

APPENDIX 7

Clarifications of the PA/FEIS

The Bureau of Land Management (BLM) prepared the PA/FEIS for the McCoy Solar Energy Project (MSEP) in consultation with other agencies, taking into account public comments received during the Federal Land Policy and Management Act of 1976 (FLPMA) and National Environmental Policy Act (NEPA) process undertaken for the Project. The PA/FEIS described the Proposed Action and alternatives (including the agency preferred alternative), analyzed the proposed CDCA Plan Amendment and Project decisions, and responded to written comments received during the public review period for the Draft PA/EIS (see PA/FEIS Chapter 5, *Consultation, Coordination and Public Involvement*, and Appendix K, *Individual Responses to Comments*). Review of the PA/FEIS by the BLM and others has resulted in the minor corrections and clarifying statements listed below. Revisions to language as it appears in the PA/FEIS are indicated as follows: Quoted language is *italicized*, new language is shown in underscore, deleted language is shown in ~~strikethrough~~. None of these minor corrections and clarifying statements affects the adequacy of the underlying NEPA analysis in the PA/FEIS.

- Footnote “a” in Table 2-1 (PA/FEIS, p. 2-7) has been revised to clarify consistency with the analytical assumption relied upon the PA/FEIS that Project acreage is based on thin film panels mounted on a combination of fixed tilt ground mount and single axis tracker technologies (see, e.g., PA/FEIS, p. 2-5). The specific revision is as follows:

^a *These acreages are based on a combination of fixed tilt ground mount and single axis tracker technologies ~~the thin film tracking configuration as shown in Figure 2-3~~.*

- PA/FEIS page 3.3-10 has been revised as follows to clarify that only fall plant surveys for Alternative 3 were completed during a low rainfall year, but that spring plant surveys for Alternative 3 were completed in a year with sufficient rainfall:

Rare plant surveys have been completed for the proposed action, including the solar plant site and project linears. Botanical surveys have been performed on the Alternative 3 routes that traverse the BSPP site; however, fall surveys were performed during a low rainfall year and may not fully represent the distribution of some special-status species within the alignments. Special-status species detected within the vicinity are discussed in more detail below. The findings of spring 2011 botanical surveys of the study area are incorporated into the discussion below.

- The total area of desert tortoise habitat in the Project disturbance area stated in the last sentence of the fourth paragraph on PA/FEIS page 3.4-8 has been updated as follows:

The total area of desert tortoise habitat in the Project disturbance area is ~~4,496~~ 4,542.7 acres.

- The third sentence of the last full paragraph on PA/FEIS page 3.4-10 (quoted below) should not be interpreted to imply that Couch’s spadefoot toads were observed at the borrow pit and graded depression north of I-10:

High-quality breeding habitat was found at the borrow pit and graded depression north of I-10.

- The results of the desert kit fox survey reported on PA/FEIS page 3.4-16 have been clarified as follows:

Desert kit fox burrows, complexes, and scat were observed throughout the Project disturbance area and the entire study area is considered habitat for this species (Figure 3.4-10). Surveyors detected 57 kit fox natal dens during spring 2011 surveys, of which 34 were within the solar plant site and 8 were along the gen-tie line and access road route; the rest were observed outside of the disturbance area. Of the 42 natal dens in the Project disturbance area, 12 of 15 active sites were on the solar plant site. None of the 15 active dens had desert kit fox pups present. Suitable prey base (wood rats, pocket mice, ground squirrels, cottontail rabbits) and habitat to support this species occur throughout much of the undeveloped portions of the Project site.

- The fifth full paragraph on PA/FEIS page 3.5-19 has been corrected as follows:

In ~~1928~~ ~~the 1930s~~, the Metropolitan Water District was created to supply the area within its boundaries with water for domestic, industrial, and other beneficial uses ~~effect transport of water from the Colorado River to Los Angeles~~. The Metropolitan Aqueduct was constructed from Parker Dam through the mountains east of Indio to Riverside, and finally, to Los Angeles. It was the largest construction project in the world at the time and provided jobs during the depression (Pittman, 1995).

- The description of the Eagle Mountain Pumping Plan identified as Item 7 in PA/FEIS Table 4.1-3 (p. 4.1-7) has been revised as follows:

~~144~~ 438 ft. lift pumping plant that is part of the Metropolitan Water District of Southern California's facilities. APNs 807150007, 807150009, 807150010

- The discussion of direct impacts to Harwood's milk-vetch, Ribbed cryptantha, and Harwood's eriastrum under Alternative 2 in the last paragraph on PA/FEIS page 4.3-8 has been corrected as follows:

Anticipated direct impacts to special-status plants of Alternative 2 are presented in Table 4.3-2. Under this alternative, direct impacts to Harwood's milk-vetch, Ribbed cryptantha, and Harwood's eriastrum would be the same ~~slightly reduced~~ compared to Alternative 1. . . .

- References to "steam blowing" are not applicable to the MSEP and have been removed from Mitigation Measure VEG-8.8 (PA/FEIS, pp. 4.3-23, M-10) as shown here:

***Minimize Noise Impacts.** ~~A continuous low pressure technique shall be used for steam blows, to the extent possible, in order to reduce noise levels in sensitive habitat proximate to the Project. Loud construction activities (e.g., unsilenced high pressure steam blowing and pile driving, or other) shall be avoided from February 15 to~~*

April 15 when it would result in noise levels over 65 dBA in nesting habitat (excluding noise from passing vehicles). . . .

- Two vegetation-related mitigation measures have been revised in light of the Applicant's confirmation that no engineered diversion channels are planned and the possibility that such infrastructure may, nonetheless, be required pursuant to Mitigation Measure WATER-6 (PA/FEIS, pp. 4.20-22, M-61). Mitigation Measure VEG-10.A(a) (PA/FEIS pp. 4.3-28, M-15) has been revised as follows:

a) Site Design Modifications: Incorporate site design modifications to minimize impacts to special-status plants along the Project linears: limiting the width of the work area; adjusting the location of staging areas, lay downs, spur roads and poles or towers; driving and crushing vegetation as an alternative to blading temporary roads to preserve the seed bank, and minor adjustments to the alignment of the roads and pipelines within the constraints of the ROW. If engineered diversion channels are included, their discharge points shall be designed ~~Design the engineered channel discharge points~~ to maintain the natural surface drainage patterns between the engineered channel and the outlet of the natural washes that flow toward the south and east, downstream of the Project. These modifications shall be clearly depicted on the grading and construction plans, and on report-sized maps in the BRMIMP.

- Mitigation Measure VEG-10.A(g) (PA/FEIS pp. 4.3-29, M-16) has been revised to clarify that it will not be necessary to designate a botanist for the Project:

Monitoring and Reporting Requirements. The qualified botanist ~~Designated Botanist~~ shall conduct weekly monitoring of the ESAs that protect special-status plant occurrences during construction and decommissioning activities.

- The discussion in the PA/FEIS of special-status plant impact avoidance, minimization, and compensation has been revised for consistency with BLM policy, which is to require mitigation on BLM lands only for impacts to Rank 1 plants (see, e.g., BLM Manual 6840). Additionally, the PA/FEIS has been revised to further protect the desert dry wash woodland riparian habitat present within Unit 2 of the solar plant site. Accordingly, Mitigation Measure VEG-10.C (PA/FEIS pp. 4.3-31, M-18) has been revised (and otherwise clarified) as follows:

Avoidance Requirements for Special-Status Plants

The Applicant shall avoid impacts to special-status plant populations whenever possible, as described below.

1. *Mitigation for CNDDDB Rank 1, 2, ~~and 3~~ Plants – Avoidance on Linear Corridors Required: If species with a CNDDDB rank of 1, 2, ~~or 3~~ are is detected within the Project Disturbance Area, the Applicant shall prepare and implement a Special-Status Plant Mitigation Plan (Plan) that describes measures to avoid and minimize impacts to plant populations on the Project linear corridors and construction laydown areas, unless such avoidance would create greater environmental impacts in other resource areas (e.g. Cultural Resource Sites) or other restrictions (e.g., FAA or other restrictions for*

placement of transmission poles). The Applicant shall provide compensatory mitigation as described below in Mitigation Measure VEG- 10.D for impacts to Rank 1, 2, and 3 plants that cannot be avoided. ~~The content of the Plan and definitions shall be as described above in Mitigation Measure VEG-10.C (1).~~

2. ~~Preservation of the Germplasm of CNDDDB Rank 1 Plants. Affected Special Status Plants.~~ For all significant impacts to CNDDDB Rank 1 plants ~~special status plants~~, regardless of whether compensatory mitigation is required, mitigation shall include seed collection from the affected special-status plants on-site prior to construction to conserve the germplasm and provide a seed source for restoration efforts. The seed shall be collected under the supervision or guidance of a reputable seed storage facility such as the Rancho Santa Ana Botanical Garden Seed Conservation Program, San Diego Natural History Museum, or the Missouri Botanical Garden. The costs associated with the long-term storage of the seed shall be the responsibility of the Applicant. Any efforts to propagate and reintroduce special-status plants from seeds in the wild shall be carried out under the direct supervision of specialists such as those listed above and as part of a Habitat Restoration/Enhancement Plan approved by the BLM AO.
3. Avoidance and protection of desert dry wash woodland riparian habitat. A 50-foot buffer shall be fenced around the approximately 4.2-acre area identified as desert dry wash woodland (riparian) within solar plant site Unit 2 as shown in PA/FEIS Figure 3.3-1. Fencing shall consist of 3- or 4-strand smooth wire fence that shall be erected concurrent with the installation of solar plant site perimeter fencing prior to construction within Unit 2. The desert dry wash woodland fencing shall be maintained and the enclosed area monitored for avian use for the duration of the ROW grant.

- The last sentence of the last paragraph of Mitigation Measure VEG-10.D(I) (PA/FEIS, pp. 4.3-36, M-19) has been revised as follows to focus on the timing of the actual acquisition of mitigation land in relation to the commencement of ground disturbing activities:

The responsibility for acquisition of compensation lands may be delegated to a third party other than NFWF, such as a non-governmental organization supportive of desert habitat conservation, by written agreement of the Energy Commission. Such delegation shall be subject to approval by the BLM AO, in consultation with CDFG, BLM, and USFWS, prior to land acquisition, enhancement or management activities. The Applicant, or an approved third party to which the Applicant has delegated land acquisition activities pursuant to an executed agreement, shall acquire the land, in fee or in easement, no more than 18 months after the start of Project ground-disturbing activities. Agreements to delegate land acquisition to an approved third party, or to manage compensation lands, shall be executed and implemented within 18 months of the BLM's certification of the Project.

- The total mitigation acreage to compensate for impacts to state jurisdictional waters in Mitigation Measure VEG-11(1) and (2) (PA/FEIS, pp. 4.3-38, M-24) has been revised as

shown below for consistency with the acreages provided in PA/FEIS Table 2-7 (p. 2-30 et seq.):

1. **Acquire Off-Site State Waters:** *The Applicant shall acquire, in fee or in easement, a parcel or parcels of land that includes at least ~~196.9~~ 215.2 acres of state jurisdictional waters, or comparable area based on actual project impact to jurisdictional features that meets BLM and CDFG mitigation ratios, as identified in APM HYDRO-1 (Table 2-7, Applicant Proposed Measures). The parcel or parcels comprising the ~~196.9~~ 215.2 acres of ephemeral washes shall include at least ~~10.8~~ 6 acres of desert dry wash woodland. . . .*
 2. **Security for Implementation of Mitigation:** *The Applicant shall provide financial assurances to the BLM AO and CDFG to guarantee that an adequate level of funding is available to implement the acquisitions and enhancement of state waters as described in this condition. These funds shall be used solely for implementation of the measures associated with the project. Financial assurance can be provided to the BLM AO and CDFG in the form of an irrevocable letter of credit, a pledged savings account or Security prior to initiating ground-disturbing project activities. Prior to submittal to the BLM AO, the Security shall be approved by the BLM AO, in consultation with CDFG and the USFWS, to ensure funding. An estimate of \$~~448,932~~ 485,640 in required Security funds was developed for land costs or the estimated costs of enhancement and endowment (see WIL-4, Compensatory Mitigation for Desert Tortoise Habitat Losses, for a discussion of the assumptions used in calculating the Security) based on an estimate of \$2,280 per acre (~~196.9~~ 215.2 acres) to fund acquisition, enhancement and long-term management. . . .*
- Mitigation Measure VEG-12 (PA/FEIS pp. 4.3-40, M-26) has been revised as follows:

VEG-12: Channel Decommissioning and Reclamation Plan. *If engineered diversion channels are included in the Project, then, ~~A~~ at least 12 months prior to Project closure, the Applicant shall prepare a draft Decommissioning and Reclamation Plan to remove the engineered diversion channels from the Project site, and implement the final plan upon site closure. The goal of the plan shall be to restore the site's topography and hydrology to a relatively natural condition and to establish native plant communities within the Project Disturbance Area. The Channel Decommissioning and Reclamation Plan shall include a cost estimate for implementing the proposed decommissioning and reclamation activities, and shall be consistent with the guidelines in BLM's 43 CFR 3809.550 et seq., subject to review and revisions from the BLM AO in consultation with USFWS and CDFG.*
 - The second sentence in the first full paragraph on PA/FEIS page 4.4-15 (“CDFG believes that the outbreak originated from an infected host animal entering the site, possibly a wild or domestic dog, American badger, or other carnivore.”) should not be interpreted to imply that CDV affects all carnivores, because this is not the case. The fourth sentence in that paragraph has been revised as follows to clarify that the Genesis Solar Energy Project and the Colorado River substation are not 40 miles apart:

Subsequently, desert kit foxes were captured for disease testing at the First Solar Desert Sunlight, Solar Millennium Palen, Genesis Ford Dry Lake, and at Southern California Edison's Colorado River substation ~~and CDV was identified at the two latter sites~~, which span a distance of about 40 miles on the I-10 corridor within the Chuckwalla Valley (CEC, 2012). CDV was identified at the two latter sites.

- Mitigation Measure WIL-1.1 (PA/FEIS, pp. 4.4-28, M-32) has been revised as follows so as not to restrict the methods the Applicant may use to prevent impacts to desert tortoise during construction of the linear facilities:

Desert Tortoise Exclusion Fence Installation. *To avoid impacts to desert tortoises, permanent exclusion fencing shall be installed along the permanent perimeter security fence (boundaries) as phases are constructed. Biological monitoring or ~~temporary~~ fencing shall be used ~~installed~~ along linear features or any subset of the plant site phasing that does not correspond to permanent perimeter fencing. . . .*

- Mitigation Measure WIL-1.2(c) (PA/FEIS, pp. 4.4-30, M-34) has been revised as follows to clarify that the Designated Biologist need not be present to monitor each piece of grading equipment individually:

Monitoring Following Clearing. *Following the desert tortoise clearance and removal from the power plant site and utility corridors, workers and heavy equipment shall be allowed to enter the Project site to perform clearing, grubbing, leveling, and trenching. A Designated Biologist shall oversee ~~directly monitor~~ site clearing and shall be on-site during grading activities to find and move tortoises missed during the initial tortoise clearance survey. . . .*

- The last sentence of Mitigation Measure WIL-4.3(h) (PA/FEIS, pp. 4.4-35, M-38) (“*Agreements to delegate land acquisition to an approved third party, or to manage compensation lands, shall be implemented with 18 months of the BLM’s approval.*”) has been deleted.
- Mitigation Measure WIL-8.1 (PA/FEIS pp. 4.4-37, K-31, M-40) would have required the completion of a baseline study of desert kit fox populations on the Project site and the anticipated relocation/receiving area(s) at least 60 days before initiation of construction activities as part of a larger program intended to provide canine distemper protection to desert kit fox populations. However, comprehensive surveys were conducted in 2011 that identified potential impacts to 42 kit fox natal dens (see, e.g., PA/FEIS, pp. 3.4-16, 4.4-14). Mitigation Measure WIL-8.3 further requires that pre-construction surveys be conducted to determine the presence of active dens within 100 feet of the Project boundary. For these reasons, Mitigation Measure WIL-8.1 has been deleted as redundant and unnecessary.
- Mitigation Measures WIL-9 (PA/FEIS, pp. 4.4-38 et seq., M-42), WIL-10 (PA/FEIS, pp. 4.4-41 et seq., M-44), and VEG-10 (PA/FEIS, pp. 4.3-28 et seq., M-15) all shall be interpreted such that they require any agreements with approved third parties to delegate land acquisition or land management to be executed and implemented within 18 months of the BLM’s approval. This 18-month timing provision applies to all off-site compensatory measure requirements.

- Mitigation Measure WIL-9.2(e) (PA/FEIS pp. 4.4-39, M-42), which requires the Applicant to prepare and implement a final Burrowing Owl Mitigation Plan, has been clarified with respect to the timing within which certain information to be relied upon can be obtained. Specific revisions to Mitigation Measure WIL-9.2(e) are as follows:

The Applicant shall prepare and implement a final Burrowing Owl Mitigation Plan. The Plan shall be approved by the BLM AO in consultation with USFWS and CDFG, and shall:include the following elements related to artificial burrow relocation:

- i. A brief description of the project and project site pre-construction;*
- ii. The mitigation measures that will be implemented;*
- iii. Potential conflicting site uses or encumbrances;*
- iv. A comparison of the occupied burrow site(s) and the artificial burrow site(s) (e.g., vegetation, habitat types, fossorial species use in the area, and other features);*
- v. Artificial burrow(s) proximity to the project activities, roads and drainages;*
- vi. Artificial burrow(s) proximity to other burrows and entrance exposure; Photographs of the site of the occupied burrow(s) and the artificial burrows;*
- vii. Map of the project area that identifies the burrow(s) to be excluded as well as the proposed sites for the artificial burrows;*
- viii. A brief description of the artificial burrow design;*
- ix. Description of the monitoring that will take place during and after project implementation including information that will be provided in a monitoring report.*
- x. A description of the frequency and type of burrow maintenance.*

Because elements (iv) through (vii) rely on information that can be obtained only during pre-construction surveys, those elements of the Plan shall be included in a separate relocation plan if and when relocation actions are proposed.

- Mitigation Measure WIL-9.4(a) (PA/FEIS pp. 4.4-40, M-43), regarding the acquisition of compensatory burrowing owl habitat, has been revised as indicated below to focus the requirement on the need for mitigation lands to provide suitable habitat for burrowing owls, which is consistent with off-site mitigation for other species. Specific revisions to Mitigation Measure WIL-9.4(a) are as follows:

Criteria for Burrowing Owl Mitigation Lands: The terms and conditions of this acquisition or easement shall be as described in Mitigation Measure WIL-4 [Desert Tortoise Compensatory Mitigation], with the additional criteria to include ~~that: 1) the 45 acres of mitigation land must provide suitable habitat for burrowing owls, and 2) the acquisition lands must either currently support burrowing owls or be no farther than 5 miles from an active burrowing owl nesting territory.~~ The 45 acres of burrowing owl mitigation lands may be included with the desert tortoise mitigation lands ONLY if this ~~these two~~ burrowing owl criterion ~~are~~ is met. If the 45 acres of burrowing owl mitigation land is separate from the acreage required for desert

tortoise compensation lands, the Applicant shall fulfill the requirements described below in this measure.

- Mitigation Measure WIL-9.4(b) (PA/FEIS, pp. 4.4-41, M-43) has been revised as follows:

Security: If the 19.5 acres of burrowing owl mitigation land is separate from the acreage required for desert tortoise compensation lands, the Applicant or an approved third party shall complete acquisition of the proposed compensation lands within the time period specified for this acquisition (~~see the verification section at the end of this measure~~). . . .

- The first sentence of Mitigation Measure WIL-13 (PA/FEIS, pp. 4.4-43, M-46) has been revised to reflect the practical experience of the wildlife agencies for other projects that have required evaporation ponds to be covered with mesh netting:

As directed by BLM, USFWS, and CDFG based on current wildlife management information and data, the Applicant shall cover the evaporation ponds. . . .

- The first sentence of Mitigation Measure CUL-1(a) (PA/FEIS, pp. 4.5-9, M-47) has been revised as follows to clarify that this sentence refers to cultural resource values that have been identified prior to construction:

On the basis of preliminary CRHR eligibility assessments, NRHP eligibility assessments, or existing NRHP eligibility determinations, the BLM may require the relocation of project components to avoid or reduce damage to cultural resource values known prior to construction.

- Mitigation Measure CLIMATE-1 (PA/FEIS, pp. 4.8-17, M-49) has been deleted as unnecessary because implementation of the design standards specified in Mitigation Measures WATER-2, WATER-3, and WATER-4 (PA/FEIS, pp. 4.20-21 and 22, M-60 and 61) would conform to engineering requirements for a 100-year flood event and provide appropriate protection against erosion and sedimentation on-site and downstream from the site due to stormwater runoff and flooding.
- Because there are no Waters of the United States present on the MSEP site, the Clean Water Act's General Construction Storm Water Permit requirements (including the requirement to prepare a stormwater pollution prevention plan, or SWPPP) do not apply to activities on the Project site as a matter of law. Accordingly, the discussion of the risk of hazards and hazardous materials accidents and spills that begins at the bottom of PA/FEIS page 4.9-4 has been revised as follows:

As required, the Applicant would store all hazardous materials in the manner specified by the manufacturer and in accordance with local, state, and federal regulations. ~~The construction SWPPP proposed by the Applicant and required by law would describe methods to reduce the potential for spills and establish procedures to minimize the effect of accidental releases. Best management practices (BMPs) for this purpose established in the SWPPP w~~ could include protection measures for the temporary on-site storage of diesel fuels, hydraulic fluid, lubricants, and other hazardous materials used during construction, including requirements for secondary

containment and berming to contain a potential release and to prevent any such release from reaching a nearby waterway. Such BMPs also could include All employees would receive training in the proper use, storage, and handling of hazardous materials; and routine inspections of equipment and materials storage would be routinely inspected for leaks and records maintained documenting compliance with regulations for the storage and handling of hazardous materials, as required by the SWPPP. Further, the Applicant would be required to prepare a SPMP that outlines the discharge prevention measures, spill containment systems, and procedures to be followed to contain and clean up potential releases from above-ground storage tanks.

As a conforming change, Mitigation Measure WATER-1 (PA/FEIS, pp. 4.20-19, M-59) has been deleted in its entirety:

~~WATER-1: [Removed from PA/FEIS] Implementation of a SWPPP. To ensure that stormwater quality is protected during the construction and decommissioning period for the MSEP, as well as any maintenance done during the operational period, the Applicant shall comply with the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance (Order No. 2009-0009-DWQ) (Construction General Permit).~~

- The Draft PA/EIS identified a mitigation measure (REC-6) that the BLM subsequently deleted from the PA/FEIS based on further consideration of the measure and in light of revisions to REC-5 (PA/FEIS, pp. 4.14-19, M-51), which would adequately address public access considerations (see, e.g., Response 9-86 on PA/FEIS page K-65). Accordingly, all legacy references to REC-6 have been deleted from the PA/FEIS, including those in the second full paragraph on PA/FEIS page 4.14-2 (“Mitigation Measure REC-6 would reduce the long-term effects on recreational access by requiring the Applicant to identify and provide alternative recreational opportunities and experiences on the lands outside the Project site boundary.”) and the last sentence of the partial paragraph at the top of page 4.14-8 (“Implementation of mitigation measures REC-4 and REC-6 would reduce the Project’s contribution to these impacts”).

- Mitigation Measure REC-5 (PA/FEIS pp. 4.14-9, M-51) has been clarified by the following revision:

The Project cannot preclude the maintenance of BLM may require the Applicant to reestablish north/south OHV connectivity to the west side of the Big Maria Wilderness Area and to the northeast side of the Palen-McCoy Wilderness Area. The Applicant may choose to allow continuous public access along the previously designed open route (Black Rock Road) while providing for separate site security to the solar facilities.

- The discussion of potential Riverside County tax revenues in the last paragraph on PA/FEIS page 4.15-5 has been revised as follows:

Pursuant to Riverside County Board of Supervisors Policy B-29, the County currently has discretion to impose a tax on solar power plants on a per acre basis. ~~site would be taxable at \$450 per acre per year. The estimated tax revenue to the County would be \$2 million per year, though this amount could be reduced through incentives and credits to a minimum of just under \$1 million per year.~~

- Mitigation Measure LWC-1 (PA/FEIS, pp. 4.16-4, M-52) has been revised to include an option for the Applicant to provide funding to BLM to implement this measure instead of requiring the Applicant to do so directly. Specific revisions to Mitigation Measure LWC-1 are as follows:

Wilderness Characteristics Mitigation Plan. *Prior to issuance of a Notice to Proceed in those areas of in Unit 2 of the MSEP having wilderness characteristics, the Applicant shall prepare a proposal to mitigate for the loss of approximately 1,089 acres of lands with wilderness characteristics that would result from the construction of Unit 2. On-site mitigation is infeasible. Therefore, the mitigation plan shall be focused in the Big Maria Mountains and Palen-McCoy Wilderness Areas, which are the closest designated wilderness areas to the project. Mitigation may be implemented in either of these areas or a combination of them and may include:*

1. *Removal and restoration of approximately 15 miles of unauthorized vehicle routes;*
2. *Conversion of approximately 3 miles of vehicle route into a hiking trail;*
3. *Installation of vehicle barriers and signing along publicly accessible portions of the wilderness boundaries; and/or*
4. *Development of a visitor education and information program aimed at reducing illegal vehicle access into the areas.*
5. *In lieu of implementing the Wilderness Characteristics Mitigation Plan directly, the Applicant may elect to pay compensatory mitigation before commencing construction in the affected portion of Unit 2 in an amount sufficient for the BLM to implement the Plan. Such an amount would be equivalent to \$200/acre for the 1,089 acres, or up to two hundred twenty thousand dollars (\$220,000).*

- Mitigation Measures VIS-1.4 (PA/FEIS pp. 4.19-22, M-54) and VIS 3.4 (PA/FEIS pp. 4.19-24, M-55) have been clarified to allow various methods to be employed to achieve a reduction in visual effects.

Mitigation Measure VIS-1.4 has been clarified as follows:

A form of The backs or non-energy gathering side of the solar panels shall be color treatment ~~*ed shall be used to reduce visual contrast between the backs or non-energy gathering side of the solar panels and with the landscape setting. Since not all of the panels are visible outside the project footprint, the exact number and location or color treatment method of panels that will be required color treatment shall be determined prior to installation.*~~

Mitigation Measure VIS-3.4 has been clarified as follows:

The ~~color treatment~~ ~~and~~ method used to reduce visual contrast between the backs or non-energy gathering side of the solar panels and the landscape setting ~~solar panel backs/supports~~ shall be kept in good repair, and repaired/retreated when it no longer effectively reduces the visual contrast ~~color fades and/or flakes~~.

- Table 4.20-4, *Anticipated Waters of the State, Solar Field Site* (PA/FEIS, p. 4.20-10) has been revised as follows to reflect changes made to the boundaries of the Unit 1 and Unit 2 solar plant sites between the publication of the Draft PA/EIS and the PA/FEIS:

**TABLE 4.20-4
 ANTICIPATED WATERS OF THE STATE, SOLAR FIELD SITE**

Channel Forms	Permanent Impact (acres)		
	Unit 1	Unit 2	Total
Single Thread	0	1.5	1.5
Man-made Borrow Pit	0	0	0
Single Thread, Compound, Swales	47.6 <u>50.1</u>	103.3 <u>88.5</u>	150.9 <u>138.6</u>
Compound, Swales, Discontinuous Channels	8.8 <u>10.2</u>	20.3 <u>15.1</u>	29.5 <u>25.3</u>
Solar Field Total	56.4 <u>60.3</u>	125.4 <u>105.1</u>	181.5 <u>163.9</u>

SOURCE: Tetra Tech, 2011a, 2012b

- Mitigation Measure WATER-2 (PA/FEIS, pp. 4.20-21, M-60) has been revised as follows to clarify the intended sizing of the evaporation pond:

WATER-2: *The proposed evaporation ponds shall be sized to accommodate operational discharges plus a 25-year storm event within the tributary area, with no less than 1 foot of freeboard.*

- Mitigation Measure WATER-4 (PA/FEIS, pp. 4.20-21 et seq., M-61) has been revised as follows:

WATER-4: *In order to ensure that proposed on-site buildings and staff therein are protected from flooding, all on-site buildings and fill areas shall be placed outside of frequent flood flow areas. Additionally, proposed on-site buildings, maintenance areas, designated parking lots, and associated facilities shall be constructed at a finished floor elevation of at least 1 foot ~~2 feet~~ above the highest anticipated flood flows during a 100-year event. . . .*

- The first paragraph of Mitigation Measure WATER-7 (PA/FEIS pp. 4.20-22, M-61) has been clarified as indicated below to broaden the range of professionals who may prepare the Groundwater Monitoring and Mitigation Plan, clarify the standards for determining whether the Applicant must reduce groundwater pumping, and limit application of the mitigation measures to operating water supply wells, if any, that surround the Project site. Specific revisions to Mitigation Measure WATER-7 are as follows:

Groundwater Monitoring and Mitigation Plan. A Groundwater Monitoring and Mitigation Plan shall be prepared prior to construction. The Groundwater Monitoring and Mitigation Plan shall be prepared by a qualified professional geologist, hydrogeologist, or civil engineer registered in the State of California and submitted by the Applicant to the BLM for approval, and to the RWQCB for review and comment. This Plan shall provide detailed methodology for monitoring background and site groundwater levels, water quality, and flow. Monitoring shall be performed during preconstruction, construction, and operation of the Project, with the intent to establish pre-construction and Project-related groundwater level and water quality trends that can be quantitatively compared against observed and simulated trends near the Project pumping wells and near potentially affected existing private wells, if any. Water quality monitoring shall include annual sampling and testing for constituents as required by the California Department of Health for the proposed on-site potable use.

The Groundwater Monitoring and Mitigation Plan shall include a schedule for submittal of quarterly data reports by the Applicant to the BLM, for the duration of the monitoring period. These quarterly data reports shall be prepared and submitted to the BLM for review and approval, and shall include water level monitoring data (trend analyses) from all pumping and monitoring wells. Based on the results of the quarterly reports, the Applicant and the BLM shall determine if the Project's pumping activities have resulted in water level decline in the baseline at any of the monitoring wells, including nearby operating private wells, if any. If significant drawdown occurs at active off-site groundwater supply wells, the Applicant shall immediately reduce groundwater pumping until water levels stabilize or recover, to a reasonable level. The measure of the significance of the water level decline and associated mitigation measure for operating water supply wells shall be outlined in the Groundwater Monitoring and Mitigation Plan.

The Groundwater Monitoring and Mitigation Plan shall also include a schedule for submittal of annual data reports by the Applicant to the BLM, for the first 5 years of the project (including the construction period). These annual data reports shall be prepared and submitted to the BLM for review and approval, and shall include at a minimum the following information:

- *Daily usage, monthly range, and monthly average of daily water usage in gallons per day;*
- *Total water used on a monthly and annual basis in acre-feet; summary of all water level data and water quality data;*
- *Identification of trends that indicate potential for off-site wells to experience decline of water level; and*
- *Identification of all sources of water by type (i.e., groundwater, surface water, municipal water) and well/location used on BLM Land.*

The BLM shall determine whether operating groundwater supply wells surrounding the Project site ~~and Project supply well(s)~~ are influenced by Project activities. The Groundwater Monitoring and Mitigation Plan shall describe additional mitigation measures that that may be implemented if BLM determines that additional mitigation is required, which shall be implemented as agreed upon in the Plan and with the concurrence of the BLM. in a way that requires additional mitigation and, if so, shall determine what measures are needed. After the first 5 years of the Project, the Applicant and the BLM shall jointly evaluate the effectiveness of the Groundwater Monitoring and Mitigation Plan and determine if monitoring frequencies or procedures should be revised or eliminated.

- Responses to comments (PA/FEIS Appendix K) relating to the mitigation of impacts to Couchs' spadefoot toad and Nelson's bighorn sheep have been revised to reflect the facts that Mitigation Measure WIL-14, regarding Couchs' spadefoot toad, was removed from the Draft PA/EIS (see PA/FEIS, pp. 4.4-44, M-47), and that revisions to the initially-proposed bighorn sheep mitigation also occurred.

Mitigation Measure WIL-14 was deleted as no longer required because the Applicant completed breeding season surveys for Couchs' spadefoot toads in fall 2012 and did not result in any findings of Couchs' spadefoot toads. Because WIL-14 was deleted, the Applicant's requested revision to WIL-14 presented in Comment 9-75 (PA/FEIS, p. J-74) was rendered moot: Response 9-75 (PA/FEIS, p. K-64) was superseded by the removal of WIL-14. Without specimens of the species being present, the Project would not cause impacts that could be avoided or reduced by mitigation. Accordingly, Comment 11-53 (PA/FEIS, p. J-135) and Comment 11-94 (PA/FEIS, p. J-154) were based on the appropriately protective assumptions set forth in the Draft PA/EIS.

Additionally, the discussion of Nelson's bighorn sheep was revised in the PA/FEIS relative to the Draft PA/EIS (see, e.g., Response 9-59, PA/FEIS p. K-60). As described in Response 9-65 (PA/FEIS, p. K-62), the BLM revisited its initial conclusions about the Project's potential to affect habitat for Nelson's bighorn sheep and determined in the PA/FEIS that the Project is not located with a Nelson's bighorn sheep WHMA and would not result in the loss of habitat for this species within a WHMA. As stated in Response 9-74 (PA/FEIS, p. K-64), mitigation requirement to compensate for the loss of spring foraging habitat for Nelson's bighorn sheep was eliminated from the EIS, with mitigation instead focusing on the acquisition and protection of off-site spring foraging habitat. The rationale for the change included, in part, the current unoccupied status of the McCoy Mountain range by bighorns, and other potential wildlife impacts associated with the importing a new water source (e.g., potential attraction of ravens and other desert tortoise predators). Further, the BLM determined that the revised mitigation strategy would more greatly benefit bighorns with fewer unintentional effects on other wildlife species.