of recharge to the basin over an extended duration; the introduction of any new groundwater pumping activities in this basin would exacerbate existing overdraft conditions. ~~As described above, no water requirements have been identified for decommissioning of the proposed OWEF, but it is reasonably assumed that water would be required for soil conditioning and dust control, and that such water would be obtained from a private groundwater well in the Pine Valley area of eastern San Diego County.~~ No new uses of the Coyote Wells Valley Groundwater Basin would be introduced for the purposes of not be used to meet decommissioning the proposed OWEF; water requirements; therefore, decommissioning of the proposed OWEF would not contribute to have no effect on overdraft and/or drawdown in the Coyote Wells Valley Groundwater Basin. As described under the impact discussion for “Construction,” the use of Pine Valley groundwater to meet water requirements would require groundwater monitoring and reporting conducted in coordination with local agencies, in order to avoid and/or minimize potential overdraft and drawdown impacts (mitigation measures are summarized below and presented in detail in Section 4.19.10). The Pine Valley area is located within the surface recharge area of the Campo Cottonwood SSA and, therefore, use of groundwater from this source is subject to review by the EPA above, it is anticipated that the same water source used during construction of the proposed

OWEF would be used to meet decommissioning water requirements of not more than 25 acre-feet and therefore, in order to be conservative in characterizing impacts of the project it is assumed that the Pine Valley groundwater source would be used for project decommissioning. Depending on other uses of Pine Valley groundwater resources at the time of decommissioning the proposed OWEF, temporary drawdown conditions could result from using this source of water for decommissioning, and such effects would recover following the completion of decommissioning activities.

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Water Supply Reliability. As described above, ~~no water supply requirements associated with decommissioning of the proposed OWEF would require no more than 25 acre-feet, have been identified; however, and~~ it is reasonably assumed that ~~water would be required for soil conditioning and dust control during decommissioning.~~ It is also assumed that the same water source used during construction would be used during decommissioning. As described in Section 3.20.2.2, the proposed OWEF does not meet the intent of the definition of “Project” under Senate Bill 610 (SB 610) because the Proposed Action would not be an “industrial plant” with more than 1,000 persons or an “industrial park” planned to house more than 1,000 persons, and the passing of Senate Bill 267 (SB 267) clarified that wind energy projects which require less than 75 afy, such as the proposed OWEF, are not subject to SB 610. ~~Therefore, a WSA under SB 610 is not required for the proposed OWEF.~~ However, the project Applicant has prepared an assessment of water supplies for the project, which is incorporated by reference throughout the EIS/EIR and included as Appendix P. In addition, since publication of the Draft EIS/EIR, additional potential water supplies have been identified, as described in Section 3.20.1. Sufficient water supply is available to meet the requirements of the proposed OWEF.

Page 4.19-46

As previously discussed, in order to be conservative it is assumed that the project’s water supply would be obtained from the Pine Valley groundwater source, within the Campo-Cottonwood SSA. If other potential water source(s) are used to meet the project’s water requirements, such use would occur in compliance with existing plans and/or permits to avoid adverse effects. With the exception of the Pine Valley groundwater source, use of the other potential water sources (including the City of Brawley, Seeley County Water District, Vulcan Materials Dixieland Mine groundwater, and/or IID West-Side Canal) would not have potential to contribute to potential cumulative effects because these water sources are managed under existing plans and/or permits to avoid adverse effects (see discussion provided in Section 3.20 and above, in Section 4.19.3). Therefore, this assessment of potential cumulative impacts is focused on the Pine Valley groundwater source, with respect to water supply.

Page 4.19-47

This section discusses past and ongoing projects in the cumulative analysis area described above. A wide variety of past and present development projects contribute to the cumulative conditions for water resources in the cumulative impact analysis area. As mentioned above, the geographic extent of cumulative impact analysis for water resources is defined as the surface recharge area of the Ocotillo-Coyote Wells SSA, where the proposed OWEF site is located; and the surface

recharge area of the Campo-Cottonwood SSA, where the project's construction, maintenance, and decommissioning water source is located; as previously described, although other potential water sources have been identified for the project, the Pine Valley groundwater source is the only one considered to have potential to contribute to cumulative effects with respect to water supply and therefore, in order to be conservative in this assessment of cumulative effects, it is assumed that the Pine Valley groundwater source would be used to meet all project water supply requirements. Cumulative conditions for each of these SSAs, as relevant to water resources impacts of the proposed OWEF, are described below.

Page 4.19-47

The Campo-Cottonwood SSA is included in the cumulative scenario because this is where the Pine Valley groundwater source is located; as discussed, in order to be conservative in this assessment of potential cumulative effects, it is assumed that the Pine Valley groundwater source would be used ~~due to the proposed use of a private groundwater well(s) in the Pine Valley area to meet all~~ construction, maintenance, and decommissioning water requirements of the project.

Page 4.19-51 and 4.19-52

Potential water sources for the proposed OWEF are described in Section 3.20, and include the following: Pine Valley groundwater; City of Brawley (treated municipal water); Seeley County Water District (treated municipal water); Vulcan Materials (Dixieland Mine groundwater supply well); and the IID (West-Side Canal water). As described in Section 4.19.3, with the exception of the Pine Valley groundwater source, existing studies and/or plans have demonstrated the availability of water supply from these potential sources to meet water requirements of the proposed OWEF; therefore, the Pine Valley groundwater source is addressed in detail in this analysis.

Cumulative impacts to groundwater supply and recharge during construction of the proposed OWEF or an alternative would occur if other projects drawing groundwater from Pine Valley area resources within the Campo-Cottonwood SSA would contribute to long-term overdraft conditions while the proposed OWEF or an alternative is pumping groundwater for construction requirements, and/or if other projects within the Campo-Cottonwood SSA or the Ocotillo-Coyote Wells SSA introduce substantial new areas of impervious surfaces such that groundwater recharge rates and/or patterns are substantially altered. As described above, construction of the proposed OWEF or an alternative would include implementation of BMPs and mitigation measures identified in Section 4.19.10. Mitigation Measure Water-2 (*Develop a Water Supply Contingency Plan for construction*) and Mitigation Measure Water-3 (*Prepare Groundwater Monitoring and Reporting Plan*) require actions to ensure that construction of the proposed OWEF or an alternative would not result in long-term overdraft conditions associated with construction water requirements, thereby ensuring that the project would not contribute to the cumulative scenario such that cumulative impacts associated with groundwater supply and recharge would occur.

~~As described~~ Based on the analysis of Pine Valley groundwater resources provided in Section 3.20, it is reasonable to assume that the Pine Valley area of the Campo-Cottonwood SSA is not currently affected by long-term overdraft conditions. ~~In addition, although~~ There is potential for the proposed OWEF or an alternative to result in temporary overdraft or drawdown, but such

effects would be temporary and would cease in response to the implementation of requirements specified in Mitigation Measure Water-3. With implementation of BMPs and mitigation measures identified in Section 4.19.10 and referenced throughout the analysis provided in this section, the project would not contribute to the cumulative scenario with respect to long-term overdraft and/or drawdown effects. As determined in the impact analyses presented in Sections 4.19.3 through 4.19.8, the proposed OWEF or an alternative would not result in long term overdraft or drawdown conditions. In addition, If other project(s) within the geographic and temporal scope of analysis pump Pine Valley area groundwater at the same time as the Proposed Action or an alternative, and such pumping results in overdraft conditions (temporary or long-term), such effects would be detected by the groundwater monitoring and reporting activities required per Mitigation Measure Water-3 and groundwater pumping associated with the proposed OWEF would be subsequently ceased until the groundwater resource recovers, which is anticipated to occur in response to precipitation events, per the nature of fractured rock storage and overdraft/drawdown conditions. Therefore, the proposed OWEF or an alternative would not contribute to cumulative impacts associated with groundwater supply and recharge.

Page 4.19-52

Stormwater Drainage Systems

The proposed OWEF and alternatives would not create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems, and would therefore not have the potential to result in cumulative impacts associated with existing or planned stormwater drainage systems. Due to the use and storage of harmful or potentially hazardous materials during construction activities, there is potential for construction of the proposed OWEF or an alternative to contribute sources of polluted runoff, such as if an accidental leak or release of harmful materials were to occur during a storm event. As mentioned, the Sunrise Powerlink project passes through the proposed OWEF site; however, construction of the Sunrise Powerlink project is currently ongoing and would not occur at the same time as the proposed OWEF. In addition, the Sunrise Powerlinke project does not include implementation of a stormwater drainage system in the proposed OWEF area. Construction of the Sunrise Powerlink project is anticipated to have similar potential as the proposed OWEF to result in an accidental spill or leak of harmful materials that could have the potential to result in polluted runoff, but because construction of this project would not occur at the same time as construction of the proposed OWEF, there is no potential for a cumulative impact associated with polluted runoff to occur. In addition, ~~however,~~ ~~such effects~~ this potential impact of the proposed OWEF would be site-specific and mitigated would be minimized or avoided by actions listed in Section 4.19.10, and would therefore not have the potential to combine with impacts of other projects in the cumulative scenario, as related to the contribution of polluted runoff.

Page 4.19-53 and 4.19-54

Flood Hazard Areas

Infrastructure constructed under the proposed OWEF or an alternative would be designed and engineered to withstand potential flooding and erosion hazards and, with implementation of BMPs and mitigation measures identified in Section 4.19.10, effects associated with impeding or

redirecting flood flows would be minimized and/or avoided. It is anticipated that other projects in the cumulative scenario would also place infrastructure within and/or adjacent to FEMA-designated Flood Hazard Areas. The Sunrise Powerlink project, discussed above, would pass through the proposed OWEF site and place permanent transmission line infrastructure in this area; this infrastructure could result in site-specific flood diversions in the case of a major (100-year) storm event, but such diversions would be isolated to the location of permanent project features (transmission poles), and would not be in close enough proximity to the proposed OWEF WTG towers such that the flow diversions at individual tower sites could combine to result in cumulative effects associated with flood hazards. In addition, ~~however, due to the site-specific nature of potential impacts associated with Flood Hazard Areas and~~ the minimization and/or avoidance of potential Flood Hazard Area impacts that would occur through implementation of the BMPs and mitigation measures identified in Section 4.19.10, would ensure that the project's contribution to the cumulative scenario would be less than significant, and this potential impact of the proposed OWEF or an alternative would not anticipated to combine with similar effects of other projects in the cumulative scenario

Water Quality

Degradation of surface water quality and/or groundwater quality could occur through the effects of erosion and sedimentation, and/or through the accidental release of hazardous materials, particularly if a storm event occurs during construction activities. Other projects in the cumulative scenario would also have the potential to result in water quality impacts associated with erosion and sedimentation and/or the release of hazardous materials. This impact of the proposed OWEF or an alternative would be ~~site-specific in nature and would be~~ minimized and/or avoided through implementation of the BMPs and mitigation measures identified in Section 4.19.10 (as described in preceding sections), and would therefore be site-specific in nature. As described in Sections 4.19.9.2 and 4.19.2.3, and noted in Tables 4.1-1 and 4.1-2, other projects in the cumulative scenario are not adjacent to the proposed OWEF site and would not be under construction at the same time as the proposed OWEF or an alternative. Therefore, this potential impact of the proposed OWEF or an alternative would not have potential to combine with similar effects of other projects in the cumulative scenario.

Mudflow Hazards

Infrastructure that would be installed during construction of the proposed OWEF or an alternative would be designed and engineered to avoid impacts associated with the potential inundation by mudflow, where it is determined based on geotechnical studies that mudflow hazards are present. Although other projects in the cumulative scenario may place infrastructure in areas subject to mudflow hazards, due to the size of the proposed OWEF site and ~~the location-specific nature of this potential impacts, in addition to~~ the minimization of this potential impact through implementation of BMPs and mitigation measures listed in Section 4.19.10, this potential impacts of the project or an alternative would not have potential to combine with similar effects of other projects in the cumulative scenario and potential cumulative effects are not anticipated to occur.

4.19.9.5 Operation and Maintenance

Cumulative impacts associated with operation and maintenance of the proposed OWEF or an alternative are discussed in this section. In order to be conservative in this assessment of cumulative impacts, it is assumed that the operation and maintenance water supply for the proposed OWEF or an alternative would be obtained from the Pine Valley groundwater source; as described above, the other potential water sources for the project are not considered to have potential to result in cumulative effects. ~~as the construction water supply.~~ As such, approximately 0.19 afy would be pumped from ~~this well or well~~the Pine Valley groundwater source and transported to the project site via truck, where it would be stored in a tank at the O&M facility for use as needed.

Groundwater Supply and Recharge

As discussed in Sections 4.19.3 through 4.19.5, the operational water requirement of the proposed OWEF or an alternative would be approximately 0.19 afy, which is minimal compared to construction water requirements. This quantity is also well within the amount of water that has been historically exported from the proposed Pine Valley groundwater source (28 afy). The groundwater monitoring and reporting requirements specified in *Mitigation Measure Water-3 (Prepare Groundwater Monitoring and Reporting Plan)*, presented below in Section 4.19.10, ensure that the Pine Valley groundwater source would be closely evaluated during construction of the project, when water use would be substantially greater than during operation of the project, and ensure that groundwater usage occurs in close coordination with applicable agencies to ensure that adverse impacts do not occur. During operation of the project, coordination with applicable agencies (including the County of San Diego, for the Pine Valley groundwater source) would continue to occur, and would ensure that the project's operational usage of 0.19 afy would not result in adverse effects associated with groundwater supply and recharge. As discussed above in Section 4.19.9.4, construction of the proposed OWEF or an alternative would not have potential to result in cumulative impacts associated with groundwater supply and recharge. Therefore, the project or an alternative is not anticipated to have the potential to combine with similar impacts of other projects relevant to groundwater supply and recharge such that cumulative effects would occur. The operation and maintenance of the proposed OWEF or an alternative also would not result in cumulative effects associated with groundwater supply and recharge.

Surface Water and Drainage Patterns

Operation and maintenance of the proposed OWEF or an alternative would not introduce new infrastructure or alter existing surface water and drainage patterns beyond what is completed during the construction period. As previously noted, the Sunrise Powerlink project would pass through the OWEF site; however, similar to the proposed OWEF, operation and maintenance of the Sunrise Powerlink project would not introduce new infrastructure beyond what is implemented during the construction period. As discussed in the characterization of construction-related impacts, the presence of transmission towers and WTG towers may result in site-specific drainage pattern alterations, but such effects would be limited to the specific location of each tower. Due to the size of the overall project site and the site-specific nature of potential drainage pattern alterations, there would not be potential for similar effects of other project to combine

with these potential effects of the proposed OWEF or an alternative such that cumulative impacts would occur. No cumulative impacts associated with surface water or drainage pattern alterations that could result in erosion, siltation, or flooding on or off site would occur.

Page 4.19-55

Cumulative impacts associated with decommissioning of the proposed OWEF or an alternative are discussed in this section. Water supply requirements associated with decommissioning of the proposed OWEF or an alternative ~~have not been identified~~ are anticipated to be approximately 50 percent of the project's construction water requirements, or not more than 25 acre-feet, but , and it is reasonably assumed that ~~a water source would be required for soil conditioning and dust control, and that the same water source used during construction would also be used to meet for decommissioning requirements. Therefore, for the purposes of this analysis it is assumed that water for decommissioning would be obtained from a private well(s) in the Pine Valley area of eastern San Diego County, within the surface recharge area of the Campo Cottonwood SSA~~ Potential water sources that may be used to meet the project's water supply requirements are presented in Section 3.20.1. Local groundwater resources within the Ocotillo-Coyote Wells SSA would not be used to meet decommissioning water requirements.

Page 4.19-59

Water-2 Develop a Water Supply Contingency Plan for construction. Prior to construction, Applicant shall conduct a groundwater investigation for any groundwater basin(s) potentially affected by construction, operation, and/or decommissioning of the project to determine whether the identified groundwater resource(s) is in overdraft conditions; such investigation may include review of historic groundwater well data, groundwater monitoring, hydrologic modeling, and/or interviews with private well owners. The Applicant shall coordinate groundwater investigation efforts with the applicable RWQCB. No new uses of groundwater resources from overdrafted basins shall be used introduced to meet project needs.

Page 4.19-60

The Plan shall include a schedule for submittal of quarterly monitoring data reports by the Applicant to the BLM. The BLM shall review these quarterly reports with consideration of the following criteria:

- Where water level monitoring has indicated drawdown of five feet or more, the Applicant has immediately reduced groundwater pumping until water levels recover and stabilize or the Applicant has provided compensation to the well owner;
- Sustained drawdown of five feet or more has not occurred at off-site wells; and
- Substantial groundwater quality degradation has not occurred in water drawn from the project's supply well(s) or off-site wells (such as increased TDS concentrations that may result from over-pumping).

Per the criteria listed above, the BLM shall determine whether groundwater wells surrounding the project site and project supply well(s) are affected by project activities in a way that requires additional mitigation is necessary to reduce adverse impacts to groundwater resources and groundwater wells surrounding the project site. Such additional mitigation efforts, as determined

by the BLM to be appropriate, may include but are not limited to the following: reduced rate of groundwater pumping; use of an alternative water source, or water conservation activities. ~~and, if so, shall determine what measures are needed.~~

The EIS/EIR also demonstrates with reasonable certainty that the potential use of 50 acre-feet of water from the Pine Valley well would not have a significant adverse impact on the Campo-Cottonwood SSA, including through the implementation of mitigation measures required if adverse impacts to water supplies were identified.

Several commenters have asked whether the groundwater basins within the Campo-Cottonwood SSA are depicted on a figure, and whether the private groundwater well proposed for use under the project is depicted on a figure. The individual groundwater basins of the Campo-Cottonwood SSA are not specified on a figure. The area of analysis for the project includes the entire surface recharge areas of the Ocotillo-Coyote Wells SSA and the Campo-Cottonwood SSA, as shown on Figures 3.20-4 and 3.20-5. Detailed information on all groundwater basins within the aforementioned SSAs is provided in Section 3.20 of the EIS/EIR. The location of the private groundwater well is also not identified on a figure, to protect the privacy of the private well owner.

Sole Source Aquifers

The proposed OWEF is located within the surface recharge area of the Ocotillo-Coyote Wells Sole Source Aquifer (SSA), and the construction water source identified near Pine Valley is located within the surface recharge area of the Campo-Cottonwood SSA (see Figures 3.20-4 and 3.20-5). Local groundwater resources in the Ocotillo-Coyote Wells SSA would not be pumped by the Applicant for use in construction, operation, or decommissioning of the proposed OWEF.

A sole source aquifer is an area of groundwater resources defined by the U.S. Environmental Protection Agency (EPA) as an aquifer which supplies more than 50 percent of a community's drinking water. Any project which receives a federal grant or loan guarantee and which has the potential to contaminate a sole source aquifer, as determined by the EPA, should be modified to reduce or eliminate the risk. As described below in Section 3.20.2.1, Section 1424(e) of the U.S. Safe Drinking Water Act (SDWA) authorizes the EPA to evaluate projects located within a designated SSA, if the project is financially assisted by federal grants or federal loan guarantees. The proposed OWEF is subject to EPA review to determine whether the project should be modified to reduce or eliminate potential risk of contamination to the Ocotillo-Coyote Wells SSA but no such determination is required with regard to the Campo-Cottonwood SSA as no project activities will take place within watershed of the aquifer. On September 27, 2011, Jamelya Curtis with the Ground Water Office of the EPA, Region IX confirmed that, based on her review of the EIS/EIR, the proposed OWEF will not adversely affect the Ocotillo-Coyote Wells SSA. The Final EIS/EIR has been revised to reflect EPA's determination, as shown below.

Pages 3.20-5 and 3.20-6

The proposed OWEF is subject to EPA review to determine whether the project should be modified to reduce or eliminate potential risk of contamination to a designated SSA. Since publication of the Draft EIS/EIR for the proposed OWEF, the EPA has determined that the project would not adversely affect the Ocotillo-Coyote Wells sole source aquifer (EPA, 2011b).

Other revisions included on pages 3.20-11 through 3.20-13 of the Final EIS/EIR and presented above discuss a potential water source located at the existing Dixieland Mine, east of the proposed OWEF site, which pumps groundwater from along the border of the Coyote Wells Valley Groundwater Basin; if this source is used to meet project water requirements, such use would occur in compliance with a CUP issued by Imperial County. As stated above, the project Applicant would not pump local groundwater resources in the Ocotillo-Coyote Wells SSA.

Water Supply Assessment – SB 610 and SB 267

Several commenters requested a copy of the Water Supply Assessment (WSA) prepared by the Applicant. The Applicant-prepared study has been incorporated by reference into the Final EIS/EIR, as shown in the revisions to pages 3.20-11 through 3.20-13 which are presented above, and included as Appendix P. Also as described above, the study does not identify water supply availability for the overall Campo-Cottonwood SSA or the Pine Valley as a whole, but rather presents estimates of production capabilities for the private groundwater well that would be used to meet the project's water supply requirements. However, also as described above, the EIS/EIR demonstrates with reasonable certainty that the potential use of 50 acre-feet of water from the Pine Valley well would not have a significant adverse impact on the Campo-Cottonwood SSA.

Commenters also expressed concern that the requirements of Senate Bill 610 (SB 610) concerning the preparation of water supply assessment under California Water Code §10910 had not been met. As stated on page 3.20-16 of the Final EIS/EIR, based on the definition of "project" included in SB 610, the proposed OWEF does not meet the intent of the definition and a WSA is not considered necessary for the project. However, the Final EIS/EIR has also been revised to clarify that the Applicant has prepared an assessment of the Pine Valley water source, which is incorporated by reference throughout the Final EIS/EIR. In addition, since publication of the Draft EIS/EIR, Water Code §10910 has been amended by Senate Bill 267 (SB 267), which clarifies that certain types of renewable energy developments which require less than 75 acre-feet per year of water do not require a WSA. Revisions relevant to SB 610 and SB 267 are shown below.

Pages 3.20-16 and 3.20-17

Based on the definition of "project" as presented above, the proposed OWEF does not meet the intent of the definition. While the Proposed Action would be an industrial facility, it would not be an "industrial plant" with more than 1,000 persons or an "industrial park" planned to house more than 1,000 persons. Imperial County, as the CEQA Lead Agency for the Proposed Action, has determined that the Proposed Action does not meet the definition of "Project" per SB 610. This decision is not an authoritative interpretation of the types of projects that should be required per SB 610; other Lead Agencies may choose to make different decisions on similar projects, with regards to the applicability of SB 610. Regardless, the project Applicant has prepared an analysis of water supply for the proposed OWEF; this analysis, which is included as Appendix P to the Final EIS/EIR, was prepared in an effort to thoroughly assess the viability of the proposed Pine Valley water source to meet project water requirements.

3. Is there a public water system that will service the proposed project?

Water supply source(s) for the proposed OWEF are described above, in the introduction to Section 3.20.10 and in Section 3.20.1.2. As discussed above, ~~W~~water service during supply for

construction and operation of the Proposed Action would be ~~obtained from a private well in Pine Valley, west of the proposed OWEF site, and/or provided by the Imperial Irrigation District (IID). Neither of these potential sources is a public water system. purchased from one of the following sources: a private groundwater well in Pine Valley in San Diego County; the City of Brawley (treated municipal wastewater); Vulcan Materials (Dixieland Mine groundwater); and/or the IID West Side Canal water.~~ United States Code Title 42 Section 300f(4) describes that the term “public water system” refers to a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen service connections or regularly serves at least twenty five individuals (42 U.S.C. Sec. 300f(4)). ~~The IID describes that its facilities constitute neither a system for the provision of “piped water” nor a system for the provision of water “for human consumption”, and that the IID is not a public water system (IID, 1993; IID, 2008). Therefore, for the purposes of SB 610, the requirement to prepare a WSA (determined not to be necessary for this Proposed Action) would be the responsibility of either the treated water supplier (not applicable to this Proposed Action) or Imperial County. Even though IID is not a public water system, as the regional wholesale water supplier it requests to be involved in a consultation role during the preparation of any SB 610 required WSA (IID, 2008). None of these potential sources is a public water system.~~

- The Pine Valley water source is an existing private groundwater supply well.
- The City of Brawley maintains a public water system, but water that would be purchased from the City for the proposed OWEF would be treated municipal wastewater (not for human consumption) and would not be delivered to the project site using public water system infrastructure.
- The Vulcan Materials water source is an existing private groundwater supply well.
- The IID describes that its facilities constitute neither a system for the provision of “piped water” nor a system for the provision of water “for human consumption”, and that the IID is not a public water system (IID, 1993; IID, 2008). Even though IID is not a public water system, as the regional wholesale water supplier it requests to be involved in a consultation role during the preparation of any SB 610-required WSA (IID, 2008).

For the purposes of SB 610, the requirement to prepare a WSA would be the responsibility of either the treated water supplier or Imperial County. As described above, the project Applicant has prepared an assessment of water supplies for the proposed OWEF in order to fully assess the viability of the proposed Pine Valley water source to meet project requirements.

4. Is there a current UWMP that accounts for the project demand?

~~No, t~~There is no Urban Water Management Plan (UWMP) for the unincorporated portion of Imperial County where the Proposed Action is located. There is also no UWMP for the Pine Valley area of San Diego County, the Vulcan Materials source at Dixieland Mine, or the IID West-Side Canal source. The City of Brawley has a current UWMP in place, as discussed above in Section 3.20.1. However, the IID Board of Directors adopted a Strategic Plan in 2008 which included an objective to develop an integrated water resources plan by the end of 2009, adopt recommendations outlined in the plan in the first quarter of 2010, and implement the actions by mid year 2010 (IID, 2009a). The purpose of the Integrated Water Resources

~~Management Plan (IID Plan) is to address the changing water needs of the community and provide water for economic development while meeting its agricultural water needs and complying with existing agreements and regulations (IID, 2009a). The Draft Final IID Plan, dated September 21, 2009, describes immediate (2010), near term (2011–2015), mid term (2016–2020), and long term (2021–2047) actions to be implemented over a 37 year planning horizon (IID, 2009b). The IID Plan addresses the entire IID service area, including the Proposed Action site, and includes thorough analysis of future water supply and demand requirements, including increasing water demands associated with projects such as the Proposed Action. Therefore, as relevant to SB 610, the IID Plan is considered equivalent to an UWMP.~~

5. Is groundwater a component of the supplies for the project?

Yes, water supply requirements for the Proposed Action or an alternative would be met using water pumped from a private groundwater well near Pine Valley in eastern San Diego County and trucked to the Proposed Action site in eastern Imperial County. ~~Over the 36 month~~ During the construction period, approximately 50 acre-feet of water would be required for concrete manufacturing, dust suppression, and road maintenance. In addition, the Operations and Maintenance (O&M) building would require approximately 126 gallons per day, or 0.14 afy for human consumption. The expected operational lifetime of the Proposed Action is approximately 20 to 40 years, depending on possible improvements to wind turbine designs. Therefore, total demand for the O&M building would be between approximately 20.14 and 40.28 acre-feet over the operational lifetime of the Proposed Action. Groundwater may also be a source for the proposed OWEF if the Vulcan Materials Dixieland Mine supply well is used for the project; as described above, use of the Dixieland Mine well would occur in accordance with a revised CUP issued by Imperial County.

As described above, the proposed Ocotillo Wind Facility is not considered a “project” as defined under SB 610, and ~~a full Water Supply Assessment WSA~~ is not required. The project Applicant has prepared an assessment of water supplies for the project, which is incorporated by reference throughout this EIS/EIR and included as Appendix P. The assessment prepared by the project Applicant is specific to the Pine Valley groundwater source; as described in Section 4.19.3.1, for the other potential water sources (the City of Brawley source, the Dixieland Mine source, and the IID source), existing studies and/or plans have demonstrated the availability of water supply to meet water requirements of the proposed OWEF. Potential impacts to water supply are addressed under ~~Impact WR 1 (Substantially deplete local groundwater supplies or interfere with groundwater recharge)~~ the “Groundwater Supply and Recharge” sub-headings presented under each alternative in Section 4.19 of this EIS/EIR.

Senate Bill 267. SB 267 was signed into law by California’s Governor Brown on October 8, 2011, amending California’s Water Law to revise the definition of “project” specified in SB 610, as discussed above. Under SB 267, wind and photovoltaic projects which consume less than 75 afy of water are not considered to be a “project” under SB 610; subsequently, a WSA would not be required for this type of project. SB 267 does not state that renewable energy projects which use more than 75 afy are subject to SB 610 and must prepare a WSA; rather, it clarifies that those renewable projects which use less than 75 afy are not subject to such requirements. As noted above, the proposed OWEF would require 50 acre-feet of water for construction, which is less than the 75 afy specified by SB 267. Therefore, the proposed OWEF is not considered a

“project” as defined under SB 267, and a WSA is not required. Also as noted above, the project Applicant has prepared an assessment of water supplies for the project, which is incorporated by reference throughout the EIS/EIR and included as Appendix P.

Pages 4.19-8 and 4.19-9

Water Supply Reliability. In addition to the BMPs and mitigation measures designed to minimize and/or avoid potential effects to groundwater supply and recharge described above, this water resources analysis also addresses water supply reliability. Section 3.20.2.2 of this EIS/EIR provides a discussion of Senate Bill 610 (SB 610), which requires detailed analysis of water supply availability for certain types of large development projects. SB 610 requires the preparation of a Water Supply Assessment (WSA) for a project that is subject to CEQA and meets certain requirements. In accordance with SB 610, a WSA should assess water supply availability to meet the water requirements of the project, with consideration to other reasonably foreseeable water demands that would affect the identified source, over a period of twenty years and under varying climatic conditions. As described in Section 3.20.2.2, the proposed OWEF does not meet the intent of the definition of “project” under SB 610 and does not meet the 75 afy threshold specified by SB 267. ~~because the Proposed Action would not be an “industrial plant” with more than 1,000 persons or an “industrial park” planned to house more than 1,000 persons.~~ Therefore, a WSA under SB 610 or SB 267 is not required. Also as noted in Section 3.20, the project Applicant has prepared an assessment of water supplies for the project, which is incorporated by reference throughout the EIS/EIR and included as Appendix P.

The assessment of water supplies prepared for the proposed OWEF indicates that the private groundwater well in Pine Valley identified as a water source for the Proposed Action has sufficient capacity and availability to meet water requirements of the project.

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~~At the time of preparation of this Final EIS/EIR, a commercial water supplier~~ an operational water supply has not been identified; however, it is assumed that the operational water source(s) would be the same as the construction water source(s) described in Section 3.22 and assessed above. ~~However, due to a limited availability of commercial water suppliers in the proposed OWEF area, it is reasonably assumed that the IID would provide operational water unless such water would be obtained from the groundwater well(s) in Pine Valley. As described in Section 3.20.2.2, the IID’s Integrated Water Resources Management Plan addresses the proposed OWEF area and includes thorough analysis of future water supply and demand requirements, including increasing water demands associated with projects such as the Proposed Action; if operational water is obtained through IID, the implementation of the aforementioned plan would minimize or avoid potential environmental impacts associated with the provision of such water, and would mitigate for potential effects if necessary. Therefore, in order to be conservative towards the purpose of characterizing all potential impacts of the proposed OWEF, it is assumed that the 0.19 afy of water required during operation would be obtained from the same private Pine Valley well(s) in eastern San Diego County that would be used during construction. Operational water would be trucked approximately 50 miles to the project site and stored in a water storage tank at the O&M facility.~~

Common Response 11: Anza Borrego Desert State Park / Juan Bautista de Anza National Historic Trail

Many commenters expressed concern with regard to potential impacts of the proposed OWEF on Anza-Borrego Desert State Park (ABDSP). The EIS/EIR states that the project would cause permanent adverse visual impacts on views from various surrounding observation points, including some locations within ABDSP. As discussed in the EIS/EIR, while the project would have significant adverse visual impacts from observation points in the general vicinity of the project site, the visibility and prominence of the project at background distances is limited. The project contrast would be due primarily to color and texture contrast. Visual effects could be experienced by users of special designated areas at far distances, but the greatest visual impacts would be experienced by users within relatively close proximity.

Eight Key Observation Points (KOPs) were established in the vicinity of the proposed project and alternatives, including two KOPs within ABDSP (KOP 5 at Mortero Palms Access and an elevated perspective at KOP 6 on Red Hill). These KOPs (and accompanying simulations) are considered representative of the views of the project site from surrounding locations, including the locations mentioned in comments. The elevated viewpoint on Red Hill provides a reasonable representation of the elevated perspectives available from other surrounding elevated locations. All of the KOP analyses concluded that the proposed project (or alternative) would substantially degrade the existing visual character or quality of the site and its surrounding landscape and of views of that landscape from surrounding areas that have views of the project site, including ABDSP.

Comments were also received regarding the Piedras Grandes Cultural Preserve, a preserve located within ABDSP. As noted above, the project would have adverse visual impacts on portions of ABDSP, including the Piedras Grandes Cultural Preserve. The eastern boundary of the Piedras Grandes Cultural Preserve is located two miles west of the project area. Piedras Grandes contains the Horse and Rider Pictograph within a rock shelter, an area of dense concentration of human cremations, and numerous other sites. Given the distance from the project area to the Preserve, there will be no direct physical impacts on cultural resource sites within the Preserve associated with the project, and it is unlikely the proposed OWEF would have significant indirect impacts on the context of the cultural resources within the preserve. As explained in Section 3.4 and 4.4, the BLM recognizes the tribal importance of the area in general and acknowledges that the Tribes have identified the area including and surrounding the project site as a TCP. Please see Common Response 13 on Traditional Cultural Properties, Cultural Landscapes, and Districts.

Finally, comments were also received expressing concern that the project might affect the Juan Bautista de Anza National Historic Trail (Anza Trail). As shown on Figure 3.13-1 of the Draft EIS/EIR, the Trail is not located in close proximity to the project site. At its closest point, the Anza Trail is approximately 4 miles from the boundary of the project site. The Anza Trail passes directly under and adjacent to both the Southwest Powerlink 500-kV transmission line and the recently constructed Sunrise Powerlink 500-kV transmission line. The Anza Trail has been added to Table 3.13-1 (Regional Recreation and Open Areas) in Section 3.13 (Recreation), and Section 4.16 (Special Designations) has been cross-referenced in Sections 3.13 and 4.12.

Impacts on recreational resources are described in Section 4.12 (Recreation) of the EIS/EIR and impacts on visual resources are described in Section 4.18 (Visual Resources). Neither analysis found the project to

have any significant impact on the Anza Trail. Because the project site is located several miles away from the trail, impacts would consist of changes to relatively distant landscape views caused by the visibility of wind turbines along segments of the trail where views are not blocked by intervening terrain. For this reasons, visual changes would be limited, resulting in a relatively minor impact on the viewshed of the Anza Trail. However, the BLM acknowledges the importance of the Anza Trail and agrees that reasonable efforts should be made to minimize impacts on the trail. As a result, Mitigation Measure Rec-1 has been added to the Final EIS/EIR, which proposes the preparation of a Comprehensive Interpretive Plan for the Anza Trail through coordination between the BLM, National Park Service, and the Applicant.

Common Response 12: Section 106 Government-to-Government Consultation

Several commenters expressed concern regarding whether the BLM has engaged in meaningful Section 106 consultation with Native American tribes to identify, evaluate and resolve project-related adverse effects to historic properties (i.e., properties already included in the National Register of Historic Places (National Register) or that meet the eligibility criteria for the National Register).

Section 106 of the National Historic Preservation Act (NHPA), as amended, and its implementing regulations codified in “Protection of Historic Properties” (36 CFR Part 800) require federal agencies to take into account the effects of a proposed undertaking on historic properties and to afford the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment. Having determined that the proposed OWEF project constitutes an “undertaking” as defined in 36 CFR § 800.16(y) and involves the type of activity that could affect historic properties (36 CFR § 800.3(a)), the BLM, as lead federal agency for the project, has the statutory responsibility for compliance with provisions of Section 106 of the NHPA (36 CFR Part 800.2(a)(2)). 36 CFR § 800.1(a) states the purpose and goal of the Section 106 process as follows:

The section 106 Process seeks to accommodate historic preservation concerns with the needs of Federal undertakings through consultation among the agency official and other parties with an interest in the effects of the undertaking on historic properties commencing at the early stages of project planning. The goal of consultation is to identify historic properties potentially affected by the undertaking, assess its effects and seek ways to avoid, minimize or mitigate any adverse effects on historic properties.

At the heart of the Section 106 process is the concept of “consultation”. Consultation is broadly defined as “the process of seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement with them regarding matters arising in the section 106 process.” 36 CFR 800.16(f). This definition of consultation is consistent with Section 106’s overarching purpose to identify and evaluate historic properties potentially affected by an undertaking, in order to seek ways to resolve any adverse effects on such properties.

As described in 36 CFR Part 800.2(a)(4), consultation shall be initiated by the agency official, and who “should plan consultations appropriate to the scale of the undertaking and the scope of Federal involvement.” Given the array of federal undertakings that can be proposed and the diverse types of historic properties that might be affected by such actions, the nature and scope of consultation necessarily varies on a project-by-project basis, as the process needs to take into account the level of impact, the project scope, and the complexity of issues involved. *See, e.g.*, 36 CFR 800.3(c)(3) (noting that the agency should consult “in a manner appropriate for the undertaking ... and its effects on historic

properties”). The regulations do not prescribe a specific procedure that federal agencies are to use to initiate consultation, specify how it is to be conducted (e.g., one meeting for each report, etc), nor do they require that particular reports or analyses be provided in order to initiate or continue consultation. The regulations and applicable guidance and policies of both the Bureau of Land Management (BLM) and the Department simply direct the BLM to initiate consultation “early in the planning process ... [in order to] provide Indian tribes a meaningful opportunity to participate in the consultation process.” Sec. Order No. 3317, Department of the Interior Policy on Consultation with Indian tribes (Dec. 1, 2011); 36 C.F.R. § 800.2(c)(2)(ii)(A) (requiring that Indian tribes be afforded “a reasonable opportunity to identify its concerns about historic properties, advise on the identification and evaluation of historic properties, including those of traditional religious and cultural importance, articulate its views on the undertaking’s effects on such properties, and participate in the resolution of adverse effects. It is the responsibility of the agency official to make a reasonable and good faith effort to identify Indian tribes...that shall be consulted in the Section 106 process. Consultation should commence early in the planning process, in order to identify and discuss relevant preservation issues and resolve concerns about the confidentiality of information on historic properties.”).

The BLM has complied with these requirements of Section 106 to date, and will continue to do so until the consultation process is complete. Activities that the BLM has taken during the Section 106 consultation process include: sending correspondence requesting input from consulting parties, including tribes; conducting meetings with consulting parties, including group and individual government-to-government meetings for the purposes of information and idea exchange; providing cultural resource site visits on its own initiative and as requested by consulting parties; responding to information requests from consulting parties; and encouraging Tribal participation during the archaeological survey completed for the OWEF. Table 5-1 summarizes some of the significant events in the Section 106 process to date that demonstrate the BLM’s good faith efforts to engage in consultation throughout the Section 106 process, including correspondence, Section 106 consulting parties meetings, and document-sharing throughout the various phases of Section 106 (i.e. initiation of Section 106 consultation, identification of historic properties, evaluation and assessment of effects to historic properties, and resolution of adverse effects to historic properties). In addition to the Section 106 consulting parties meetings identified in Table 5-1, numerous individual government-to-government meetings took place between the BLM and individual tribes engaged in the Section 106 process. While the Section 106 consulting party group meetings provide a forum for presenting project updates, presenting the results of cultural resources studies, and open discussion and sharing of ideas about information and concerns with the proposed undertaking, the individual government-to-government meetings with Indian tribes provide a forum for tribes to share information and concerns in an individual context, apart from other consulting parties. The names of tribes and dates of these individual meetings is in Tables 5.2, 5.3, and 5.4. Further description of the information and concerns brought to light through the group and individual meetings is discussed below and also provided in Section 5.2.2 and 5.2.3 of the Final EIS/EIR. The BLM has compiled documentation throughout the Section 106 process that evidences its efforts to afford consulting parties, including Indian tribes, a reasonable opportunity to engage in each phase of the process including identification, evaluation, effects determination, and the resolution of adverse effects.

Throughout the Section 106 process, the BLM has carefully considered the information and concerns of the consulting parties and Indian tribes, and it has incorporated the same into the decision-making process concerning historic properties and adverse effects to them, as well as the analysis of cultural resources for

NEPA purposes. From early on in the Section 106 process, the BLM has responded to the feedback received from the various tribes concerning the traditional cultural and religious significance ascribed to the area. For example, the BLM encouraged the project Applicant to re-design the project to avoid archaeological sites. This request resulted in the complete avoidance of physical effects to all archaeological resources identified during the archaeological survey. Tribes also indicated the important relationship between sites, such as the Spoke Wheel Geoglyph and Signal and Coyote Mountains. In response, a revised project configuration was proposed and is under consideration that removes 43 turbines from the project footprint to avoid obstruction of the main viewsheds from the site (the Refined Project). The BLM has identified the Refined Project as its preferred alternative. Additionally, some Tribes have shared information with respect to the sacred, religious and cultural significance associated with cremations; in response, turbines have been removed from areas in close proximity to known cremations.

Through the consultation process, the BLM has also learned that some Tribes identify an area, which includes the project area, as a Traditional Cultural Property (TCP). Based on the information received to date, the BLM acknowledges the cultural and religious importance of the identified TCP and that the portion of the TCP within the project area is eligible under Criterion A of the National Register for its traditional and cultural significance to Tribes. However, the information provided to date about the characteristics of this TCP only allows us to assume the eligibility of certain portions of the identified TCP for the National Register of Historic Places (36 CFR 800.4(c)(1)) pursuant to 36 CFR § 800.4. Additional information is required to assess and understand the remainder of the TCP including its boundaries, its characteristics and use and potential contributing properties. The BLM is currently working with the consulting parties, including Indian tribes, to finalize a Section 106 Agreement document that will serve to resolve project-related adverse effects to the Spoke Wheel Geoglyph and to those portions of the TCP where sufficient information exists to determine effects should the project be approved. The BLM has also revised the Final EIS/EIR to address potential impacts to that portion of the TCP and to discuss concerns expressed by Tribes about the TCP.

Common Response 13: Traditional Cultural Properties, Cultural Landscapes, and Districts

The BLM responds here to the varied comments that have been made which contend that the proposed project area comprises, or is a part of, a Traditional Cultural Property (TCP), a cultural landscape, and/or a district. This Common Response summarizes the definitions of these types of properties and addresses comments as to whether such a TCP, cultural landscape, or district exists within the proposed project area, their extent, and how the BLM proposes to treat them for purposes of its consideration of the proposed project.

Traditional Cultural Properties

Commenters representing some of the Tribes have proposed that a TCP exists within the project area and the surrounding region; that this area comprises a landscape which is historically, culturally, religiously and spiritually important to the commenting Tribes and to its members; and that the TCP is eligible for listing in the National Register of Historic Places (National Register).

In response to those comments, and as a result of the ongoing Section 106 consultation process with the Tribes, the ACHP, SHPO, and other consulting parties, the BLM acknowledges that the Tribes have

identified an area that includes the project area, as a TCP. The BLM recognizes and understands that this identified TCP is of significant cultural and religious importance to a number of Tribes that have submitted comments on the Draft EIR/EIS for the proposed project.

A TCP may be eligible for listing in the National Register based on its “association with cultural practices or beliefs of a living community that (a) are rooted in that community’s history, and (b) are important in maintaining the continuing cultural identity of the community” (US Department of the Interior, National Park Service Cultural Resources, National Register Bulletin 38, *Guidelines for Evaluating and Documenting Traditional Properties*, page 1).

The first step in determining whether a TCP is eligible for inclusion in the National Register is to ensure that it is a tangible property. The second step in determining eligibility for the National Register is to assess “the integrity of the relationship between a property and the beliefs or practices that may give it significance” (Bulletin 38, page 9). In addition, the condition of the property must be such that the relevant relationships between a property and the beliefs or practices that give it significance survive (Bulletin 38, page 10).

After determining whether it is a tangible property, a TCP must, like all other potential historic properties, be evaluated against the four National Register criteria for eligibility:

- (a) Association with events that have made a significant contribution to the broad patterns of our history;
- (b) Association with the lives of persons significant in our past;
- (c) Embodiment of the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- (d) History of yielding, or potential to yield, information important in prehistory or history.

Based on this guidance, for the purposes of the NEPA/NHPA process for this project, the BLM is assuming that the part of the TCP that is within the project’s area of potential effects (APE) is eligible for the National Register; that it has cultural and religious value to the Tribes; and that the part of the TCP that is within the proposed project’s APE will be adversely affected by the project should any of the project alternatives be approved. The BLM has selected this approach because it has not been provided enough information to date about the full extent of the TCP boundaries as currently mapped by the Viejas and other Tribes to apply any of the preceding criteria and to ultimately make a determination of the eligibility of the larger area for the National Register. The BLM is consulting with the Tribes, the ACHP, SHPO and other consulting parties to reduce and resolve project-related adverse effects to the TCP, to be documented in a Memorandum of Agreement developed to resolve the adverse effects identified for the project or alternatives.

Cultural Landscape

Several commenters assert that there exists a cultural landscape within the project area. Specifically, the Viejas Tribal Council and other Tribes contend that the project area is a part of a larger cultural landscape and TCP, which exists in the eastern part of San Diego County and western part of Imperial County (Comment EC6-c).

A Cultural Landscape has been defined as “a geographic area (including both cultural and natural resources and the wildlife or domestic animals therein), associated with a historic event, activity, or person or exhibiting other cultural or aesthetic values” (U.S. Department of the Interior, National Park Service, 1996, *The Secretary of the Interior’s Standards for the Treatment of Historic Properties with Guidelines for the Treatment of Cultural Landscapes*, page 4). The same document states “there are four general types of cultural landscapes, not mutually exclusive: historic sites, historic designed landscapes, historic vernacular landscapes, and ethnographic landscapes” (page 4). An ethnographic landscape is then identified as “a landscape containing a variety of natural and cultural resources that associated people define as heritage resources. Examples are contemporary settlements, sacred religious sites, and massive geological structures. Small plant communities, animals, subsistence and ceremonial grounds are often components” (page 4).

The BLM acknowledges that resources identified through cultural resource investigations within the area of potential effects and through consultation with Tribes may indicate the potential for there to exist an ethnographic cultural landscape in and around the project site. As noted above, the BLM has only received general information about the significance of the identified landscape. Further, and more detailed, information about its components and boundaries is necessary in order to define and understand it properly in order to apply the applicable guidelines, even though the BLM generally recognizes the religious and cultural value that the Tribes attribute to the cultural landscape they have identified. The BLM continues to seek such information from the Tribes.

Districts

Several commenters assert that the archaeological resources recorded within the project area should be considered together as a district. Districts are significant concentrations, linkages, or continuities of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development. Districts derive their importance from being unified entities based on the interrelationships of various individual resources. Examples of districts include business districts, canal or irrigation systems, estates and farms, industrial complexes, rural villages, transportation networks, residential areas, rural historic districts, and groups of habitation sites. According to the US Department of the Interior, National Park Service Cultural Resources, National Register Bulletin 15, *How to Apply the National Register Criteria for Evaluation*, a district “must be a definable geographic area that can be distinguished from surrounding properties by changes such as density, scale, type, age, style of sites, buildings, structures, and objects or by documented differences in patterns of historic development or associations.”

Although the Archaeological Survey Report (ASR) prepared for the project did not positively identify the archaeological resources recorded in the project area as constituting or contributing to one or more districts based on available information, the BLM acknowledges that further research may reveal the potential for a district or multiple districts to exist within the project area. Further research may also reveal that some of the archaeological resources within the project area may be part of a larger previously identified district, such as the In-Ko-Pah Gorge Discontiguous District; the Yuha Basin Discontiguous District, or a larger yet-to-be identified district, whose boundaries may extend outside of the project area. There is also a potential for the additions to the multiple property listing of the Earth Figures of the California-Arizona Colorado River Basin Thematic Group.

The County has determined that the BLM's assumptions about the existence of a TCP and its eligibility for the NRHP do not require that the County treat it as a historical resource for purposes of the CEQA analysis in this joint document. (As used here, "historical resource" encompasses "archaeological resource" pursuant to CEQA Guidelines Section 15064.5.) CEQA confirms the County's discretion to make a separate CEQA determination under the criteria set forth in the CEQA statute and Guidelines. The County has determined that the project site is not a historic resource under CEQA, and the following is a summary of the basis for the County's determination. The assumed TCP is not listed on the CRHR, and has not been determined by the State Historical Resources Commission to be eligible for such listing, so the site is not a mandatory historical resource under CEQA Guideline 15064.5(a)(1). The assumed TCP also has not formally been determined to be eligible for the National Register, although BLM is assuming such eligibility for the purposes of its NEPA analysis. The site is not included in a local register of historical resources, so the site is not a presumed historic resource under CEQA Guidelines 15064.5(a)(2). The project site also is not a site that is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California, so the site is not a discretionary historic resource under CEQA Guideline 15064.5(a)(3).

In making the determination whether the assumed TCP is a historic resource, the County has reviewed the information relating to whether the site has traditional, religious, and cultural significance as well as other information. For purposes of the CEQA analysis, the County as lead agency has determined that substantial record evidence supports a determination that the site is not a historical resource under the definition set forth in CEQA Guideline 15064.5(a)(3). The Tribes have not provided sufficient of tribal or ethnographic information about the use of this project site (historic or otherwise); in light of the paucity of information, the BLM has made a conservative assumption of eligibility as a TCP. In the County's view, the paucity of information supports a finding that the site is not a historic resource. The claim that there is a significant cultural association with the project site has only arisen in the last several years. Some such use may be in response to the proposed project. In addition, the use and status of the site may be compared to that of the Spoke Wheel Geoglyph, a significant historic resource in the project vicinity. Therefore, based on the County's review of the record, the County is making its discretionary determination as CEQA lead agency that the assumed TCP is not a historical resource for CEQA purposes.

5.5.5 Individual Responses

Please see Appendix N for responses to all comments submitted on the Draft EIS/EIR.

5.6 Administrative Remedies

The BLM and the EPA's Office of Federal Activities will publish separate Notice of Availability's (NOAs) for the PA & Final EIS/EIR in the *Federal Register* when the document is ready to be released to the public. The NOA (to be published by the EPA in the *Federal Register*) will initiate a 30-day protest period on the Proposed PA to the Director of the BLM in accordance with 43 CFR 1610.5-2.

Following resolution of any protests, the BLM may publish an Approved PA and a ROD on the Project Application. Publication and release of the ROD would serve as public notice of BLM's decision on the Project Application which is appealable in accordance with 43 CFR Part 4.

5.7 List of Preparers

Though individuals have primary responsibility for preparing sections of the Proposed PA & EIS/EIR, the document is an interdisciplinary team effort. In addition, internal review of the document occurs throughout preparation. Specialists at the BLM’s Field Office, State Office, and Washington Office review the analysis and supply information, as well as provide document preparation oversight. Contributions by individual preparers may be subject to revision by other BLM specialists and by management during internal review.

Table 5-7. List of Preparers		
Name	Job Title	Primary Responsibility
BLM – El Centro Field Office		
Gaddis, Nicolle	Planning and Environmental Coordinator	NEPA Compliance
Johnson, John	Environmental Protection Specialist	NEPA Compliance
Ludwig, Noel	Hydrologist	Water Resources
Meeks, Dallas	Lead Outdoor Recreation Planner	Recreation
Tyson, Sharon	Wildlife Biologist	Wildlife Resources
Simmons, Carrie	Archaeologist, Paleontological Resources	Cultural Resources, Paleontological Resources
Steward, Daniel	Resource Branch Chief	El Centro Field Office
Trouette, Andrew	Natural Resource Specialist	Wilderness
Whyte, Jennifer	Realty Specialist	Lands and Realty
Zale, Tom	Associate Field Manager	NEPA Compliance
BLM – California Desert District Office		
Childers, Jeff	Planning and Environmental Coordinator	NEPA Compliance, Socioeconomics, Environmental Justice
Goodro, Margaret	Field Manager	Editing and Review
Marsden, Kim	Environmental Scientist	Vegetation Resources, Wildlife Resources
Perry, Cedric	Project Manager	Editing and Review
BLM – California State Office		
Campbell, Vicky	T&E Species Biologist	Policy & Environmental Compliance
Conrad-Saydah, Ashley	Project Manager	Climate Change
Dreyfuss, Erin	Planning and Environmental Coordinator	Editing and Review
Lund, Christina	State Lead Botanist	Vegetation Resources
McGinnis, Sandra	Environmental Protection Specialist	Policy & Environmental Compliance
Stein, Karl	Natural Resource Specialist	Soils Resources
County of Imperial		
Havens, Angelina	Planner II	Editing and Review
Aspen Environmental Group		
Bagwell, Beth	Cultural Resources Specialist	Cultural Resources
Blewitt, Lisa	Noise Specialist	Noise, Alternatives, Cumulative Projects
Davidson, Jon	Vice President	Project Manager
Hampton, George	Senior Associate	Editing and Review
Hawkins, Jacob	Environmental Planner	Social and Economic Issues, Environmental Justice
Huerta, Susanne	Environmental Planner	Introduction, Lands and Realty, Multiple Use Classes, Recreation
Hwang, Insun	Engineer	Air Resources, Climate Change, Cumulative Projects
Kozhevnikov, Anton	Senior GIS Specialist	Geographic Information Systems
Long, Matthew	Environmental Planner	Soil Resources, Mineral Resources, Geographic Information Systems
Mescher, Aubrey	Environmental Planner	Soil Resources, Mineral Resources, Water Resources, Cumulative Projects
Meyer, Christopher	Senior Associate	Cultural Resources, Paleontological Resources

Table 5-7. List of Preparers		
Name	Job Title	Primary Responsibility
Mitchell, Marissa	Environmental Scientist	Wildland Fire Ecology, Public Health & Safety, Alternatives
Noorzay, Akbar	GIS Specialist	Geographic Information Systems
Ramaker, Shruti	Environmental Planner	Transportation and Public Access, Public Health and Safety
Simpson, Kati	Senior Graphic Design Specialist	Computer Graphics
Spicer, Judy	Document Coordinator	Document Production
Vahidi, Negar	Senior Associate	Editing and Review
Walters, Will	Senior Engineer	Air Resources, Climate Change
Yeh, Stanley	Environmental Scientist	Introduction, Proposed Action, Livestock Grazing, Public Health & Safety, Wild Horses and Burros, Special Designations
Helix Environmental Planning		
Cacciatore, Seekey	Project Manager	Vegetation/Wildlife Resources
Howard, Shelby	Biology Group Manager	Vegetation/Wildlife Resources
Leonard, Debbie	Senior Scientist	Vegetation/Wildlife Resources
Venz, Elizabeth	Senior GIS Specialist	GIS support, Vegetation/Wildlife Resources
Wojtalewicz, Aleksandra	Technical Editor	Vegetation Resources, Wildlife Resources
Linscott, Law & Greenspan Engineers		
Prasad, Narasimha	Senior Transportation Engineer	Transportation and Public Access
Michael Clayton Associates		
Clayton, Michael	Visual Resource Specialist	Visual Resources
Paleo Solutions		
Aron, Geraldine L.	Principal Investigator	Paleontological Resources
Deering, Mark R.	GIS Specialist/Field Crew Technician	Paleontological Resources
Kelly, Jennifer	Assistant Project Manager/Research Assistant	Paleontological Resources
Tierra Environmental Services		
Baksh, Ph.D., Michael	President	Cultural Resources