

- biological resources, which were originally also part of designated Critical Habitat for the federally listed as endangered Peninsular Bighorn Sheep (DPEIR 4.4-32). It seems that there has not been much really effective mitigation, with the damaged habitat leaving many members of the concerned public feeling that neither BLM nor Imperial County really cared about impacts from construction and operation of OWEF on biological resources, regardless of the status of those resources prior to RE activities. To those familiar with the area prior to OWEF, it seems that mitigation related to biological resources either was not implemented or was effectively next to useless. There should have been biologists doing surveys, reporting and submitting field notes directly to US FWS and CDFW, in addition to what were provided to the contractor if inventories and surveys for biological resources are or were to be believed as credible! However, we recognize that might or might not have made any difference in agency responses.
90. **BIO-1a** (See DPEIR 4.4-37-38) Construction tapes and fencing are often ignored by drivers of trucks, and equipment operators have been reported to have ignored the requirement to wait for biological monitors to clear the area of wildlife, including FTHL, or to protect special plants from destruction by bulldozers and other road grading equipment. There were piles of dozed vegetation including cacti and ocotillos with roots chopped off and exposed to the sun in the OWEF project area, not likely prospects for any revegetation use, which of course did not happen. A member of the public would have been heavily fined for doing even a fraction of the damage to vegetation done by heavy equipment on BLM lands in less than one hour! What appears to be total elimination of all vegetation at industrial scale solar projects on private land along the western side of irrigated agriculture also suggests little concern for wildlife and birds that might have used the area prior to construction.
91. **BIO-1b.** When it came to the Peninsular Bighorn sheep in using the OWEF lands as a corridor between habitat in the Coyote Mountains Wilderness to the north of I-8 and the Jacumba Mountains Wilderness to the south of I-8, the Critical Habitat designation was changed/reduced/moved to the west to accommodate the wind project rather than to protect the sheep. The reduction of Critical Habitat is surprising after noting that bighorn sheep had been photographed even further east in the vicinity of the Imperial Valley solar project proposed for a location between I-8 and Old Hwy 80 near Plaster City several years earlier!
92. When it came to protecting or relocating Flat-tailed Horned Lizards (FTHL) in danger of being run over and killed by heavy equipment along the transmission corridor at the east of the Yuha ACEC, we understand that biologists who complained when operators refused to wait for biological clearance and who reported dead FTHL were fired if they did not first quit! Passive relocation of reptiles seemed to have been thought of as inconvenient and a waste of time by project contractors and equipment operators, or by those who were not conscientious and honest biologists. Did the County or BLM care and change construction practices? We doubt it. Confidentiality agreements should be prohibited for all but cultural resources inventories. When it comes to biological resources the only purpose for such agreements would appear to be to withhold information about the presence of biological resources such as plants and animals that members of the public can see and identify for themselves on public lands, and to minimize perceptions about the potential adverse impacts to biological resources by relying on incomplete or misleading survey reports.
93. Other **BIO-1** asserted mitigation measures do not warrant detailed discussion about why they simply did not and do not remediate or mitigate the serious adverse impacts to sensitive vegetation and wildlife. After mitigation direct and indirect impacts to special status plants and animals remain significant for the biological resources, even if County and BLM choose to ignore what is really happening on the ground. BLM staff report that they are getting directions "from higher up", and the county seems to care primarily about promises of increased revenues and jobs rather than concern for biological resources.
94. This concern for monies rather than biological resources can be seen in discussion under BIO-2 and the inclusion of a portion of a BLM ACEC and FTHL habitat within a RE overlay zone in the East Mesa to the north of I-8. Whether impacts are reduced to a level that is less than significant all depends on how much one is concerned about the biological resources or federal regulations as explained by the February 23, 2015 comments of the Center for Biological Diversity (CBD) on the DRECP. (With permission from CBD their comments on the DRECP are included as Exhibit 73 to supplement comments on the IC RETE.)

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95. **BIO-2** (DPEIR 4.4-39) With regard to impacts on identified sensitive areas, DPEIR states that: “Future project proponents shall minimize ground disturbance and construction footprints within and near such areas to the extent practicable. Where avoidance of these areas is not feasible, future project proponents shall arrange for offsite replacement of removed habitats in accordance with consultation with CDFW.” (DPEIR 4.4-39, emphasis added.) **What is meant by “offsite replacement of removed habitats”?** Is this what happens when the County chooses to be an official Sacrifice Area for RE to satisfy the growth needs of the more affluent coastal communities more than 100 miles away? Does this mean that habitats in other part of the State/other counties will be protected, in return for destroying similar or different habitats in Imperial County? After decades of reviewing large projects that significantly alter the environment, it seems that Imperial County decisions almost always find that impacts are less than significant in the face of promised financial rewards and jobs, no matter how temporary or few those monies and jobs may be in the long term, and no matter what the public health consequences of worsening air quality during construction. (Remember the Wind Zero-CWSP project, Exhibits 66, 67.) Comment 20-77
96. **BIO-3** (DPEIR 4.4-40) After looking at the damage to the drainage patterns and consequences of putting roads in areas that have flooded in the OWEF project area, including the floodway channels that carried waters during the floods of 1976 and 1977 and have created flooding both before and after construction of roads and wind turbines, there are very serious questions about whether either BLM or the County are seriously concerned about impacts of RE projects on streams, drainages or washes, or jurisdictional waters, especially on alluvial fans that have experienced severe flood alteration in the past. Water and geology cannot always have their courses altered by bulldozers and graders without creating additional or new water related issues that have seemed resistant to mitigation efforts. If “mitigation” at the OWEF site is a failure several years after operation began, how can one expect more successful results, or that agencies and the County will care about water related impacts to biological or geological resources at other locations for RE projects in Imperial County in the future? When roads were graded across washes, stream flow seems to have been ignored. at various locations there were piles of dead cacti and ocotillos that were destroyed in what was previously one of the richest biological areas of the County, all for the construction of towering white skeletons called wind turbines at a project with continuing operational problems. (See concerns about County approvals related to Wind Zero elsewhere in these comments.) Comment 20-78
97. As for significance after mitigation measures in BIO-3 and HYDRO-3, it likely all depends on whether one can see the damage or whether one watches flood waters rush past or through residential areas in new places. Photos of foamy whitecaps rushing along paved and unpaved streets in Ocotillo does not suggest reduced impacts to a level of less than significant for either the jurisdictional waters, wetlands or biological resources that are being uprooted and carried downgradient and deposited at some distance from where they originally grew. Residents see what agencies may prefer to ignore.
98. **BIO-4** (DPEIR 4.4-41) seems like more interesting, but meaningless words on paper after seeing what happened in the OWEF area. The County simply does not seem to care. Residents heard that the 70 page implementation agreement for mitigation and monitoring for the OWEF project wasn’t worth the paper it was printed on! If so, why did the County approve it and record it? What is the public expected to believe now? Comment 20-79
99. **BIO-5** (starting at DPEIR 4.4-42) This RETE DPEIR asserts that it is not in conflict with some new Conservation and Open Space Element to the County General Plan, even though that Element has not been recently updated. Please note the text of a formal notice Harmon received related to the Conservation and Open Space Element, which states that: “The Conservation and Open Space Element establishes goals and policies to ensure that the County’s resources will be available for future generations. (Other General Plan Elements have been prepared to protect and guide the use of renewable energy, water, parks and recreation, and agriculture). **The Conservation and Open Space Element has not been updated since 1993.** To view the existing Element, click here.” (Jan. 20, 2015 County of Imperial Conservation and Open Space Element QUESTIONNAIRE from kpadilla@katherinepadilla.com And the link to the County website at <http://www.icpds.com/?pid=832>) Comment 20-80
100. The 1993 Conservation and Open Space Element is found at <http://www.icpds.com/CMS/Media/Conservation-and-Open-Space-Element.pdf>. DPEIR at 4.4-42

- misrepresents what was likely the intent of the language of the 1993 Conservation and Open Space Element (COSE), before there were any proposals for vegetation removing and conversion of agricultural lands for industrial scale solar projects. However, RETE Objective 1.1, is not consistent with the text or intent stated in the 1993 COSE Goal 6 which states:
- Conservation of Energy Sources
- Goal 6: The County shall seek to achieve maximum conservation practices and maximum development of renewable alternative sources of energy.
- Objective 6.1 Define and assure adequate energy supplies for Imperial County.
- Objective 6.2 Encourage the utilization of alternative passive and renewable energy resources.
- Objective 6.3 Maximize energy conservation and efficiency of utilization
- Objective 6.4 Minimize environmental impact of energy sources.
- Objective 6.5 Minimize possibility of energy shortages and resulting hardships.
- Objective 6.6 Encourage compatibility with National and State energy goals and city and community general plans.
- Objective 6.7 Support local utility company's energy conservation programs
- Planning/Building Department Conservation/Open Space Element Pages 49- 50 (1993) (emphasis added)
101. That sounds very different from RETE GOAL 1 and Objective 1.1 which say:
- Goal 1* – Support the safe and orderly development of renewable energy while providing for the protection of environmental resources.
- Objective 1.1:* The County of Imperial supports the goals and objectives of the Desert Renewable Energy Conservation Plan to plan for, encourage, and facilitate the full development of all renewable energy resources within its jurisdiction. (DPEIR 4.4-42) (emphasis added)
102. The text at DPEIR 4.4-42 is intended to support of the DPEIR asserted objectives for the RETE GPU project which states that: “The proposed Project would support the development of expanded renewable energy power production and exportation to accommodate future growth in California and improve overall system reliability.” (DPEIR 2-1, emphasis added.) This means that the goal of RETE is for increased energy use for the benefit of some other jurisdiction in California, which is not the same as stating that the primary goal is conserving environmental resources for future generations in Imperial County. Full development of all renewable energy resources within the jurisdiction of the County appears to leave no room or discretion for the County to not approve any specific project on private lands within the borders of the County, regardless of the environmental consequences. DRECP seems to take on a more important role than concerns for the County and its residents.
103. No matter what the objectives on the DPEIR page 4.4-43 say, it often seems that public input not supportive of project approval is both unwelcome and ignored by Imperial County decision-makers and staff. Thus, the filing of litigation related to approvals of several RE projects.
104. Objective 4.3 (DPEIR 4.4-43) related to possible mitigation measures and monitoring programs to minimize impacts to avian species related to renewable energy facilities near the Salton Sea are not even hinted to in the DPEIR. The discussion of mitigation measures on previous and subsequent pages of the DPEIR regarding providing specific suggestions or details to suggest mitigation might work seem like fancy words for things the County will likely choose to ignore. Adverse impacts to birds at RE solar sites have been well documented. (See comments and concerns from CBD at Exhibit 73)
- 4.9 Hydrology and Water Quality**
105. **4.9.4 Hydrology Impacts and Mitigation Hydro 2** (DPEIR 4.9-22) As in the past, there must be special restrictions related to groundwater use if a project is located in the overdrafted US EPA designated Sole Source Aquifers such as the Ocotillo-Coyote Wells Groundwater Basin (see Exhibits 33 and 34 in our August 22, 2014 comments on the IC RETE NOP. (**Exhibit 33** Ocotillo-Coyote Wells Groundwater Basin in 1996 “Ocotillo0Coyote Wells Aquifer in Imperial County California Sole source Aquifer Final

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- Determination” Federal Register Vol. 61, No. 176, Sept. 10, 1996 Notice US EPA.
<http://www.gpo.gov/fdsys/pkg/FR-1996-09-10/pdf/96-23066.pdf> and **Exhibit 34** EPA
qrg ssamap ocotillocoyotewells 2001
[http://www.epa.gov/safewater/sourcewater/pubs/qrg_ssamap ocotillocoyotewells.pdf](http://www.epa.gov/safewater/sourcewater/pubs/qrg_ssamap_ocotillocoyotewells.pdf) Restrictions related
to use of potable groundwater for industrial purposes should also be imposed in and other similar
groundwater basin where domestic use is or should be a priority.
106. The Ocotillo-Coyote Wells groundwater basin has been identified by USGS reports as being overdrafted since the first official study by USGS in 1977, and since that time water levels have shown no evidence of recharge in spite of several years of above average rainfall and flooding in 1976, 1977, 1981 and subsequent years. The only apparent increases in water levels have been to the east of the Laguna Salada Fault at the Yuha Wells in the badlands where water quality is extremely saline and non-potable. There have been decades of litigation related to export of groundwater for commercial and industrial uses that have had and have the potential to have adverse impacts on availability and quality of groundwater for domestic uses by overlying residential users. Indeed, there is still unresolved litigation related to this groundwater basin and US Gypsum’s use of groundwater related to a case filed by Sierra Club v. County of Imperial in January 1999.
107. The DPEIR identifies the adverse impacts of exceeding what it calls “sustainable yield”, which become all the more important in an already overdrafted sole source aquifer such as the Ocotillo-Coyote Wells Groundwater basin which has a small established residential community with and surrounded by undeveloped private parcels zoned for residential development only because of limited long term sustainable groundwater availability. Since domestic use is a higher water use according to California Water Code Section 106, it is inappropriate to consider approval of any future industrial use of potable groundwater from an overdrafted sole source aquifer such as the Ocotillo Coyote Wells Groundwater Basin. However, other locations where poorer quality groundwater underlies a proposed RE site, these Hydro 2 mitigation measures may be considered appropriate on a site by site or project-by-project basis.
108. **Sec. 4.9.4 HYDRO-3** impacts and mitigation. (DPEIR 4.9-23) correctly identifies the potential adverse impacts related to projects altering the existing drainage patterns. The identified adverse impacts have already happened on public lands, with off-site impacts on private lands from construction and operation at the Ocotillo Wind Energy Facility in SW Imperial County. It seems to the concerned and observant public that neither the County nor BLM took the adverse impacts of drainage alterations seriously. In fact, many residents wonder whether the County cares at all about what happens to the community of Ocotillo. Flooding and altered drainages sent flood waters through areas not impacted during the occupancy of current residents, and disturbed areas still seem subject to flooding and channels being cut by altered drainage flows with resultant off-site impacts on private property. The only mitigation for alluvial fans in locations such as the southwest portion of the County at the mouth of canyons carrying water from the mountains is to avoid construction and operation of RE in such areas. There were good reasons for the area to be protected from development in the past, and the hydrological impacts merely add to those reasons why some areas should not be considered for RE projects. Many of the mitigation measures suggested at HYDRO-3 seem to either have been ignored or not enforced if in place for the OWEF project.
109. It is of interest to note that the Ocotillo-Coyote Wells Groundwater Basin is the only US EPA designated Sole Source Aquifer identified in the entire draft DRECP document. However, it is also curious to note that the DRECP misidentified its location within Imperial County. (Exhibit 72) So, why should the County be asserting a reliance on the DRECP when it comes to resources in Imperial County?
110. Many of the public feel that the County turns a blind eye when it comes to meaningful monitoring and mitigation for potential adverse impacts on either surface or groundwater resources. The bias always seems to be toward the asserted desires and “needs” of project applicants and project operators.
- 4.10 Land Use and Planning**
111. The current Land Use Element of the County General Plan was adopted in 2008. During the past several years and as can be seen by the Figure for Imperial County Renewable Energy Power Plant Locations

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- Index at <http://icpds.com/CMS/Media/All-Renewable-Power-Projects-11-1-13.pdf>, the County Planning Commission and Board of Supervisors have **ignored Goal 1** to “Preserve commercial agriculture as a prime economic force.” (DPEIR 4.10-2) The figure notes this conversion from agriculture to RE especially in the SW part of the irrigated area of Imperial Valley. Conversion of more than 22,000 acres of agricultural lands to industrial scale PV stands in sharp contrast to the goal of preserving commercial agriculture. Conversion of agricultural lands to industrial scale solar sounds like “spot zoning” for the benefit of individual owners or parcels, rather than being consistent with long term planning. If the lands converted had been long abandoned or too highly saline to support irrigated agriculture, conversion would have made more sense. But figures indicate that most converted lands had crops prior to conversion.
112. Conversion of previously protected Limited Use areas of BLM managed public lands to the industrial scale wind energy project surrounding Ocotillo is inconsistent both with BLM’s long standing designation in the California Desert Conservation Area Plan adopted in 1980 and with the County’s Land Use Element’s Goal 4 to “Preserve and enhance distinctive historic desert towns...” (DPEIR 4-10-2). Approvals of OWEF by both County and BLM, point out just how little the public can expect adherence to earlier decisions related to resource protection and the language and maps related to long term planning.
113. Problems associated with the surrounding OWEF project have made many residents want to leave, reduced property values, and will likely result in reduced efforts to maintain existing properties because impacts from the OWEF are unacceptable to so many residents. Many residents believe property values have significantly declined related to construction and operation of OWEF, the annoying flashing red lights that surround the town, noise during operations, and the increasing blowing dust and sand storms during and following construction, and continuing to this time. One wonders, what would be the response to any other surrounded or nearby communities to industrial scale RE projects? Similarly Goal 9 appears to be ignored when it comes to rural industrial scale RE projects, especially with respect to air and water quality. (DPEIR 4.10-3) Ocotillo residents are not the only ones to complain of adverse impacts from noise related to wind turbine operations. (See Exhibit 76)
- Sec. 4.10.2 Existing Environmental Setting.**
114. Fig. 4.10-1 “Existing General Plan Land Use Element” at DPEIR 4.10-4, with its overlay zone to be subject to update, appears to be the same as DPEIR Fig 2.4-1 “Overlay Zone Map” (DPEIR 2-5) which has a legend showing what has been added to the Land Use Element as an Overlay Zone. Thus, Fig. 4.10-1 is not really the existing Land Use Element map. It would be more accurate to depict the Land Use Element map to reveal all the agricultural lands that have been converted or approved for conversion to industrial scale solar projects and not likely to be farmed for decades, if ever again.
115. The DPEIR is misleading when it refers to agricultural acreage and industrial use acreage in Imperial County. Indeed, the conversion of agricultural lands to industrial scale solar should necessitate a change in the acreages in Table 4.10-1 (DPEIR at p. 4.10-5) for the Imperial County land use distribution in acres, with acreage for agriculture reduced and acreage for industrial increased, each by approximately 22,000 acres. Specifically, the RETE Element of the General Plan states that: “Approximately 22,000 acres of agriculturally designated land will be impacted by the implementation of the applications for renewable energy development (for more detailed history, please refer to Appendix A).” (IC RETE at p. 3, emphasis added.) [Note that RETE at Appendix A is the “History of Geothermal Use and Development” and is not related to the recent approvals for conversion of agricultural lands to industrial scale PV. See the Figures that are not included as part of the RETE or DPEIR, but are identified elsewhere in these comments, figures that disclose the locations of solar projects within lands designated in Fig. 4.10-1 and 2.4-1 and Table 4.10-1 as agricultural. The real question is whether the figure of 22,000 acres of agricultural lands to be impacted refers to what has already been impacted or to the additional agricultural land to be impacted AFTER any approval of the RETE?]
116. “No land shall be removed from the Agricultural designation except for annexation to a city, where needed for use by a public agency, for geothermal purposes, where a mapping error may have occurred, or where a clear long-term economic benefit to the County can be demonstrated through the planning and environmental review process (ICPDS 2008b).” (DPEIR at 4.10-5) Thus, the DPEIR text seems to belie

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