Jim Minnick
Director, Planning & Development Services Dept.
County of Imperial
February 25, 2015
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III. CONCLUSION

For all of the reasons discussed above, as well as those identified in the attached comments on the Draft DRECP and PEIR/PEIS, the DPEIR is inadequate and violates CEQA. The County's FPEIR must therefore remedy those failures. Furthermore, the Project is inconsistent with the Land Use Element of the County General Plan, and therefore violates the Planning and Zoning Law.

Comment 16-39

Very truly yours,

Stephan C. Volker
Attorney for Concerned Farmers and Conservationists
Backcountry Against Dumps, Donna Tisdale,
Carolyn Allen and Michael Abatti

SCV:taf

Response to Comment Letter #16: Law Offices of Stephan C. Volker

Comment 16-1: Thank you for your comments on the Imperial County General Plan *Renewable Energy and Transmission Element* Update Draft PEIR. We have provided responses to your specific comments below.

Comment 16-2: Development of future renewable energy facilities associated with the proposed Project on agricultural land would be consistent with the Imperial County General Plan and Zoning Ordinance. Existing case law states that:

> "…because policies in a general plan reflect a range of competing interests, the governmental agency must be allowed to weigh and balance the plan's policies when applying them, and [the agency] has broad discretion to construe its policies in light of the plan's purpose...(*Pfeiffer v. City of Sunnyvale City Council* (2011) 200 Cal.App.4th 1552)."

> "…An action, program, or project is consistent with the general plan if, considering all its aspects, it will further the objectives and policies of the general plan and not obstruct their attainment. State law does not require perfect conformity between a proposed Project and the applicable general plan ...[because] it is nearly impossible for a project to be in perfect conformity with each and every policy set forth in the applicable plan ... It is enough that the proposed project will be compatible with the objectives, policies, general land uses and programs specified in the applicable plan...(Id. [internal quotations and citations omitted])."

Therefore, the County has the authority to interpret the meaning of its General Plan and determine whether the proposed Project would be consistent.

Projects often times often implicate a variety of goals, policies, and objectives within the County's General Plan that must, in some instances, be balanced against each other. Consequently, the General Plan cautions against its Goals and Policies being interpreted as doctrine:

> "…Imperial County's Goals and Objectives are intended to serve as long-term principles and policy statements representing ideals which have been determined by the citizens as being desirable and deserving of community time and resources to achieve. The Goals and Objectives, therefore, are important guidelines for agricultural land use decision making. It is recognized, however, that other social, economic, environmental, and legal considerations are involved in land use decisions and that these Goals and Objectives, and those of other General Plan Elements, should be used as guidelines but not doctrines…(General Plan Agricultural Element, page 29 [Section III.A Preface])."

With respect to specific policies implicated by the proposed Project, the County General Plan actively promotes both development of renewable energy and opportunities for economic growth. For example, Goal I of the proposed Project provides that the County "…[s]upport the safe and orderly development of renewable energy while providing for the protection of environmental resources..." In addition to the goals and objectives presented in the proposed Project, the General Plan also recognizes the need for the County to promote diverse economic uses. For example, Goal 2 of the *Land Use Element* states that the County should:

> "..[d]iversify employment and economic opportunities in the County while preserving agricultural activity," and Goal 3, Objective 3.2 of the *Land Use Element* recognizes the need to "[p]reserve agricultural and natural resources while promoting diverse economic growth through sound land use planning...(General Plan, *Land Use Element*, page 38)."

Therefore, while there is no question that promoting and preserving agricultural uses is an important part of the County's vision, it is by no means the sole policy, goal, or objective of the County General Plan, thus requiring the County's decision-makers to balance various interests when making land use decisions.

The Imperial County General Plan contemplates the use of agricultural lands for other uses, and specifically provides that the evaluation and approval of those uses will occur through the implementation of zoning and the conditional use permit (CUP) review process. Specifically, the *Land Use Element* provides that "…[e]lectrical and other energy generating facilities are heavy industrial uses, except geothermal, hydroelectric, wind and solar facilities may be regulated differently than other types of power plants by implementing zoning…(General Plan, *Land Use Element*, page 46)." Further, the Land Use Compatibility Matrix in the General Plan provides that industrial uses are permissible on lands zoned A-2 with a CUP (General Plan, *Land Use Element*, Table 4, page 64). Therefore, pursuant to the General Plan, future renewable energy facilities developed under the proposed Project could be developed on agricultural land and not conflict with the General Plan.

Furthermore, while the *Land Use Element* provides that agriculture is the principal and dominant use for agriculture-designated lands, it expressly allows non-agricultural uses on agricultural land provided the project proponent demonstrates that the non-agricultural use (1) "does not conflict with agricultural operations and will not result in the premature elimination of such agricultural operations" and (2) meets the requirement that "no use should be permitted which would have a significant adverse effect on agricultural production" (General Plan, *Land Use Element*, page 48 [Section IV.C.I]).

The County has established a permitting process which ensures that the potential effects of using Agriculture-designated lands for renewable energy projects are thoroughly considered. Sections 90508.01 and 90508.02 of the County's Land Use Ordinance identify the permitted and conditional uses within the A-2, A-2-R and A-3 zoning designations. The discretionary and conditional nature of a CUP process also triggers review under CEQA. Lastly, it is important to note that utility scale solar developments and transmission lines may be allowed pursuant to the General Plan and Board of Supervisors' Implementing Policies.

Therefore, the County would be within its discretion to approve future renewable energy facilities developed under the proposed Project on agricultural lands and remain consistent with the various policies, goals, and objectives of the Imperial County General Plan promoting renewable energy, economic diversity, and agricultural resources.

Comment 16-3: Renewable energy needs projected for the proposed Project were developed by the Renewable Energy Action Team (REAT), which included the California Energy Commission (CEC) and Bureau of Land Management (BLM), in conjunction with renewable energy developers. The CEC is the state's primary energy policy and planning agency. The CEC was established by the State Legislature in 1974 and sets California energy policy through the following seven core responsibilities:

- Forecasting future energy needs;
- Promoting energy efficiency and conservation by setting the state's appliance and building energy efficiency standards;
- Supporting energy research that advances energy science and technology through research, development and demonstration projects;
- Developing renewable energy resources;
- Advancing alternative and renewable transportation fuels and technologies;
- Certifying thermal power plants 50 megawatts and larger; and
- Planning for and directing state response to energy emergencies.

The Draft DRECP Alternative does not project a greater level of renewable energy development within Imperial County that the proposed Project, but merely encompasses a larger area that would be available for development of future renewable energy facilities. The proposed Project, DRECP Alternative, and No Project Alternative would all result in the same level of renewable energy development, which is based on energy demand projections developed independent of the DRECP.

The existing conditions data presented in Draft PEIR that was based on information presented in the Draft DRECP EIR/EIS was utilized because it presents a scientifically accurate description of existing resources present within Imperial County. This data represents the results of the latest scientific studies conducted by the Federal and State agencies who prepared the Draft DRECP EIR/EIS who have access to the most recent information regarding biological and cultural resources. The discussion of noise impacts presented in Draft PEIR that was based on information presented in the Draft DRECP EIR/EIS was utilized because it presents an accurate description of the noise levels generated by renewable energy facilities. Mitigation measures presented in the Draft PEIR that were based on measures presented in the Draft DRECP EIR/EIS were selected based on their ability to reduce impacts to a level less than significant.

It should be noted, that this comment does not indicate what existing conditions data, noise impact discussion, or mitigation measures cited in the Draft PEIR are inaccurate, but simply speculates that some data could be inaccurate and may need revision. Without and specific challenges to the accuracy of the items that were relied upon in the DRECP, this portion of the comment does not address the adequacy of the Draft PEIR.

Future renewable energy facilities developed under the proposed Project would be required to evaluate project-specific impacts during the project's required environmental review phase. Implementation of the mitigation measures presented in the Final PEIR and any additional mitigation measures that may be required based on site-specific characteristics identified during the environmental review phase would reduce impacts to a level less than significant.

Page numbers have been added to the text citations of the 2014 Draft DRECP EIR/EIS that were included in the Draft PEIR. Please see the Final PEIR for these page numbers.

Comment 16-4: The Project Description presented in the Draft PEIR is adequate and consistent with CEQA. The project description provides an accurate description of the three key elements of the proposed Project: (1) The *Renewable Energy and Transmission Element* Overlay Zone, (2) The *Renewable Energy and Transmission Element* Goals and Objectives, and (3) The *Renewable Energy and Transmission Element* Implementation Ordinance. The County has added references to the Element update and Ordinance in body of text.

Comment 16-5: The goals and objectives of the proposed Project will benefit the residents of Imperial County. Development of future renewable energy facilities under the proposed Project would generate new jobs and tax revenues for the County, and would contribute to the restoration of the Salton Sea.

Comment 16-6: The Draft PEIR presents a reasonable range of alternatives and is consistent with CEQA. We have presented responses to your specific comments regarding alternatives in the response to comments below.

Comment 16-7: A distributive generation alternative was not developed for the proposed Project because it would not meet the goals and objectives of the Element update. While the County supports development of distributive generation facilities such as rooftop solar, a project alternative focused solely on distributive generation would not be capable of generating the amount of energy needed to meet project goals and objectives. Distributed generation involves the development of a large number of geographically distributed small solar PV systems within existing developed areas, typically on the rooftops of residential and other facilities. Distributed generation is generally available for use on-site and does not deliver electricity to the grid as a utility-scale solar facility does or contain an energy storage component. Because distributive generation does not deliver electricity to the grid and does not contain an energy storage component, a distributive generation alternative would not meet the goals and objectives of the Element update.

Potential environmental impacts on agricultural resources, biological resources, and other environmental categories related to development of utility-scale renewable energy facilities would be reduced to a level less than significant through implementation of mitigation measures presented in the Final PEIR. Future renewable energy facilities developed under the proposed Project would be required to evaluate project-specific impacts during the project's required environmental review phase. Implementation of the mitigation measures presented in the Final PEIR and any additional mitigation measures that may be required based on site-specific characteristics identified during the environmental review phase would reduce impacts on agricultural resources, biological resources, and other environmental categories to a level less than significant.

Comment 16-8: The Draft PEIR presents a reasonable range of alternatives and is consistent with CEQA. The County developed three build alternatives in the early planning stages of the proposed Project that were presented in the Baseline Environmental Inventory Report. After careful consideration, one alternative was eliminated because it did not offer any advantage over the two build alternatives that were carried forward. The proposed Project represents the most restrictive of all considered alternatives, while the DRECP Alternative presented the largest overlay zone map. The eliminated alternative did not reduce the amount of land available for development to the degree of the proposed Project, nor did it offer an overlay zone map that was larger than the DRECP Alternative. Consequently, there was no distinguishing characteristic to this alternative that gave it an advantage over the proposed Project or DREP alternative, and consequently was eliminated. Therefore, the proposed Project presents a reasonable range of alternatives and is consistent with CEQA.

Comment 16-9: The Draft PEIR adequately discusses, evaluates, and mitigates the direct, indirect and cumulative environmental impacts of the proposed Project. We have provided responses to your specific comments below.

Comment 16-10: The Draft PEIR adequately discusses, evaluates, and mitigates the direct, indirect and cumulative impacts on agricultural resources. We have provided responses to your specific comments below.

Comment 16-11: The proposed overlay zones have been reduced based on comments provided by The BLM El Centro Field Office and conversion to a parcel-based overlay zone map since circulation of the Draft PEIR. Similarly, some locations originally designated as "Renewable Energy/Geothermal Overlay Zone" have been changed to "Geothermal Overlay Zone" based on comments provided by Federal and State agencies. These revisions have reduced the total acreage of Important Farmland within the proposed overlay zone from 92,113.80 acres to 72,811.97 acres. The greatest reduction occurred in the "Renewable Energy/Geothermal Overlay Zone", which resulted in a reduction of Important Farmland within this category from 41,782.98 acres to 30,136.12 acres. This reduction of acreage within the "Renewable Energy/Geothermal Overlay Zone" would reduce potential for impacts on Important Farmland since this category would allow for development of renewable energy technologies that are more impactful than what is allowed in the "Geothermal Overlay Zone." The revisions to the total acreage of Important Farmland within each overlay zone category are presented in Table 4.2-2 of the Final PEIR:

Table 4.2-2: Important Farmland Within the Renewable Energy Overlay Zone

Farmland Classification	Geothermal Overlay Zone	Renewable Energy Overlay Zone	Renewable Energy/Geothermal Overlay Zone	Total Within Overlay Zone
Prime Farmland	~~20,525.19~~ 17,548.10	0.00	~~5,620.52~~ 3,886.23	~~26,145.71~~ 21,434.34
Farmland of Statewide Importance	~~27,832.34~~ 24,012.47	0.00	~~18,174.06~~ 14,601.12	~~46,006.41~~ 38,613.59
Unique Farmland	~~74.68~~ 28.99	0.00	~~305.08~~ 197.56	~~379.75~~ 226.55
Farmland of Local Importance	~~1,898.61~~ 1,086.29	0.00	~~17,683.32~~ 11,451.21	~~19,581.93~~ 12,537.50
Total Important Farmland	~~50,332.82~~ 42,675.85	0.00	~~41,782,98~~ 30,136.12	~~92,113.80~~ 72,811.97
Source: California Department of Conservation, 2012				

The proposed Project would not result in the elimination of farming on nearly 100,000 acres. The revised value of 72,811.97 acres of Important Farmland presented in the Final PEIR merely represents the total acreage of Important Farmland within the overlay zones. The actual conversion of farmland associated with future renewable energy facilities developed under the proposed Project would be less than this value of 72,811.97 acres of Important Farmland because development of the entire overlay zones would not be required to meet project objectives. The Final PEIR addresses this by stating the following:

> "…It should be noted that significant impacts to agricultural resources may not occur to all ~~92,113.80~~72,811.97 acres of Important Farmland located within the boundaries of the Renewable Energy Overlay Zone Map. As described above, the boundaries of the Renewable Energy Overlay Zone Map merely represent the areas that may be developed with renewable energy facilities, and substantial portions of the Renewable

> Energy Overlay Zone Map would not be affected. Furthermore, the majority of the potentially affected Important Farmland is located within the Geothermal Overlay Zone, which is limited to development of geothermal energy facilities. This limitation within this zone would minimize impacts to Important Farmland because geothermal energy facilities typically have fewer impacts to agricultural resources than solar energy facilities. Solar energy facility project footprints are typically much larger the geothermal facilities due to the wide open space of contiguous land needed to accommodate solar panels. Geothermal facility footprints on the other hand are limited to the power plant ~~and~~, production wells, injection wells, ~~which do not require as large an amount of land area~~pipelines, and access roads. The use of multiple well drilling pads and directional drilling limits the number of well pads and associated pipelines and roads. The Geothermal Overlay Zone also contains the majority of Prime Farmland and Farmland of Statewide Importance. Consequently, the development limitations of the Geothermal Overlay Zone would serve to minimize conversion of the most valuable Important Farmland categories..."

Based on the discussion above of how the proposed Project would not convert all agricultural resources within the overlay zones to renewable energy uses and the minimal agricultural impacts associated with geothermal renewable energy technology, implementation of mitigation measures AG-1a through AG-3 would reduce impacts to a level less than significant. It should be noted that the proposed Project has substantially fewer acres of Important Farmland within the proposed overlay zones (72,811.97) compared to the acreage of Important Farmland within the DRECP Alternative (483,847.83). Although this DRECP Alternative would not increase the renewable energy goal of up to 7,000 MW for Imperial County identified for the proposed Project, the larger development footprint would potentially allow for a greater level of conversion of more valuable agricultural resources such as Prime Farmland and Farmland of Statewide Importance. Furthermore, the larger development footprint for this Alternative would have a greater potential to result in indirect impacts on existing agricultural resources. The wider dispersal of renewable energy facilities throughout Imperial County under this Alternative would have greater potential to damage equipment, crops, or livestock on adjacent properties or inhibit crop growth through dispersal of fugitive dust. Similarly, erosion associated with future facilities could result in water and soil contamination (Draft PEIR, Section 5.3.1). Therefore, the proposed Project would have less severe impacts on agricultural resources than the DRECP Alternative.

The comment cites a statement in the Draft PEIR that temporary conversion of farmland within Imperial County would remain cumulatively significant. However, Section 4.2.5 of the Draft PEIR goes on to describe how mitigation measures AG-1a would further reduce impacts to agricultural resources beyond restoration of agricultural lands after the 30 year life of a project has completed by stating the following:

> "…Future project proponents for renewable energy facilities developed under the proposed Project would be required to implement one of the options identified in AG-1a for Prime Farmland Mitigation, as well as one of the options identified for Non-Prime Farmland Mitigation, to reduce the severity of the impact of the temporary losses of Prime and Non-Prime Farmlands to below a level of significance. This would be accomplished by either the procurement of appropriate Agricultural Conservation Easements, the payment of Agricultural In-Lieu Mitigation Fees, or the applicant and County's voluntarily participation in a public benefit agreement that includes payment of an appropriate Agricultural Benefit Fee (see Section 4.2.4 above)…"

Section 4.2.5 of the Draft PEIR goes on to state that future project proponents for renewable energy facilities developed under the proposed Project would be required to prepare an Economic Impact Analysis, Employment (Jobs) Impact Analysis, and Fiscal Impact Analysis per mitigation measure AG-1c to document potential socioeconomic impacts and identify strategies to mitigate any potential impacts to a level less than significant. Therefore, the proposed Project would implement mitigation measures beyond restoration of agricultural lands after the 30 year life of a project has completed to reduce cumulative impacts to a level less than significant.

Comment 16-12: Mitigation measure AG-1a includes options for preserving and enhancing existing agricultural resources. Such measures include the option to procure Agricultural Conservation Easements on a "two-to-one" basis on land of equal size, of equal quality farmland, outside of the development footprint (Prime Farmland Option 1).

Impacts on agricultural resources associated with future renewable energy facilities developed under the proposed Project would be temporary and would not preclude future agricultural production on site once the 30 year life of a project has completed. Furthermore, the temporary conversion of some farmland in the County for renewable energy production may allow other farmland that is currently fallow to be brought back into production. Temporary conversion of active farmland to renewable energy production would free up valuable water resources that may allow fallow farmland to resume agricultural cultivation.

Comment 16-13: Future use of a project site beyond the expiration of permits for a future renewable energy facility developed under the proposed Project is speculative and beyond the scope of the PEIR. Restoration of agricultural properties temporarily converted to renewable energy uses to their existing condition has been approved as an adequate mitigation measure.

Comment 16-14: An empirical study entitled "Analysis of the Potential for Heat Island Effect in Large Solar Farms" (Fthenakis and Yu, n.d.) conducted by Columbia University concluded that there is no significant increase in ambient air temperature around solar farms. The Columbia University Study also indicated that solar panels store less heat than the natural earth surface and serve to cool temperatures below ambient levels based on their construction of lightweight glass surrounded by airflow. Accordingly, the study concluded that a PV solar farm does not induce an on-going increase in ambient air temperature. Therefore, future solar facilities developed under the proposed Project would not result in "heat island" effects that would necessitate additional irrigation on adjacent farmland while likely reducing efficiency and crop productivity.

Comment 16-15: The comments statement that future renewable energy facilities would generate risks for crop dusting pilots is pure speculation. As described in the Draft PEIR, the proposed Project would be implemented on a "project-by-project" basis based on County approval of individual renewable energy projects. Potential impacts associated with risks to crop dusting pilots would be evaluated at that time and appropriate project design measures and mitigation measures would be developed as necessary if impacts are identified.

Comment 16-16: The comments statement that the proposed Project would result in the risk of crop dusting pilots inadvertently spraying adjacent renewable energy facilities is pure speculation. As described in the Draft PEIR, the proposed Project would be implemented on a "project-by-project" basis based on County approval of individual renewable energy projects. Potential impacts associated with inadvertently spraying adjacent renewable energy facilities would be evaluated at that time and

appropriate project design measures and mitigation measures would be developed as necessary if impacts are identified.

Comment 16-17: As described in the Draft PEIR, the proposed Project would be implemented on a "project-by-project" basis based on County approval of individual renewable energy projects. Consequently, specific impacts to agriculture-serving businesses and corresponding mitigation measures cannot be evaluated at this time. However, Mitigation Measure AG-1c would require project proponents of future renewable energy facilities to prepare an Economic Impact Analysis (EIA), Employment (Jobs) Impact Analysis (JIA), Fiscal Impact Analysis (FIA) pursuant to County of Imperial requirements. These analyses would document potential socioeconomic impacts associated with future renewable energy facilities, including potential impacts to agriculture-serving businesses, and identify strategies to mitigate any potential impacts to a level less than significant.

Comment 16-18: Please see response to comment 16-2 for a discussion of general plan consistency.

Comment 16-19: As described in response to comment 16-2, projects often times often implicate a variety of goals, policies, and objectives within the County's General Plan that must, in some instances, be balanced against each other. Consequently, the General Plan cautions against its Goals and Policies being interpreted as doctrine:

> "…Imperial County's Goals and Objectives are intended to serve as long-term principles and policy statements representing ideals which have been determined by the citizens as being desirable and deserving of community time and resources to achieve. The Goals and Objectives, therefore, are important guidelines for agricultural land use decision making. It is recognized, however, that other social, economic, environmental, and legal considerations are involved in land use decisions and that these Goals and Objectives, and those of other General Plan Elements, should be used as guidelines but not doctrines…(General Plan *Agricultural Element*, page 29 [Section III.A Preface])."

Consequently, the County cannot revise the agricultural element to prohibit development of industrial-scale electrical generation projects on all lands that the General Plan designates for agricultural uses because it would hinder other social, economic, environmental, and legal considerations that may result in benefits for Imperial County by converting agricultural resources to industrial-scale electrical generation.

Please see response to comment 16-7 for a discussion of why a distributive generation alternative was not developed for the proposed Project.

Comment 16-20: Section 4.9 –Hydro 2, of the Draft PEIR adequately addresses the likely sources of water for future renewable energy facilities that may be developed under the proposed Project by stating the following:

> "…Water sources are likely to be local groundwater, surface water bodies, or recycled water, depending upon availability of those resources. Water could be trucked in from off-site sources as well. …Water rights and permits would need to be obtained from applicable local, State, and/or regional water authorities before water use could occur. In most areas within the County of Imperial, groundwater would likely be withdrawn from local aquifers to meet a specific project's water needs…"

Section 4.9 –Hydro 5, of the Draft PEIR adequately addresses impacts from contamination of groundwater supplies from hazardous fluids used for industrial scale energy projects by stating the following:

> "…Improperly constructed/designed groundwater and geothermal wells could create conduits for poor-quality groundwater, as well as cause contaminants to move between aquifers. Drilling can create pathways for these fluids into the groundwater at shallower depths or commingling between aquifers of differing quality. The impacts of these pathways can alter the natural circulation of the geothermal fluids and impact the usefulness of the resource. Subsurface pathways also can allow the natural contaminants in the geothermal fluids to impact the shallow groundwater quality if mixing were to occur. The degree of impact depends on aquifer characteristics and whether special conditions (e.g., sole source aquifers) are present…"

The Draft PEIR presents a programmatic analysis of environmental impacts that provides a framework for future analysis to be conducted for future renewable energy facilities developed under the proposed Project. As a programmatic evaluation, the Draft PEIR does not evaluate site-specific issues associated with individual renewable energy projects. A variety of location-specific factors (e.g., aquifer characteristics such as whether it is confined or unconfined, storage capacity, groundwater movement, specific yield) would vary considerably from site to site, especially over the Countywide area. In addition, the variations in project size and design would greatly determine the magnitude of the impacts from a given project. The combined effects of these location-specific and project-specific factors cannot be fully anticipated or addressed in a programmatic analysis; such effects must be evaluated at the individual project level. Implementation of mitigation measures HYDRO-1a and HYDRO-3 would reduce impacts associated with future renewable energy facilities to a level less than significant. Furthermore, additional mitigation beyond what is presented in the Draft PEIR may be required based on project specific characteristics.

Comment 16-21: A description of the County's General Plan *Water Element* has been added to the Regulatory Setting section of the Draft PEIR under "Regional and Local Requirements" as requested.

Comment 16-22: A description of the County's General Plan *Water Element* has been added to the Regulatory Setting section of the Draft PEIR under "Regional and Local Requirements" as requested. The Draft PEIR would not conflict with the existing *Water Element* of the County General Plan.

Comment 16-23: Section 4.9.2 of the Draft PEIR documents that adequate groundwater is available by stating the following:

> "…The Colorado River HR is underlain by some 64 groundwater basins/subbasins covering approximately 8.68 million acres, or 26 percent of the HR. Within the HR, 8 percent of domestic and agricultural supply is drawn from groundwater resources…"

This implies that only 8 percent of the available groundwater is used for domestic and agricultural purposes and that the remaining 92 percent is available for other uses including planned energy development.

Section 4.9 –Hydro 2, of the Draft PEIR adequately addresses the likely sources of water for future renewable energy facilities that may be developed under the proposed Project by stating the following:

> "…Water sources are likely to be local groundwater, surface water bodies, or recycled water, depending upon availability of those resources. Water could be trucked in from off-site sources as well…"

Comment 16-24: The Colorado River HR is underlain by some 64 groundwater basins/subbasins covering approximately 8.68 million acres, or 26 percent of the HR. Since the Draft PEIR represents a programmatic-level evaluation, specific discussions of groundwater basins at the individual basin/subbasin level is beyond the scope of analysis required for a programmatic level evaluation. Therefore, information on groundwater resources within the County is presented for Colorado River Basin RWQCB major planning areas, which are based on economic and hydrologic characteristics.

Comment 16-25: Assurances that mitigation would occur and would be properly implemented are provided under Section 21081.6 of the Public Resources Code and Section 15097 of the CEQA Guidelines which require adoption of a Mitigation Monitoring or Reporting Program (MMRP) for all projects for which an EIR or MND has been prepared. This requirement was originally mandated by Assembly Bill (AB) 3180 which was enacted on January 1, 1989 to ensure the implementation of all mitigation measures adopted through the CEQA process. Hydro-2a as presented in the Draft PEIR was not intended to defer significance criteria solely to the groundwater and mitigation plan for each project. In order to provide further clarification and guidance for future project proponents to evaluate potential impacts to groundwater resources, Mitigation Measure HYDRO-2a has been revised as follows:

> **"HYDRO-2a: Groundwater Monitoring and Mitigation Plan.** A Groundwater Monitoring and Mitigation Plan (Plan) shall be prepared, reviewed, and approved by the County of Imperial prior to project approval and implementation. The County must approve the Plan prior to issuance of any groundwater well permits. The 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 County for approval.
>
> The Plan shall provide detailed methodology for monitoring and reporting procedures; locate monitoring, extraction, and survey points; ~~define significance criteria;~~ and identify mitigation measures in the event that adverse impacts occur that can be attributed to the proposed Project. The Plan shall include summarization of all monitoring data and would require submission of annual reports to the County. A comprehensive summary and analysis of data shall be included in a five-year report. Monitoring shall be performed during preconstruction, construction, and operation, with the intent to establish preconstruction and specific project-related groundwater level trends that can be quantitatively compared against observed and simulated trends near the pumping wells and near potentially affected existing private wells and sensitive water resources. Additionally, at each stage of reporting, the applicant would be required to reevaluate of the adequacy of the monitoring network and Plan."

Future renewable energy facilities developed under the proposed Project would be required to evaluate project-specific impacts during the project's environmental review phase. . Implementation of Mitigation Measure HYDRO-2a presented in the Final PEIR and any additional mitigation measures that may be required based on site-specific characteristics identified during the environmental review phase would reduce impacts related to groundwater to a level less than significant.

Comment 16-26: The Draft PEIR adequately discusses, evaluates, and mitigates the direct, indirect and cumulative impacts on biological resources. We have provided responses to your specific comments below.

Comment 16-27: As described in response to comment 16-3, the existing conditions data presented in Draft PEIR that was based on information presented in the Draft DRECP EIR/EIS was utilized because it presents a scientifically accurate description of existing resources present within Imperial County. This data represents the results of the latest scientific studies conducted by the Federal and State agencies who prepared the Draft DRECP EIR/EIS who have access to the most recent information regarding biological resources.

It should be noted, that this comment does not indicate what biological existing conditions data or which species identified as covered under the DRECP cited in the Draft PEIR are inaccurate, but simply speculates that some data could be inaccurate and may need revision. Without and specific challenges to the accuracy of the items that were relied upon in the DRECP, this portion of the comment does not address the adequacy of the Draft PEIR.

Future renewable energy facilities developed under the proposed Project would be required to evaluate project-specific impacts during the project's environmental review phase. Implementation of the mitigation measures presented in the Final PEIR and any additional mitigation measures that may be required based on site-specific characteristics identified during the environmental review phase would reduce impacts to a level less than significant.

Comment 16-28: The County of Imperial has worked in partnership with the Imperial Irrigation District to develop the Salton Sea Restoration & Renewable Energy Initiative. This initiative will utilize funds generated by development of future renewable energy facilities at the Salton Sea to help finance activities for habitat restoration and air quality management. Future renewable energy facilities sited on exposed lakebeds of the Salton Sea would serve a dual purpose of producing renewable energy while doubling as groundcover to mitigate air emissions. The Salton Sea Authority is responsible for leading the planning and implementation of future renewable energy facilities at the Salton Sea with support from the State of California.

As described in the Draft PEIR, the proposed Project would be implemented on a "project-by-project" basis based on County approval of individual renewable energy projects. Consequently, specific impacts on biological resources within the Salton Sea and corresponding mitigation measures cannot be evaluated at this time. Future renewable energy facilities developed under the proposed Project would be required to evaluate potential impacts to biological resources, including resources within and surrounding the Salton Sea, during the project's required environmental review phase. Implementation of the biological mitigation measures presented in the Final PEIR and any additional mitigation measures that may be required based on site-specific characteristics identified during the environmental review phase would reduce impacts to biological resources within and surrounding the Salton Sea to a level less than significant.

Comment 16-29: Future renewable energy facilities developed under the proposed Project would be required to evaluate potential impacts to sensitive species, including avian species using the Pacific Flyway route over the Salton Sea, during the project's required environmental review phase. In order to provide further guidance for future project proponents to evaluate potential impacts to sensitive species, Mitigation Measure BIO-1f has been revised as follows:

> "**BIO-1f: Additional Project Mitigation:** Additional biological mitigation may be required based on the renewable energy technology to be developed at specific project locations. Project proponents for future renewable energy facilities would be required to evaluate how specific renewable energy facilities may impact sensitive species and how to mitigate impacts through site design and/or mitigation and monitoring activities. Such mitigation may include, but is not limited to, developing strategies to reduce impacts to avian species related to a possible 'lake-effect' associated with solar energy facilities and strategies to reduce the possibility for bird-strikes associated with wind energy facilities, if warranted. Project-specific mitigation and monitoring for future renewable energy facilities may include, but would not be limited to, a Bird and Bat Conservation Strategy based on the type of renewable energy technology to be utilized for a future renewable project."

As described in the Draft PEIR, the proposed Project would be implemented on a "project-by-project" basis based on County approval of individual renewable energy projects. Consequently, specific impacts to sensitive species and corresponding mitigation measures cannot be evaluated at this time. Development of the avoidance, mitigation, and monitoring strategies to minimize impacts associated with the lake-effect would be appropriate at the project level for future renewable energy facilities to be developed under the proposed Project. As described in the last paragraph of Mitigation Measure BIO-1b presented in the Draft PEIR, "…an agency-approved biologist shall prepare a species-specific Mitigation and Monitoring Plan that would detail the approved, site-specific methodology proposed to minimize and mitigate impacts to each species…" if a project cannot avoid direct impacts to special status species. Therefore, implementation of Mitigation Measures BIO-1b and BIO-1f by future project proponents would result in the development of project specific mitigation to address potential impacts associated with the "lake-effect."

Comment 16-30: The Draft PEIR presents a programmatic analysis of environmental impacts that provides a framework for future analysis to be conducted for future renewable energy facilities developed under the proposed Project. As described in the Draft PEIR, the proposed Project would be implemented on a "project-by-project" basis based on County approval of individual renewable energy projects. Consequently, specific impacts to biological resources and corresponding mitigation measures cannot be evaluated at this time. Development of the specific avoidance, mitigation, and monitoring strategies described in this comment would be appropriate at the project level for future renewable energy facilities to be developed under the proposed Project. Furthermore, Mitigation Measure BIO-1B has Mitigation Measure BIO-1b has been revised to document potential sensitive species surveys that may be required as follows:

> "**BIO-1b: Conduct Surveys for Special Status Animal Species.** As a requirement of an application for a future renewable energy facility, surveys for special status animal species shall be conducted by qualified and agency-approved biologists to determine the presence or absence of sensitive animal species within the footprint of a future renewable energy project. Required surveys for special status animal species may include, but are not limited to, American badgers, burrowing owl, flat-tailed horned lizard, golden eagle, mountain plover, prairie falcons, Swainson's hawk, and Yuma Ridgway's rail, among others. Any special status mammal, reptile, and amphibian species detected during surveys shall be passively relocated to areas outside the construction zone and prevented from reentering the future project area with the installation of silt fencing or other exclusion fencing. All fencing shall be periodically

monitored and maintained for the duration of construction. Passive relocation shall only be done in the nonbreeding season in accordance with guidelines and consultations with resource agencies. ~~This~~Depending on which special status species are present within the project boundaries, passive relocation measures may include~~s~~ covering or excavating all burrows or dens and installing one-way doors into occupied burrows. This would allow any animals inside to leave the burrow but would exclude any animals from reentering the burrow. The burrows shall then be excavated and filled in to prevent their reuse. Other types of relocation measures may be required, depending on which special status species are present within the project boundaries.

"If direct impacts to special status species cannot be avoided, an agency-approved biologist shall prepare a species-specific Mitigation and Monitoring Plan that would detail the approved, site-specific methodology proposed to minimize and mitigate impacts to each species. Passive relocation, destruction of burrows, construction of artificial burrows, etc. shall be completed only upon prior approval by and in cooperation with CDFW and/or USFWS."

Mitigation Measure BIO-1f has been revised to provide further direction for future renewable energy facilities developed under the proposed Project (see response to comment 16-29 above).

Comment 16-31: Contrary to the comment's assertions, CEQA does not require an analysis of "embedded emission" sought by this comment. Public Resources Code Section 21151 provides that, in preparing an EIR, "…any significant effect on the environment shall be limited to substantial, or potentially substantial, adverse *changes in physical condition which exists within the area* as defined by the proposed project…" (Emphasis added). Public Resources Code Section 21060.5 refers to such "area" as "…the physical conditions which exist *within the area which will be affected by the proposed project*…"(Emphasis added..). The California Supreme Court interpreted these Sections as requiring analysis of the local effects of a proposed project, and not requiring a life-cycle analysis of products that are the subject of a proposed project (*Save the Plastic Bag Coalition v. City of Manhattan Beach* (2011) 52 Cal. 5th 155). CEQA only requires an analysis of impacts that are directly or indirectly attributable to the project under consideration (CEQA Guidelines, Section 15064(d)).

Comment 16-32: The Draft PEIR utilized the applicable CEQA thresholds presented in the Initial Study Checklist as the significance criteria for evaluating potential impacts related to greenhouse gases.

The Draft PEIR accurately states that the proposed Project would "…displace power currently produced by carbon-based fuels that would otherwise be used to meet regional demand for electricity…" First, it is important to clarify that the Draft PEIR does not rely on the ability of the proposed Project to shut down an existing fossil fuel power plant or displace the need to meet future energy demand to justify its GHG analysis. Instead, the EIR's GHG analysis is based on its ability to demonstrate compliance with the applicable CEQA GHG significance thresholds.

Second, the Project indirectly achieves these goals because renewable energy is a clean source of energy instead of the burning of finite fossil fuels that emit GHGs into the air. Without the development of renewable energy in order to meet California's growing energy demands from a growing population, greater amounts of power would need to be produced by fossil fuel generation sources to meet the same demand. However, renewable energy projects (e.g. solar and wind) provide intermittent energy and, without additional technologies, may need to be supplemented with either baseload plants or

peaker power plants, some of which are fossil fuel burning plants. Opponents of renewable energy development sometimes view this as a failure to displace fossil fuel generation, but such views ignore the clean energy produced by renewable facilities. In this case, future renewable energy facilities to be developed under the proposed Project would be able to displace fossil fuel based systems and meet future energy demand that would otherwise be met with fossil fuel based generation because they would include an additional technology in the form of on-site energy electric energy storage systems. For example, the energy storage systems of future solar facilities would allow energy to provide energy to meet consumer demands for electrical power during the evening when the solar panels cannot generate power. Accordingly, the combined solar energy and energy storage features of the future solar facilities would meet the consumer demand that would otherwise be met with a baseload or peaker power plant operating on fossil fuel.

This response and rationale is also supported by energy experts at the California Public Utility Commission in a 2010 white paper entitled "Electric Energy Storage: An Assessment of Potential Barriers and Opportunities," (CPUC 2010). The paper explains:

> "…In the past, planners relied chiefly upon large dispatchable fossil fuel generators to provide electric energy. The energy from these facilities was transmitted over the bulk transmission system and ultimately consumed by end-use customers. However, this model is changing. California's current energy policies mandate the development of new types of renewable and distributed generation resources, such as wind and solar. These resources by their nature are intermittent and cannot be directly dispatched by system operators to meet customer load. Thus, if the state wants to properly plan for these new types of resources, the historic model of electric system planning must be re-thought. Since operators of the electricity grid must constantly match electricity supply and demand, intermittent renewable resources are more challenging to incorporate into the electricity grid than traditional generation technologies. Intermittent renewable technologies cannot be scheduled to produce power in specific amounts at specific times, creating additional challenges and costs to resource procurement. Moreover, as more intermittent resources are deployed to meet increasing Renewable Portfolio Standards ('RPS') requirements, the operational challenges will become greater. Specifically, since planners cannot control when renewable generation will occur, the generation can often occur at times when there is little need for that power. However, a promising new set of Electric Energy Storage ('EES') technologies appear to provide an effective means for addressing the growing problem of reliance on an increasing percentage of intermittent renewable generation resources.
>
> "In the past, it was difficult, if not impossible, to store large amounts of electricity. There were two main barriers: economic (too expensive) and technological (inefficient, impractical). Recent advancements have been achieved and certain storage technologies have progressed through successful pilot and demonstration phases. As such, these technologies are poised to become commercially viable. EES offers California multiple economic and environmental benefits. By utilizing EES technologies to store intermittent renewable power, the state may reduce greenhouse gas emissions from carbon-based electricity production, avoid the need to build expensive new transmission lines and power plants to meet peak energy demand, increase system

reliability and generate economic activity through the manufacturing and operation of these EES technologies…(CEC White Paper at pp. 1-2)."

Comment 16-33: Although the commenter presents studies stating that wind facilities could result in impacts associated with low-frequency infrasound, there is no clear scientific consensus that this is the case. Other studies, such as *A Study of Low Frequency Noise and Infrasound from Wind Turbines* prepared by Epsilon Associates, Inc. determined that "…there should be no adverse public health effects from infrasound or low frequency noise at distances greater than 1000 feet from the wind turbine types measured by Epsilon: GE 1.5sle and Siemens SWT 2.3-93…" based on their research and an extensive literature search of scientific papers and reports (Epsilon Associates, Inc. 2009). There currently is no regulatory guidance regarding the measurement of infrasound vibrations and corresponding thresholds of significance. Furthermore, any future wind facility developed under the proposed Project would have to adhere to a 0.5-mile buffer from sensitive receptors. Without established scientific consensus regarding impacts related to infrasound or regulatory guidance and significance thresholds, impacts related to infrasound could not be analyzed. Nor is there conclusive evidence that sensitive receptors would be impacted by infrasound at distances greater than 0.5-miles.

Comment 16-34: See response to comment 16-33 above.

Comment 16-35: The following discussion documenting that future renewable energy facilities developed under the proposed Project would not result in impacts related to electromagnetic fields has been added to Section 4.8.4 of the Final EIR:

"Electromagnetic Fields

Both electric and magnetic fields occur together whenever electricity flows. Consequently, future renewable energy facilities developed under the proposed Project would have the potential to result in electromagnetic field (EMF) exposure. However, the available evidence as evaluated by the California Public Utilities Commission (CPUC) and other regulatory agencies has not established that such fields pose a significant health hazard to exposed humans. To date, there are no health-based federal regulations or industry codes specifying environmental limits on the strengths of fields from power lines. Likewise, the State has not adopted any specific limits or regulation on EMF levels related to electric power facilities. In addition, the CPUC issued Decision D.06-01-042 in 2006, which states: "…at this time we are unable to determine whether there is a significant scientifically verifiable relationship between EMF exposure and negative health consequences…however, this decision directs the Commission's Energy Division to pursue and review all available studies regarding EMF, and to review scientific information and report on new findings. Should such studies indicate negative EMF health impacts, we will reconsider our EMF policies, and open a new rulemaking if necessary…" (CPUC 2006). No new rulemaking has been opened.

The EPA acknowledges public concern regarding potential adverse health effects associated with EMF from power lines; however, the EPA also states that: "…[m]uch of the research about power lines and potential health effects is inconclusive…The general scientific consensus is that, thus far, the evidence available is weak and is 'not sufficient to establish a definitive cause-effect relationship...'" (EPA 2006). In addition, the "…[p]reliminary Opinion on Potential Health Effects of Exposure to Electromagnetic

> Fields (EMF)…" prepared by the Scientific Committee on Emerging and Newly Identified Health Risks (SCENIHR) stated that "…[t]he few available studies on combined exposure to EMF of different frequency ranges do not provide sufficient information to challenge existing risk assessment; in addition in most experiments an absence of effects has been reported..." Further, with regard to health effects from co-exposure of EMF and other stressors, SCENIHR concluded that "…[t]he available literature suggests that EMF exposure may modify the effects of chemicals or other physical agents. However, the reports on combined effects lack consistency and are not linked to specific experimental conditions. Therefore, further research is needed in order to clarify any relevance of combined exposures to human cancer risk under real life exposure conditions, and to explore the potentially beneficial (protective) effects of such exposures…" (SCENIHR 2013). Therefore, because the probability of EMF occurrence is low, and the evidence to support that EMFs are hazards that would be caused by future renewable energy facilities developed under the proposed Project is insufficient, the potential for EMF levels to cause a hazardous health condition would not occur."

Comment 16-36: Potential impacts associated with asthma and Valley Fever were analyzed in Section 4.3.4 of the Draft PEIR. This section has been slightly revised to include allergies as well, and states the following:

> "…Implementation of mitigation measure AQ-1a described above would minimize dust generated during project construction and reduce impacts related to asthma and allergies to a level less than significant. The incidence rate of Valley Fever in Imperial County is low (4.8 cases per 100,000 population in 2012), and the County's average annual incidence rate is low as well (1.1 to 2.0 per 100,000 population). Furthermore, none of the documented cases of Valley Fever have been linked to construction of existing renewable energy facilities that were developed in Imperial County. Therefore, the potential for the proposed Project to result in new cases of Valley Fever is very low and would be reduced to a level less than significant through implementation of dust control measures described in mitigation measure AQ-1a. Implementation of mitigation measure AQ-1a combined with the 0.5-mile buffer around all urban areas for the overlay zones would also prevent disproportionate concentrations of low-income and/or minority populations from being exposed to pollutant concentrations or high levels of PM_{10} and $PM_{2.5}$ during construction and operation of the proposed Project..."

The Imperial County Air Pollution Control District (ICAPCD) serves as the regional authority for air quality and has the expertise to determine appropriate levels of opacity for dust control measures, including as they relate to Valley Fever. As presented in the Draft PEIR, The incidence rate of Valley Fever in Imperial County is low (4.8 cases per 100,000 population in 2012), and the County's average annual incidence rate is low as well (1.1 to 2.0 per 100,000 population). Therefore, there is no evidence that ICAPCD has approved mitigation measures for previous renewable energy facilities that resulted in Valley Fever infections. The discussion of the 0.5-mile buffer in the Draft PEIR cited in this comment was related to environmental justice. Rural residences would also be protected by the air quality mitigation measures presented in the Draft PEIR, and impacts would be less than significant.

Comment 16-37: The cumulative impact analysis for air quality is consistent with CEQA. The proposed Project provides a framework for development of future renewable energy facilities and presents mitigation measures that future project's would need to implement in order to be permitted by the

County of Imperial. As described in the Draft PEIR, the proposed Project would be implemented on a "project-by-project" basis based on County approval of individual renewable energy projects. Therefore, the County would have the opportunity to review each future renewable energy facility developed under the proposed Project and would not grant approval to a future project if it was determined that it would result in a cumulative impact related to air quality.

Comment 16-38: As described in the Draft PEIR, the proposed Project would be implemented on a "project-by-project" basis based on County approval of individual renewable energy projects. Consequently, specific impacts related to aviation related to glare and corresponding mitigation measures cannot be evaluated at this time. However, implementation of Mitigation Measure AESTH-3 and any additional mitigation measures that may be required based on site-specific characteristics identified during the environmental review phase of future renewable energy facilities would reduce impacts on aviation related to glare to a level less than significant.

Comment 16-39: Thank you for your comments on the Imperial County General Plan *Renewable Energy and Transmission Element* Update Draft PEIR. As described in the response to comments above, the Draft PEIR is consistent with CEQA.

We have received and reviewed the attachments that were submitted with your comment letter and they are included as a part of the public record for the proposed Project. The attachments you provided were considered in the response to comments provided above. For ease of review, we have collected the attachments to your comment letter in Appendix A: Attachments to Comment Letters Received on the Draft PEIR. Hard copies of the attachments submitted with the Stephan C. Volker comment letter are available at the County of Imperial Planning & Development Services Department and County of Imperial Library.

17 – Michael Abatti

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February 25, 2015

Via Electronic and U.S. Mail

Jim Minnick, Director
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Email: jimminnick@co.imperial.ca.us

Re: Comments on Draft Programmatic Environmental Impact Report, Imperial County General Plan Renewable Energy and Transmission Element Update

Dear Mr. Minnick:

The following comments are made in regards to the Draft Programmatic Environmental Impact Report (PEIR) for the Imperial County General Plan Renewable Energy and Transmission Element Update dated January 2015. Please include these comments as part of the administrative record for this project. — Comment 17-1

General Comments

The proposed Project provides an update to the existing 2006 Geothermal/Alternative Energy and Transmission Element and consists of two elements that guide future development of renewable energy facilities within Imperial County: (1) The Renewable Energy and Transmission Element Overlay Zone, and (2) The Renewable Energy and Transmission Element's Goals and Objectives. These elements are being proposed in part to accommodate the recent 2015 Desert Renewable Energy Conservation Plan's (DRECP's) goal of establishing up to 7,000 MW of renewable energy in Imperial County. — Comment 17-2

The Renewable Energy Overlay Zone consists of mapping which identifies the proposed locations of new renewable energy facilities to be located in Imperial County. The Renewable Energy and Transmission Element's Goals and Objectives consists of various principles and policy statements recommended as guidelines to be considered by the Board of Supervisors in their review and promotion of renewal energy facility projects within the County.

While I view much of what has been accomplished in developing the overlay zoning and the goals and objectives as being very positive, I have the following specific concerns.

Continued Large-scale Conversion of Farmlands to Non-agricultural Use

I was disappointed not to see an alternative in the PEIR that didn't allow for the continued large-scale conversion of farmlands to non-agricultural use. The proposed Project designates 41,782.98 acres of farmland as "Renewable Energy/Geothermal Overlay Zone" which allows for — Comment 17-3

both solar and geothermal development. However, given the location of these lands it can be assumed that these lands will be developed for solar (most are not in known geothermal resource areas) thus entailing the potential complete loss of this acreage from agricultural use. I note that the "Renewable Energy/Geothermal Overlay Zone" zoning exists separate from the "Geothermal Overlay Zone" which is restricted to just geothermal. A summation of the farmland acreage impacted by the Project's zoning is provided in Table 4.2-2 of the PEIR which is reproduced below.

Comment 17-3 (continued)

Table 4.2-2: Important Farmland Within the Renewable Energy Overlay Zone

Farmland Classification	Geothermal Overlay Zone	Renewable Energy Overlay Zone	Renewable Energy/Geothermal Overlay Zone	Total Within Overlay Zone
Prime Farmland	20,525.19	0.00	5,620.52	26,145.71
Farmland of Statewide Importance	27,832.34	0.00	18,174.06	46,006.41
Unique Farmland	74.68	0.00	305.08	379.75
Farmland of Local Importance	1,898.61	0.00	17,683.32	19,581.93
Total Important Farmland	50,332.82	0.00	41,782,98	92,113.80
Source: California Department of Conservation, 2012				

In viewing the Project's overlay zone mapping, farmlands within the "Renewable Energy/ Geothermal Overlay Zone" are located within the following areas: (1) on the westside of the Westside Main Canal between roughly Interstate 8 on the south and Imler Road on the north, (2) on the westside of the Eastside Main Canal in the vicinity of Niland, (3) in the Mesquite Lakes area between Highway 86 and Highway 111, and (4) on the east side of Highway 86 south of Salton Sea Road. Some of this land appears to be high quality agricultural ground although there is no information given in the PEIR as to their classification. The potential loss of these lands to solar development together with that which has already been developed and proposed represents a significant reduction in the valley's agricultural industry. I simply don't buy the argument that most of the neighboring BLM and other federal and state lands can't be used for solar development thereby requiring that agricultural lands be used. Unfortunately, the focus on promoting the development of solar projects on agricultural lands doesn't meet the demands of CEQA.

Comment 17-4

Inadequate Range of Project Alternatives

CEQA Guidelines provide that "[a]n EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation" (CEQA Guidelines Section 15126.6(a)). The Draft EIR fails to meet this standard because the range of alternatives evaluated is very limited (if in fact a separate project alternative even exists) and doesn't include one which attempts to minimize the conversion of farmlands to non-agricultural use. The failure to include a project alternative located on non-agricultural lands or which limits

Comment 17-5

intrusion on agricultural lands prevents the public and decision makers from evaluating whether there are alternatives to the project which would avoid the proposed project's significant impacts on agriculture. The conversion of farmland to solar uses has been and continues to be a very controversial subject in Imperial Valley as you know and it is incumbent upon the County to consider proposals that attempt to limit this intrusion given this concern.[1]

Comment 17-5 (continued)

The Draft EIR considers two alternatives to the project: (1) the "no project" alternative as required under CEQA, and (2) the "DRECP Alternative". The "no project" alternative assumes renewable energy development continues under the County's current plans and policies and is used as a baseline against which the proposed Project and the DRECP Alternative are compared. The DRECP Alternative mirrors that recently prepared by the DRECP joint governmental team consisting of U.S. Bureau of Land Management, U.S. Fish and Wildlife Service, California Energy Commission, and California Department of Fish and Wildlife in their 2015 Draft DRECP and EIR/EIS.

In Table 5.3-1 on page 5-9 of the PEIR, a comparison is made of the area of farmland impacted by the Proposed Project and the DRECP Alternative. Under the Proposed Project, 92,113.80 acres of farmland are impacted. Under the DRECP Alternative, 483,847.83 acres of farmland are impacted.

Table 5.3-1: Comparison of Important Farmland Between Proposed Project and DRECP Alternative

Farmland Classification	Proposed Project	DRECP Alternative	Larger Amount Present Under DRECP Alternative
Prime Farmland	26,145.71	160,504.78	134,359.07
Farmland of Statewide Importance	46,006.41	293,522.53	247,516.12
Unique Farmland	379.75	734.37	354.62
Farmland of Local Importance	19,581.93	29,086.15	9,504.22
Total	92,113.80	483,847.83	391,734.03

Comment 17-6

However, this comparison is misleading because not all of the farmland under the DRECP proposal is expected to be impacted by renewable energy development. Rather, the acreage represents the gross area under the DRECP upon which renewable energy projects could be developed, not the acreage that ultimately would be impacted by that project. A better comparison of the potential loss of farmland can be made by considering the anticipated acreage of farmland converted to non-agricultural under the DRECP Alternative as presented in Table IV.12-3 of the 2015 Draft DRECP and EIR/EIS (43,000 acres) versus the acreage of land allocated to the "Renewable Energy/Geothermal Overlay Zone" in the PEIR which allows solar development (41,782.98 acres). Indeed, these acreages are generally consistent - the minor difference likely being an additional small amount of land retirement associated with the development of geothermal projects in the area. This is not surprising because as noted in the Project Objective description on page ES-1 of the PEIR the "Development projections for the

[1] It was previously recommended in my August 20, 2014 comment letter in regards to the scope of the PEIR that an alternative which does not intrude upon existing agricultural lands be considered as a means of minimizing impacts to these resources.

proposed Project are based on forecasts obtained from the renewable energy industry, regional utilities, and the Desert Renewable Energy Conservation Plan (DRECP)." Indeed, the proposed Project and the DRECP Alternative appear to be the very same plan with the only difference being the perspective from which they are being assessed. Table IV.12-3 from the 2015 Draft DRECP and EIR/EIS which identifies the 43,000 acres of farmland conversion is presented below.

Comment 17-6 (continued)

Table IV.12-3
Acres of Important Farmland Converted to Nonagricultural Use by County and Alternative

Component	No Action	Preferred Alternative	Alternative 1	Alternative 2	Alternative 3	Alternative 4
For Renewable Energy and Transmission						
Imperial County	15,000	43,000	50,000	37,000	41,000	34,000
Kern County	200	600	300	400	800	700
Los Angeles County	700	1,000	2,000	1,000	2,000	2,000
Riverside County	9,000	11,000	18,000	9,000	13,000	16,000
San Bernardino County	100	400	800	300	700	500
San Diego County	100	—	—	—	—	—
Total	**25,000**	**56,000**	**71,000**	**48,000**	**57,000**	**53,000**
For Conservation Planning Areas						
Imperial County	—	80	100	80	90	100
Kern County	—	100	500	1	200	100
Los Angeles County	—	1,000	2,000	800	2,000	1,000
Riverside County	—	1,000	1,000	1,000	1,000	2,000
San Bernardino County	—	200	200	200	200	200
San Diego County	—	10	10	10	10	10
Total	**—**	**3,000**	**4,000**	**3,000**	**4,000**	**4,000**
Renewable Energy and Transmission Plus Conservation Planning Areas						
Imperial County	15,000	43,000	50,000	38,000	41,000	34,000
Kern County	200	700	800	400	1,000	800
Los Angeles County	700	2,000	3,000	2,000	3,000	3,000
Riverside County	9,000	13,000	20,000	10,000	15,000	18,000
San Bernardino County	100	700	1,000	600	900	800
San Diego County	100	10	10	10	10	10
Total	**25,000**	**59,000**	**75,000**	**50,000**	**61,000**	**53,490**

Source: 2015 Draft DRECP and EIR/EIS

Analysis and Proposed Mitigation of Impacts to Agricultural Resources are Inadequate

Comment 17-7

The PEIR fails to identify the potential impacts to agricultural lands associated with the construction of solar facilities in the County and I assume this was done in part to hide the

impacts. No estimates are made of the actual acreage of farmland conversion or the significance of that conversion. (Note that my comments above are based upon assumptions I have had to make on potential impacts because no analysis is provided in the PEIR). This shortcoming is curious to the extent that the 2015 Draft DRECP and EIR/EIS in its analysis of the environmental impacts in Table IV.12-3 as noted above provides such a summary of the acreage of farmland conversion for each of the counties including Imperial County. Certainly this information exists and I suspect the County is the source of the information in the 2015 Draft DRECP and EIR/EIS, yet the PEIR fails to present this same information or provide a similar analysis. Given that the areas proposed for solar development under the Project's overlay zone mapping are known, the PEIR should also provide an inventory of the category of farmland (i.e., prime farmland, farmland of statewide importance, unique farmland, farmland of local importance) in order to assess the extent of potential impacts.

Comment 17-7 (continued)

Comment 17-8

In addition to failing to fully identify the impacts of the Project upon farmland from solar and other renewable energy projects, the plan also fails to properly assess the effectiveness of the proposed mitigation measures. As noted on pages 4.2-7 to 4.2-10 of the PEIR, the County has developed a number of mitigation strategies described as AG-1a – "Payment of Agricultural and Other Benefit Fees", AG-1b – Reclamation/Decommissioning Plan and Security", and AG-1c – Prepare Economic Impact Analysis, Employment (Jobs) Impact Analysis, and Fiscal Impact Analysis.

Comment 17-9

Three options exist under AG-1a – "Payment of Agricultural and Other Benefit Fees" with respect to mitigation for lands which are classified as "Non-Prime" farmland.

Option 1: Provide Agricultural Conservation Easement(s). *The project proponent of a future renewable energy facility shall procure Agricultural Conservation Easements on a "one-to-one" basis on land of equal size, of equal quality of farmland, outside the development footprint. The Conservation Easement shall meet the State Department of Conservation's regulations and shall be recorded prior to issuance of any grading or building permits.*

Option 2: Pay Agricultural In-Lieu Mitigation Fee. *The project proponent of a future renewable energy facility shall pay an "Agricultural In-Lieu Mitigation Fee" in the amount of 20 percent of the fair market value per acre for the total acres of proposed site based on five comparable sales of land used for agricultural purposes as of the effective date of the permit, including program costs on a cost recovery/time and material basis. The Agricultural In-Lieu Mitigation Fee will be placed in a trust account administered by the Imperial County Agricultural Commissioner's office and will be used for such purposes as the acquisition, stewardship, preservation, and enhancement of agricultural lands within Imperial County.*

Option 3: Public Benefit Agreement. *The project proponent of a future renewable energy facility and County voluntarily enter into an enforceable Public Benefit Agreement or Development Agreement that includes an Agricultural Benefit Fee payment that is: (1) consistent with Board Resolution 2012-005; (2) the Agricultural Benefit Fee must be held by the County in a restricted account to be used by the County only for such purposes as the stewardship, preservation, and enhancement of agricultural lands within Imperial County and to implement the goals and objectives of the Agricultural Benefit program, as specified in the Development Agreement, including addressing the mitigation of agricultural job loss on the local economy.*

Similarly, four options exist under AG-1a – "Payment of Agricultural and Other Benefit Fees" with respect to mitigation for lands which are classified as "Prime" farmland.

Option 1: Provide Agricultural Conservation Easement(s). *The project proponent of a future renewable energy facility shall procure Agricultural Conservation Easements on a "two-to-one" basis on land of equal size, of equal quality farmland, outside of the development footprint. The Conservation Easement shall meet the State Department of Conservation's regulations and shall be recorded prior to issuance of any grading or building permits.*

Option 2: Pay Agricultural In-Lieu Mitigation Fee. *The project proponent of a future renewable energy facility shall pay an "Agricultural In-Lieu Mitigation Fee" in the amount of 30 percent of the fair market value per acre for the total acres of the proposed site based on five comparable sales of land used for agricultural purposes as of the effective date of the permit, including program costs on a cost recovery/time and material basis. The Agricultural In-Lieu Mitigation Fee, will be placed in a trust account administered by the Imperial County Agricultural Commissioner's office and will be used for such purposes as the acquisition, stewardship, preservation, and enhancement of agricultural lands within Imperial County.*

Comment 17-9 (continued)

Option 3: Public Benefit Agreement. *The project proponent of a future renewable energy facility and County enter into an enforceable Public Benefit Agreement or Development Agreement that includes an Agricultural Benefit Fee payment that is (1) consistent with Board Resolution 2012-005; (2) the Agricultural Benefit Fee must be held by the County in a restricted account to be used by the County only for such purposes as the stewardship, preservation, and enhancement of agricultural lands within Imperial County and to implement the goals and objectives of the Agricultural Benefit program, as specified in the Development Agreement, including addressing the mitigation of agricultural job loss on the local economy; the future renewable energy project and other recipients of the future renewable energy project's Agricultural Benefit Fee funds; or emphasis on creation of jobs in the agricultural sector of local economy for the purpose of off-setting jobs displaced by the future renewable energy project.*

Option 4: Avoid Prime Farmland. *The project proponent of a future renewable energy facility must revise their Renewable Energy Conditional Use Permit Application/Site Plan to avoid Prime Farmland.*

The extent and manner by which these mitigation measures reduce or eliminate impacts to agricultural resources is not clear in the PEIR. On page 4.2-11 of the document under the heading "Significance After Mitigation" a statement is made that implementation of the mitigation measures would reduce impacts to levels less than significant. Yet no explanation is provided as to how or why this would occur. On page 4.2-5 of the PEIR with respect to the criteria by which significance would be determined the statement is made that -

> "[T]he proposed Project would result in a significant impact on the environment if it would:
>
> - Convert Prime Farmland, Unique Farmland, Farmland of Statewide Importance, or Farmland of Local Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to nonagricultural use …"

Clearly, under this statement any conversion of Prime Farmland, Unique Farmland, Farmland of Statewide Importance, or Farmland of Local Importance must be considered significant notwithstanding the proposed mitigation. Furthermore, none of the mitigation measures require replacement for loss of such lands which might off-set the impacts. This error in analysis prevents the public from assessing the adequacy of the Draft EIR as an informational document and renders it useless in regards to this topic.

Comment 17-9 (continued)

In addition, a number of the mitigation proposals recommended under Options 2 and 3 are uncertain if not dubious as to how or why impacts to agricultural lands will be reduced. Option 3 is particularly worthy of comment – the "Public Benefit Agreement". This option requires that the permittee and the County enter into an agreement that includes a fee payment to be held by the County for "such purposes as the stewardship, preservation and enhancement of agricultural lands with Imperial County and to implement the goals and objectives of the Agricultural Benefit program". The Draft EIR also notes that the Public Benefit Agreement must conform with Imperial County Resolution 2012-005 entitled "Resolution of the Board of Supervisors of the County of Imperial Establishing Guidelines for the Public Benefit Program for Use with Solar Plants in Imperial County" adopted by the County on January 24, 2012. A review of the resolution and guidelines reveals that mitigation fees collected under this program may be used for measures unrelated to agricultural land preservation. For example, the guidelines allow funds to be expended on "infrastructure improvement", "economic development and enhancement to the quality of life in neighboring communities", and "programs or projects that increase agricultural industry employment opportunities". [See 2012 *Guidelines for the Public Benefit Program for Use with Solar Power Plants in Imperial County*]. More recently, Imperial County adopted a "Funding Allocation Guidelines and the Proposed General Procedures/Guidelines for Allocation of Ag Benefit Funds" on February 11, 2014 to assist with the expenditure of fees collected under this program. These guidelines recommend funding for four categories with the following allocations of funds:

Comment 17-10

1) Agricultural Business Development - funding for agricultural commodity processing plants and energy plants that use agricultural products, 50 % of the funds;
2) Research & Development - funding for development of new high-yield or water-efficient crops, new water conservation techniques, new technology to improve yields in existing crops, and partial funding for UCCE Extension Specialist/Advisor position(s), 20% of the funds;
3) Agricultural Stewardship Category – funding for programs that bring fields back into production, soil reclamation, and improve existing grounds to improve yields, 20% of the funds; and
4) Education/Scholarship Category – matching funds for scholarships awarded by Ag organizations for Ag studies, student loans, FFA/4-H loans, 10% of the funds.

While some of these funding categories may mitigate economic impacts within the agricultural community resulting from the loss of agricultural lands, none of them serve to protect or off-set the physical loss of agricultural resources resulting from the project. Furthermore, it is noted that non-specific fee based mitigation measures are speculative in nature and insufficient for the purposes of CEQA. (See for example, *Anderson First Coalition v. City of Anderson* (2005) 130

Comment 17-11

Cal.App.4th 1173).

While it is also recognized that the PEIR allows conservation easements and/or Agricultural In-lieu Mitigation Fees as means of mitigation in addition to a Public Benefit Agreement, these measures also fail because they provide no firm commitments to off-set the actual physical loss of agricultural lands resulting from the project. i.e., no new farmland is created to off-set the loss in production. In addition, the fact that a reclamation plan is required under AG-1b in no way assures that lands will actually be restored to agricultural uses at the end of a project's 30+ year life and the loss of lands during this period for all intents and purposes still represents a loss even if it is termed "temporary".

Comment 17-11 (continued)

Comment 17-12

Finally, I would note that the conclusion in the PEIR that impacts to agricultural resources will be reduced to "less than significant" level conflicts with a similar assessment made within the 2015 Draft DRECP EIR/EIS which concludes that the impact of converting tens of thousands of acres of agricultural lands to renewable energy use is not only significant, but unmitigable (Executive Summary, p. 51).

Comment 17-13

Other Issues

The PEIR fails to identify how the removal of lands from agricultural production may impact water flows to the Salton Sea. Assuming 40,000 acres of land are taken out of production as the PEIR suggests could occur, what impacts will this have to the Salton Sea and correspondingly to air quality?

Comment 17-14

It would be appropriate to reference within **Chapter 4.9 – Hydrology and Water Quality** State Water Resources Control Board (SWRCB) Resolution 75-58 *Water Quality Control Policy on the Use and Disposal of Inland Waters Used for Powerplant Cooling* which establishes a statewide policy regarding the use of water for cooling. The policy recommends that cooling water be drawn from the following sources in order of priority: (1) wastewater being discharged to the ocean, (2) ocean, (3) brackish water from natural sources or irrigation return flow, (4) inland wastewaters of low TDS, and (5) other inland waters. The policy also encourages water supply agencies and power generating utilities and agencies to study the feasibility of using

Comment 17-15

Conclusion

The Draft EIR fails in its assessments of environmental impacts, does not present a reasonable range of alternatives, and offers inadequate mitigation measures as highlighted above. Given the magnitude of these oversights, it is appropriate that the Draft EIR be revised and recirculated for comment. If you have any questions concerning my comments, I would be happy to discuss them with you further.

Comment 17-16

Thank you for your consideration of these comments.

Best regards,

Michael Abatti

El Centro, California

Response to Comment Letter #17: Michael Abatti

Comment 17-1: Thank you for your comments on the Imperial County General Plan *Renewable Energy and Transmission Element* Update Draft PEIR. We have provided responses to your specific comments below.

Comment 17-2: This comment provides a summary of the proposed Project. It should be noted that the proposed Project was not developed to accommodate the 2014 Draft Desert Renewable Energy Conservation Plan (DRECP) and exists independent of the 2014 Draft DRECP. Thank you for stating that you view much of what has been accomplished with the proposed Project as being positive. We have provided responses to your specific comments below.

Comment 17-3: The Draft PEIR presents a reasonable range of alternatives and is consistent with CEQA. A distributive generation alternative was not developed for the proposed Project because it would not meet the goals and objectives of the Element update. While the County supports development of distributive generation facilities such as rooftop solar, a project alternative focused solely on distributive generation would not be capable of generating the amount of energy needed to meet project goals and objectives. Distributed generation involves the development of a large number of geographically distributed small solar PV systems within existing developed areas, typically on the rooftops of residential and other facilities. Distributed generation is generally available for use on-site and does not deliver electricity to the grid as a utility-scale solar facility does or contain an energy storage component. Because distributive generation does not deliver electricity to the grid and does not contain an energy storage component, a distributive generation alternative would not meet the goals and objectives of the Element update.

The proposed overlay zones have been reduced based on comments provided by The BLM El Centro Field Office and conversion to a parcel-based overlay zone map since circulation of the Draft PEIR. Similarly, some locations originally designated as "Renewable Energy/Geothermal Overlay Zone" have been changed to "Geothermal Overlay Zone" based on comments provided by Federal and State agencies. These revisions to the proposed overlay zone have reduced the total acreage of Important Farmland within each overlay zone category. The greatest reduction occurred in the "Renewable Energy/Geothermal Overlay Zone," which resulted in a reduction of Important Farmland within this category from 41,782.98 acres to 30,136.12 acres. This reduction of acreage within the "Renewable Energy/Geothermal Overlay Zone" would reduce potential for impacts to Important Farmland since this category would allow for development of renewable energy technologies that are more impactful than what is allowed in the "Geothermal Overlay Zone." The revisions to the total acreage of Important Farmland within each overlay zone category are presented in Table 4.2-2 of the Final PEIR:

Table 4.2-2: Important Farmland Within the Renewable Energy Overlay Zone

Farmland Classification	Geothermal Overlay Zone	Renewable Energy Overlay Zone	Renewable Energy/Geothermal Overlay Zone	Total Within Overlay Zone
Prime Farmland	~~20,525.19~~ 17,548.10	0.00	~~5,620.52~~ 3,886.23	~~26,145.71~~ 21,434.34
Farmland of Statewide Importance	~~27,832.34~~ 24,012.47	0.00	~~18,174.06~~ 14,601.12	~~46,006.41~~ 38,613.59
Unique Farmland	~~74.68~~ 28.99	0.00	~~305.08~~ 197.56	~~379.75~~ 226.55

Farmland of Local Importance	~~1,898.61~~ 1,086.29	0.00	~~17,683.32~~ 11,451.21	~~19,581.93~~ 12,537.50
Total Important Farmland	~~50,332.82~~ 42,675.85	0.00	~~41,782,98~~ 30,136.12	~~92,113.80~~ 72,811.97
Source: California Department of Conservation, 2012				

The proposed Project would not result in the elimination of farming on all acres designated under the "Renewable Energy/Geothermal Overlay Zone." The revised value of 30,136.12 acres presented in the Final PEIR merely represents the total acreage of Important Farmland within the "Renewable Energy/Geothermal Overlay Zone." The actual conversion of farmland associated with future renewable energy facilities developed under the proposed Project would be less than this value of 30,136.12 acres of Important Farmland within the Renewable Energy/Geothermal Overlay Zone presented in the Final PEIR because development of the entire overlay zones would not be required to meet project objectives. The Final PEIR addresses this by stating the following in a discussion pertaining to all the renewable energy overlay zones:

> "…It should be noted that significant impacts to agricultural resources may not occur to all ~~92,113.80~~72,811.97 acres of Important Farmland located within the boundaries of the Renewable Energy Overlay Zone Map. As described above, the boundaries of the Renewable Energy Overlay Zone Map merely represent the areas that may be developed with renewable energy facilities, and substantial portions of the Renewable Energy Overlay Zone Map would not be affected. Furthermore, the majority of the potentially affected Important Farmland is located within the Geothermal Overlay Zone, which is limited to development of geothermal energy facilities. This limitation within this zone would minimize impacts to Important Farmland because geothermal energy facilities typically have fewer impacts to agricultural resources than solar energy facilities. Solar energy facility project footprints are typically much larger the geothermal facilities due to the wide open space of contiguous land needed to accommodate solar panels. Geothermal facility footprints on the other hand are limited to the power plant ~~and~~, production wells, injection wells, ~~which do not require as large an amount of land area~~pipelines, and access roads. The use of multiple well drilling pads and directional drilling limits the number of well pads and associated pipelines and roads. The Geothermal Overlay Zone also contains the majority of Prime Farmland and Farmland of Statewide Importance. Consequently, the development limitations of the Geothermal Overlay Zone would serve to minimize conversion of the most valuable Important Farmland categories..."

Based on the discussion above of how the proposed Project would not convert all agricultural resources within the overlay zones to renewable energy uses, implementation of mitigation measures AG-1a through AG-3 would reduce impacts to a level less than significant. It should be noted that the proposed Project has substantially fewer acres of Important Farmland within the proposed overlay zones (72,811.97) compared to the acreage of Important Farmland within the DRECP Alternative (483,847.83). Although this DRECP Alternative would not increase the renewable energy goal of up to 7,000 MW for Imperial County identified for the proposed Project, the larger development footprint would potentially allow for a greater level of conversion of more valuable agricultural resources such as Prime Farmland and Farmland of Statewide Importance. Furthermore, the larger development footprint for this Alternative would have a greater potential to result in indirect impacts on existing agricultural resources.

The wider dispersal of renewable energy facilities throughout Imperial County under this Alternative would have greater potential to damage equipment, crops, or livestock on adjacent properties or inhibit crop growth through dispersal of fugitive dust. Similarly, erosion associated with future facilities could result in water and soil contamination (Draft PEIR, Section 5.3.1). Therefore, the proposed Project would have less severe impacts on agricultural resources than the DRECP Alternative.

Comment 17-4: Figure 4.2-1 of the Draft PEIR presents Important Farmland within Imperial County according to their Department of Conservation Farmland Mapping and Monitoring Program categories. Figure 4.2-1 also presents the proposed overlay zones, so they reader can see the type of Important Farmland that underlies the proposed overlay zones. As described in Section 4.2 of the Draft PEIR, implementation of mitigation measures AG-1a through AG-3 would reduce both project-level and cumulative impacts on farmland to a level less than significant for any future renewable energy facility that is developed with the proposed County overlay zones.

Regarding potential development on BLM properties, Figure 2.4-1: Overlay Zone Map presented in the Draft PEIR has been revised to present two separate maps that distinguish between land under the jurisdiction of the County and land under the jurisdiction of BLM. Please see Figures 2.2-1 and 2.2-2 of the Final PEIR. Figure 2.2-2 presents the "Proposed Development Focus Areas on Land Managed by BLM" category, which was developed to identify land under the jurisdiction of BLM that may be utilized for development of renewable energy facilities. Areas subject to this category are Federally-managed lands that were included in the 2014 Draft DRECP and EIR/EIS that were not excluded by the constraints analysis conducted by the County. The locations of the "Proposed Development Focus Areas on Land Managed by BLM" are shown in red on Figure 2.2-2 of the Final PEIR. The areas shown on Figure 2.2-2 of the Final PEIR are not subject to the proposed Project and the map is being provided for "informational purposes" only. Therefore, there is a substantial amount of land under the jurisdiction of BLM that may be converted to future renewable energy facilities that do not consist of agricultural land.

Comment 17-5: The Draft PEIR presents a reasonable range of alternatives and is consistent with CEQA. The County developed three build alternatives in the early planning stages of the proposed Project that were presented in the Baseline Environmental Inventory Report. After careful consideration, one alternative was eliminated because it did not offer any advantage over the two build alternatives that were carried forward. The proposed Project represents the most restrictive of all considered alternatives, while the DRECP Preferred Alternative presented the largest overlay zone map. The eliminated alternative did not reduce the amount of land available for development to the degree of the proposed Project, nor did it offer an overlay zone map that was larger than the DRECP Alternative. Consequently, there was no distinguishing characteristic to this alternative that gave it an advantage over the proposed Project or DREP alternative, and consequently was eliminated. Therefore, the proposed Project presents a reasonable range of alternatives and is consistent with CEQA.

Comment 17-6: As described in response to comment 17-3, the proposed Project would not result in the elimination of farming on all acres designated within the proposed overlay zones. The statement that the acreage of agricultural land within the "Renewable Energy/Geothermal Overlay Zone" is what would likely be converted is inaccurate. As described in the Draft PEIR, the proposed Project would be implemented on a "project-by-project" basis based on County approval of individual renewable energy projects. Consequently, specific impacts on agricultural resources and corresponding mitigation measures cannot be evaluated at this time. Future renewable energy facilities developed under the proposed Project would have to evaluate potential impacts to agricultural resources during the Project's required environmental review phase. Implementation of the agricultural mitigation measures

presented in the Final PEIR and any additional mitigation measures that may be required based on site-specific characteristics identified during the environmental review phase would reduce impacts to agricultural resources to a level less than significant.

Comment 17-7: Please see response to comment 17-6 above.

Comment 17-8: The agricultural impact acreages presented in the DRECP EIR/EIS were developed independently by the Federal and State agencies who prepared the DRECP. The County has not developed farmland acreage impacts for the proposed Project because it would be implemented on a "project-by-project" basis based on County approval of individual renewable energy projects. Consequently, specific impacts on agricultural resources and corresponding mitigation measures cannot be evaluated at this time. Future renewable energy facilities developed under the proposed Project would have to evaluate potential impacts to agricultural resources during the project's required environmental review phase. Implementation of the agricultural mitigation measures presented in the Final PEIR and any additional mitigation measures that may be required based on site-specific characteristics identified during the environmental review phase would reduce impacts to agricultural resources to a level less than significant. Table 4.2-1 outlines the acreage of the Important Farmland categories in the County and Table 4.2-2 presents information on the amount of Important Farmland in each of the proposed renewable energy overlay zones.

Comment 17-9: As described in Section 4.2.4 of the Draft PEIR:

> "…[t]he County of Imperial has developed mitigation strategies for impacts to agricultural resources based on guidance provided in a letter received from the Department of Conservation (DOC) Division of Land Resource Protection (Division) regarding the potential impacts of solar projects on agricultural land and resources. Although the letter was drafted based on potential impacts related to solar renewable energy facilities, the County has determined that the following mitigation strategies are ~~also~~ applicable and appropriate for ~~other~~all types of renewable energy technology that may be developed under the proposed Project…"

The method by which each of these mitigation measures would successfully mitigate impacts is described in the measures reproduced in this comment. It should be noted that agricultural resources converted to renewable energy resource uses would be temporary and would be restored to agricultural production per Mitigation Measure AG-1b: Reclamation/Decommissioning Plan and Security. Therefore, no farmland would be permanently lost due to renewable energy facilities developed under the proposed Project.

Comment 17-10: The funding options presented in Mitigation Measure AG-1a are specific and are not speculative in nature. For instance, the "Funding Allocation Guidelines and the Proposed General Procedures/Guidelines for Allocation of Ag Benefit Funds" cited in this comment confirms that these fees are to be used for the stewardship, protection, and enhancement of agricultural lands within the County (Resolution 2012-005).

The Agricultural Business Development Category, such as funding for agricultural commodity processing plants and energy plants that use agricultural products, which was identified as the greatest job creator category, would receive 50 percent of the funds; the Research & Development Category, such as funding for development of new high-yield or water-efficient crops, new water conservation techniques, new

technology to improve yields in existing crops, and partial funding for an endowment to support an agricultural research specialist, would receive 20 percent of the funds. Improved water conservation and efficient crop production keeps more farmland in production during drought cycles and therefore supports job creation and maintenance. The Agricultural Stewardship Category, such as programs that bring fields back into production, implement soil reclamation, and improve existing fields to improve crop yields, would receive 20 percent. Increased production of crops again leads to more agricultural jobs to prepare and harvest the fields. The Education/Scholarship Category, such as matching funds for scholarships awarded by agricultural organizations for agricultural studies, student loans, Future Farmers of America and 4-H loans, would receive 10 percent. Training the next generation of farmers and farming operations also supports agricultural job creation.

It should be noted that agricultural resources converted to renewable energy resource uses would be temporary and would be restored to agricultural production per Mitigation Measure AG-1b: Reclamation/Decommissioning Plan and Security. Therefore, no farmland would be permanently lost due to renewable energy facilities developed under the proposed Project. Furthermore, agricultural activities supported by the "Funding Allocation Guidelines and the Proposed General Procedures/Guidelines for Allocation of Ag Benefit Funds" would promote agricultural production that may not occur without said funds. Furthermore, temporary conversion of agricultural uses to renewable energy uses would free up irrigation water and allow fallow farmland to be return to agricultural production.

Comment 17-11: Please see response to comment 17-10 above.

Comment 17-12: The commenter asserts that preparation of a Reclamation Plan is not a guarantee that the lands will be restored. The Reclamation and Decommissioning Plan is an appropriate mitigation for a temporary non-agricultural use, as it addresses the specific impact to the soil of the area taken out of agricultural use. If the applicant did not perform the restoration work, then the County would use the separate security instrument to perform the restoration work. This assures that the lands will actually be restored to the proper level for continued agricultural use and reduce impacts associated with temporary conversion of agricultural resources to a level less than significant.

Comment 17-13: Although the DRECP EIR/EIS concludes that the impact is significant and unmitigable, the DRECP covers a much wider area and has the potential to impact a greater area of agricultural lands. As shown in Table 5.3.1 of the Final PEIR, the DRECP Alternative encompasses a total of 483,847.83 acres of Important Farmland compared to 72,811.97 acres for the proposed Project. Furthermore, as described in response to comment 17-9 above, implementation of agricultural mitigation measures presented in the Final PEIR would reduce impacts to a level less than significant.

Comment 17-14: As described in the Draft PEIR, the proposed Project would be implemented on a "project-by-project" basis based on County approval of individual renewable energy projects. Consequently, specific impacts related to water flow to the Salton Sea and air quality cannot be evaluated at this time. However, it should also be noted that the County of Imperial has worked in partnership with the Imperial Irrigation District to develop the Salton Sea Restoration & Renewable Energy Initiative. This initiative will utilize funds generated by development of future renewable energy facilities at the Salton Sea to help finance activities for habitat restoration and air quality management. Future renewable energy facilities sited on exposed lakebeds of the Salton Sea would serve a dual purpose of producing renewable energy while doubling as groundcover to mitigate air emissions. The Salton Sea Authority is responsible for leading the planning and implementation of future renewable

energy facilities at the Salton Sea with support from the State of California. Implementation of mitigation measures presented in the Final PEIR and any additional mitigation measures that may be required based on site-specific characteristics identified during the environmental review phase would reduce impacts related to water flow to the Salton Sea and air quality to a level less than significant.

Comment 17-15: The following discussion of the Water Quality Control Policy on the Use and Disposal of Inland Waters Used for Power Plant Cooling has been added to Section 4.9.1 of the Final PEIR:

> "Water Quality Control Policy on the Use and Disposal of Inland Waters Used for Powerplant Cooling
>
> SWRCB Resolution 75-58 *Water Quality Control Policy on the Use and Disposal of Inland Waters Used for Powerplant Cooling* establishes a statewide policy regarding the use of water for cooling. The policy recommends that cooling water be drawn from the following sources in order of priority: (1) wastewater being discharged to the ocean, (2) ocean, (3) brackish water from natural sources or irrigation return flow, (4) inland wastewaters of low TDS, and (5) other inland waters. The policy also encourages water supply agencies and power generating utilities and agencies to study the feasibility of using alternative methods of disposal. Where the SWRCB has jurisdiction, use of fresh inland waters for powerplant cooling will be approved by SWRCB only when it is demonstrated that the use of other water supply sources or other methods of cooling would be environmentally undesirable or economically unsound."

Comment 17-16: Thank you for your comments on the Imperial County General Plan *Renewable Energy and Transmission Element* Update Draft PEIR. As described in the response to comments above, the Draft PEIR is consistent with CEQA and does not require re-circulation.

18 – Carolyn Allen

RECEIVED
FEB 25 2015
IMPERIAL COUNTY
PLANNING & DEVELOPMENT SERVICES

To : Jim Minnick, Director of Imperial County Planning and Development Services
jimminnick@co.imperial.ca.us

From: Carolyn Allen

Dated: 2-25-2015

COMMENTS ON THE IMPERIAL COUNTY GENERAL PLAN UPDATE - RENEWABLE ENERGY & TRANSMISSION ELEMENT AND THE DRAFT PROGRAMATIC EIR FOR THE IMPERIAL COUNTY RETE UPDATE

1) The Alternative section of the DPEIR should have included a rooftop solar (point-of-use , Distributed Generation option). The DPEIR studied only 2 Alternatives to the County's proposed Project. The 2 Alternatives were No Project & the DRECP. Rooftop solar is a far better option for our County to pursue; an option without the destruction of our farmland, open spaces and deserts. David Garmon expresses this point very well in his Dec.2014 article in the San Diego Union. http://www.utsandiego.com/news/2014/dec/18/desert-renewable-energy-plan/ — Comment 18-1
2) The Imperial County General Plan RETE says in Section 1 B page 1 says "The development projections in this Element are based on forecasts obtained from .....and the Desert Renewable Energy Conservation Plan (DRECP). There have been many compliants in DRECP comments that the DRECP is a flawed document with inaccurate information. It is very concerning that this document was one of the information sources for the General Plan Update. The DRECP also did not include a Distributed Generation Alternative. — Comment 18-2
3) It is public knowledge that energy sources such as geothermal can only be developed at the location they exist. But solar can go on rooftops. Recommendation: Imperial County policies should prohibit solar on farmland. — Comment 18-3
4) The conversion of our County's farmland is a huge concern. Table 5.3-1 " Comparison of Important Farmland Between Proposed Project and DRECP Alternative" The County's Proposed Project encompasses 92,113.80 total acres of farmland compared to the DRECP Alternative 483, 847.83 acres of farmland. Although the County 's acreage figures are much preferable to those shown in the DRECP, many of us hoped the farmland opened up for possible conversion would be much lower than the 92,113.80 acres figure. There has already been approx. 22,000 acres approved for solar development in Imperial County. (Should include maps of these approved projects) The 2 figures combined approximates 114,000 acres. While I realize that all 92,000 acres might not be converted the potential for all of it to be developed exists under this proposal. This would be devastating for our Valley. — Comment 18-4

It is important that we preserve our farmland as the articles listed below demonstrate. I may not agree with every idea put forth in these articles, however they do show how crucial it is to save our farmland from being converted to other non-agricultural uses.

A) http://www.mcgeorge.edu/Documents/Publications/MLRVolume44_4_07_Odens%20Final.pdf
A report entitled " A New Crop for Agricultural Land : The Renewable Energy Mandate and

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pg2 (C.Allen Comments 2-25-15)

its Potential to Turn Farm Lands into Energy Fields" By Amy Odens

B) http://calclimateag.org/wp-content/uploads/2013/02/Triple-Harvest-Full-Report.pdf

C) http://www.farmlandinfo.org/sites/default/files/Why_Save_Farmland_103_1.pdf

Comment 18-4 (continued)

5) The 4.2 Agricultural Resource section 4.2.1 pg 4.2-1 of the DPEIR should include information explaining that sometimes farm ground that may be categorized as less "Important" can now grow important vegetable crops. For example, organic vegetables are being grown very successfully on ground where this was once thought impossible. This is stated in an article in the Desert Review on Feb 10, 2015 http://www.thedesertreview.com/50964/ This article also contains comments based on concern for agriculture from the local Imperial County Farm Bureau Executive Director and the Imperial County Ag Commissioner. Our farmland is a finite resource that should be protected. We need all of our farm ground to produce food and fiber for an increasing world population.

Comment 18-5

6) The Williamson Act is discussed in 4.2 Agricultural Resources section 4.2.1 pg 4.2-2. This section should include the fact that both the vote by the Supervisors in 2010 to not accept any new Williamson Act contracts and the cancellation of existing Williamson Act contracts for renewable energy projects have been considered controversial by many in the farming community. http://www.agalert.com/story/?id=1490

Comment 18-6

7) The Overlay Zone Map in 4.2 Agricultural Resource of the DPEIR Figure 4.2-1 should show how many acres in each zone are agricultural and how many acres are non-agricultural. The current map only shows total acreage for each zone. Or there should be a reference on the map to see Table 4.2-2 on pg 4.2-6

Comment 18-7

8) It is concerning to see mention of wind facilities in the 4.2 Agricultural Resouce section page 4.2-6. of the DPEIR. During the workshops for this Plan Update it was discussed that our County really didn't offer areas with good reliable wind to support the future development of wind projects. Wind facilities come with huge negative impacts (as exemplified by the Ocotillo wind project) The General Plan should include a ban on future wind projects in this County.

Comment 18-8

9) Many people who opposes large-scale solar projects question whether they are truly temporary conversions of farmland. There are valid fears that converted farmland could be lost permanently . (loss of water rights for that land, heavy salt build up , ground becomes too heavily compacted etc .) Reclamation and restoration if there ever is a decommissioning would be very difficult if not impossible. Pg. 4.2- 6 of DPEIR says "Although the conversion of Important Farmland associated with future renewable energy facilities would be long-term , these impacts may not be permanent. Renewable energy facilities are typically in operation for approximately 30 years, and the potential exists for impacted sites to be restored to agricultural production after the facility has been decommissioned." The DPEIR should honestly explain some of the reasons the land might not be able to be restored.

Comment 18-9

10) See the Hazards & Hazardous Materials section of the DPEIR. This section talks about the hazardous materials contained in solar panels. If the solar panels become cracked or damaged These hazardous materials could contaminate the soil causing permanent damage to the soil.

Comment 18-10

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There are also reports of defective panels .
http://www.nytimes.com/2013/05/29/business/energy-environment/solar-powers-dark-side.html?pagewanted=all

There could be projects with fields full (thousands and thousands) of defective panels or damaged panels leaking hazardous materials onto our farmland. The clean up of the soil (if possible) would be extremely expensive and time consuming. (possibly 100's of thousands of dollars)

Comment 18-10 (continued)

11 This brings me to the Insurance Bonding issues. This bonding is required of all developers for reclamation and restoration after decommissioning of an energy facility The dollar amount required to be put in place by developers is way too low for the potential for damage to the ground and the environment that could occur.This needs to be addressed in the Final PEIR.

Comment 18-11

11) What happens if the bonding does not cover the costs? Who is ultimately responsible? This should all be in the PEIR. There are big public safety ,health and welfare issues here.
12) Yes there are often warranties on panels if defective but either the warranty may not cover the panels or due to the high rate of bankruptcy among manufacturers the maker of the panels may no longer be in business.

Comment 18-12

13) How will this impact dumps? The Hazards and Hazardous materials section 4.8 pg 4.8-7 " solar panels are considered a RCRA regulated waste. " and that the Clean Harbors Westmorland facility is permitted to accept solar panels. It says other regional facilities may also. The PEIR needs to give more details on which specific dumps will be used if the Westmorland facility can no longer accept panels .

Comment 18-13

14) There is the potential for toxic contaminates from solar facilities to pollute our waterways, water in canals or groundwater . They could also contaminate food growing in nearby fields. This needs to be included in the Hydrology and Water 4.9-5 section and the Ag Resource section.

Comment 18-14

15) The County should require that agricultural conservation easements must be local land , not someplace else in the State. Despite what the DOC guidance letter said, It doesn't make sense for our Valley to suffer the damage of ag conversion here but have the benefit of conservation easements go someplace outside of Imperial County. (DPEIR pg 4.2-7)

Comment 18-15

16) Agricultural Resource 4.2 page 4.2-6 only gives one small paragraph on the loss of long term agricultural jobs caused by loss of farmland to energy projects. Needs to include impacts to extensive list of ag support businesses and loss of land to tenant farmers.

Comment 18-16

17) Ag Resource section 4.2 pages 4.2-7 Mitigation measures are inadequate for the amount of damage that is being done to our farmland , farmers , farm employees, ag support businesses and Imperial County as a whole. In reality, not just according to the document, the mitigation does not bring the impacts down to less than significant.

Comment 18-17

18) Pg. 4.2-9 says that developers can earn credits against benefit fees for doing things such as hiring locals. I think a certain hiring a certain percentage of locals is something the should be required and no credit should be taken off of benefit fee.

Comment 18-18

Pg 4 (C. Allen 2-25-2015)

19) See pg 4.2-10 There have been concerns voiced that solar developers are overestimating the number of permanent jobs created by their projects. How will their numbers be verified by the County before a project is approved? This needs to be addressed in more detail . — Comment 18-19

20) Most of the newer solar projects approved have energy storage systems with lithium batteries. One container per MW is required. Lithium batteries are a known fire hazard. This poses a potential threat to solar workers , surrounding crops and the wider community if toxic smoke is involved. How is this addressed in the DPEIR? See the recently approved Iris Cluster in their Project Description section pg.8. — Comment 18-20

21) Any large fire at a solar plant could be hazardous with fumes fom burning panels. Often the panels can't be shut off and continue to be electrified which makes fighting the fire extremely difficult . This should have been included.in the DPEIR. — Comment 18-21

22) Farmland and its crops provide habitat for birds and wildlife. This is another reason ag land should be preserved. Farmland as habitat should be thoughly covered in both the Ag section and the Biological section http://alfalfa.ucdavis.edu/+symposium/proceedings/2010/10-61.pdf — Comment 18-22

23) Grass crops help clean our water, acting as a filter as the field is watered. Much of the land being converted to renewable energy has a history of growing grass sometimes. What impact will the loss of some of our "grasslands" have on our water quality. This needs to be contained in Hydrology and Ag Sections — Comment 18-23

24) There are also concerns about the amount of water the renewable energy facilities will be using. As dusty as it is down here, it seems possible that solar panels in projects will be washed more frequently . Renewable energy as a whole may be underestimating their water usage. How will this be monitored and who will do the monitoring,? Water should not be taken from agriculture. Was this fully covered? — Comment 18-24

25) Large light sources and glare coming from renewable energy projects could attract large number of insects to an energy facility and these insects could cause damage to surrounding crops. This should have been in the PEIR. — Comment 18-25

26) Glint and Glare from the could pose hazards to crop dusters. How will this be dealt with and mitigated if possible? — Comment 18-26

27) Heat island effect is created by solar projects. This heat could cause nearby growing crops to require more water. This at a time when farmers are limited on water due to the Water Transfer. This should be addressed in the Hydrology and Water Section as well as Ag Section. — Comment 18-27

28) All of the infrastructure that comes with addintional energy projects will have further negative impacts on farms. Minimizing this needs to be a top priority. — Comment 18-28

29) Cumulative Projects in Table 3.2-1 should include all projects including all RE and transmission. — Comment 18-29

30) Ag Resource section and Cumulative Impacts should also include amount agricultural land taken out of production in order to meet water transfer agreement. — Comment 18-30

31) The estimates concening Greenhouse Gases don't seem to give enough credit to the fact that growing crops can effectivley help reduce Greenhouse Gases. Yet another reason to conserve our farmland. This should be included. See "A New Comparison of Greenhouse Gas Emissions from California Agricultural and Urban Land Uses — Comment 18-31