

3.0 COMMENTS AND RESPONSE TO COMMENTS



Edmund G. Brown Jr.
Governor

STATE OF CALIFORNIA
Governor's Office of Planning and Research
State Clearinghouse and Planning Unit

LETTER 9



Ken Alex
Director

June 9, 2014

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JUN 12 2014

IMPERIAL COUNTY
PLANNING & DEVELOPMENT SERVICES

Dave Black
Imperial County Planning & Dev. Services Dept.
801 Main Street
El Centro, CA 92243

Subject: Seville Solar Farm Complex
SCH#: 2013091039

Dear Dave Black:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on June 6, 2014, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

9-1

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Scott Morgan
Director, State Clearinghouse

Enclosures
cc: Resources Agency

1400 TENTH STREET P.O. BOX 3044 SACRAMENTO, CALIFORNIA 95812-3044
TEL (916) 445-0613 FAX (916) 323-3013 www.opr.ca.gov

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Document Details Report State Clearinghouse Data Base

SCH# 2013091039
Project Title Seville Solar Farm Complex
Lead Agency Imperial County

Type EIR Draft EIR
Description Note: Review per lead 50 Days

The Project would consist of the construction, operation and reclamation of up to five solar energy projects, including a new access road from SR 78, internal access roads, an IID electrical switch station, electrical substations for each of the five projects, and internal solar development transmission lines to the substations and IID switch station. The Project would also include the construction for, and operation by, the IID of new 92 kV transmission line for Inter connection to the existing IID Anza Substation. Two new wells are also proposed as part of the Project. In addition, a major subdivision/tract map is also proposed which would reconfigure the seven existing property parcels (APN: 018-010-025, 018-170-004 thru -013) into eight new individual lots and four common development interest lots.

Lead Agency Contact

Name Dave Black
Agency Imperial County Planning & Dev. Services Dept.
Phone 760 482 4310 **Fax**
email
Address 801 Main Street
City El Centro **State** CA **Zip** 92243

Project Location

County Imperial
City
Region
Lat / Long
Cross Streets 8 miles west of junction of SR 78 and SR 86
Parcel No. 018-010-025, 018-170-004, 005, 006, 007, 008, 010, 011, 012, 013
Township 12S **Range** 9E **Section** 13/15 **Base** SBB&M

Proximity to:

Highways SR 78
Airports
Railways
Waterways San Felipe Creek
Schools
Land Use Agriculture
A-2 (General Agriculture)

Project Issues Biological Resources; Other Issues; Archaeologic-Historic; Traffic/Circulation; Public Services; Air Quality; Geologic/Seismic; Water Quality; Noise; Agricultural Land; Aesthetic/Visual; Drainage/Absorption; Flood Plain/Flooding; Septic System; Soil Erosion/Compaction/Grading; Toxic/Hazardous; Vegetation; Water Supply; Wetland/Riparian; Landuse; Cumulative Effects

Reviewing Agencies Resources Agency; Colorado River Board; Cal Fire; Department of Fish and Wildlife, Region 6; Department of Parks and Recreation; Department of Water Resources; California Highway Patrol; Caltrans, District 11; Air Resources Board; State Water Resources Control Board, Division of Water Rights; Regional Water Quality Control Board, Region 7; Native American Heritage Commission; California Energy Commission; Public Utilities Commission

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Document Details Report State Clearinghouse Data Base			
<i>Date Received</i>	04/17/2014	<i>Start of Review</i>	04/17/2014
		<i>End of Review</i>	06/06/2014
			9-2

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State of California—The Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region
3602 Inland Empire Blvd., Suite C-220
Ontario, CA 91764
(909) 484-0459
www.dfg.ca.gov

EDMUND G. BROWN, JR., Governor
CHARLTON H. BONHAM, Director



CEQA
6/6/2014
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June 6, 2014

Mr. Jim Minnick, Interim Director
Imperial County Planning and Development Services
801 Main Street
El Centro, CA 92243

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JUN 06 2014

STATE CLEARING HOUSE

Subject: Draft Environmental Impact Report
Seville Solar Farm Complex Project
State Clearinghouse No. 2013091039

Dear Mr. Minnick:

The Department of Fish and Wildlife, CDFW (Department) appreciates the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the Seville Solar Farm Complex Project proposed by Regenerate Power LLC [State Clearinghouse No. 2013091039].

The Department is responding to the DEIR as a Trustee Agency for fish and wildlife resources (Fish and Game Code Sections 711.7 and 1802, and the California Environmental Quality Act [CEQA] Guidelines Section 15386), and as a Responsible Agency regarding any discretionary actions (CEQA Guidelines Section 15381), such as the issuance of a Lake or Streambed Alteration Agreement (LSA Agreement) [Fish and Game Code Sections 1600 et seq.] and/or a Permit for Incidental Take of Endangered, Threatened, and/or Candidate species (Incidental Take Permit) [Fish and Game Code Sections 2080 and 2080.1].

The project applicant proposed to develop and operate approximately 135-megawatt photo voltaic energy generation facilities that would be located on portions of the 2,440-acre Allegretti Farms property in west-central Imperial County, California, about eight miles west of the junction of State Route (SR) 78 and SR 86, and approximately three miles east of the San Diego County line. The area encompasses portions of Sections 13, 15, 14, 22, 23 and 25-27, Township 12 South, Range 9 East, San Bernardino Baseline and Meridian. The existing access road to the agricultural lands is located on public lands managed by the U.S. Bureau of Land Management in Section 14.

Conserving California's Wildlife Since 1870

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Mr. Jim Minnick, Imperial County Planning and Development Services
Seville Solar Farm Complex Project [State Clearinghouse No. 2013091039]
June 6, 2014

The project would comprise construction, operation, and reclamation of up to five solar energy projects including a new access road from SR 78, internal access roads, an Imperial Irrigation District (IID) electrical switch station, electrical substations, internal solar development transmission lines to the substations and IID switch station, 0.75 mile of new on-site 92 kV transmission line, and 2.25 miles of new off-site 92 kV transmission lines. The proposed project also includes development of two new wells, sanitary waste septic systems and leach fields, on-site storm water retention basins, and a major subdivision/tract map that would reconfigure seven existing property parcels into eight new individual lots and four common development interest lots. The energy generation technology would consist of either thin film or crystalline solar photovoltaic modules mounted on horizontal single-axis tracker systems; concentrating photovoltaic systems mounted on a dual-axis tracking system; or a mix of both systems. The project would disturb at least 1,238 acres of lands.

Based on review of the DEIR and Appendices, the Department is providing the following preliminary recommendations to the Lead Agency for inclusion in the Biological Resources Section of the Final Environmental Impact Report (FEIR).

- 1) **State Jurisdictional Lake or Streambed Alteration:** The DEIR states that the CDFW jurisdictional boundaries were determined based on the presence of riparian vegetation or regular surface flow. Please provide detailed delineation of both riparian and non-riparian resources including active as well as inactive channels within the project boundary and any adjacent buffer zones that could be impacted by the project activities. Also, furnish comprehensive analyses of temporary, permanent, and cumulative impacts of the project on the State jurisdictional resources. Please describe measures and success-criteria for site-specific restoration and mitigations for the project impacts on the jurisdictional resources.
- 2) **Burrowing owl (*Athene cunicularia*)** is a species of special concern in California, and the project area and the vicinity provide suitable habitat for this species. Burrowing owl should be mitigated through acquisition and protection, in perpetuity, of high quality biological habitat, and the surveys and mitigation should be consistent with the 2012 CDFW Staff Report on Burrowing Owl Mitigation. Some of the survey data reported in the DEIR were collected outside of the timeframe recommended in the guideline. Please provide a discussion on how the timing of the survey affected the comprehensiveness and detection probability, and elucidate the cogency of the conclusion and impact analysis based on these data. Also, chronicle the sunrise and sunset hours on the days of the survey.
- 3) **Flat-tailed horned lizard (*Phrynosoma mcallii*)** is a species of special concern in California. The Department is a Signatory Agency to the Rangewide Management Strategy, which designates and protects Management Areas and Research Areas for this species. The project site abuts the West Mesa Management Area and the Ocotillo Wells State Vehicular Recreation Area Research Area, with documented records of occurrence of this species within a short distance from the project site. The Department recommends that focused surveys for flat-tailed horned lizard should be conducted, and

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Mr. Jim Minnick, Imperial County Planning and Development Services
Seville Solar Farm Complex Project [State Clearinghouse No. 2013091039]
June 6, 2014

robust avoidance and mitigation measures should be adopted as per the Rangewide Management Strategy. The Department had already provided these recommendations to the Imperial County in a previous comment letter dated September 27, 2013, and the DEIR did not include any pre-project focused survey data for this species.

- 4) **Desert pupfish (*Cyprinodon macularius*)** is an endangered species in California. The proposed project site is located in the proximity of the critical desert pupfish habitat in the San Felipe Creek. The aquatic habitat necessary for this species also occurs in drains flowing to the Salton Sea, which is located in the vicinity of the project site. Excess surface water flowing through the project area drains to the Salton Sea. Please discuss the impacts of proposed water use and application of chemical palliatives in the project area on stream and drain habitat of desert pupfish.
- 5) Please include a discussion on the strategy for monitoring potential avian injury and mortality during the project construction and operation phases, and define the success criteria for measuring the avian impacts and potential risks.
- 6) Please include a discussion of the project's potential impacts on any plausible gaming and hunting opportunities.

Please note that as a Responsible Agency, the Department must rely on the environmental documents prepared by the Lead Agency in order to prepare and issue a Lake or Streambed Alteration Agreement and/or Incidental Take Permit for the project. If the FEIR for this project fails to identify all project impacts and adequately mitigate those impacts, the project proponent may be required to reinitiate the CEQA process at their expense, or fund another CEQA process under the direction of the Department to ensure that all project impacts are identified and adequately mitigated.

The Department appreciates the importance of renewable energy development, and would like to thank you for the opportunity for this feedback. If you have any questions regarding this letter, please contact Dr. Shankar Sharma, Senior Environmental Scientist (Specialist) at shankar.sharma@wildlife.ca.gov or 909-228-3692.

Sincerely,



Shankar Sharma, Ph.D.
Senior Environmental Scientist (Specialist) of Renewable Energy

Cc: State Clearinghouse
CDFW (attention: Dr. Shankar Sharma)

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STATE OF CALIFORNIA

NATIVE AMERICAN HERITAGE COMMISSION
1550 Harbor Boulevard, Suite 100
West Sacramento, CA 95691
(916) 373-3715
Fax (916) 373-5471
Web Site www.nahc.ca.gov
Ds_nahc@pacbell.net
e-mail: ds_nahc@pacbell.net

Edmund G. Brown, Jr., Governor

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APR 25 2014

STATE CLEARING HOUSE

April 23, 2014

Mr. David Black, Planner IV
Imperial County Planning and Development Services Department
801 Main Street
El Centro, CA 92243

Sent by U.S. Mail
No. of Pages: 4

RE: SCH#2013091039; CEQA Notice of Completion; draft Environmental Impact Report (DEIR) for the **"Regenerate LLC, Sevelle Solar Farm Complex Project (Construct, Operate, Reclamation of up to Five Solar Facilities; new Access; IID Switch Substation, Internal Transmission Lines;"** located near Berrego Springs, northwest Imperial County, California

Dear Mr. Black

The Native American Heritage Commission (NAHC) has reviewed the above-referenced environmental document.

The California Environmental Quality Act (CEQA) states that any project which includes archeological resources, is a significant effect requiring the preparation of an EIR (CEQA guidelines 15064.5(b)). To adequately comply with this provision and mitigate project-related impacts on archaeological resources, the Commission recommends the following actions be required:

Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archeological resources, pursuant to California Environmental Quality Act (CEQA) §15064.5(f). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities. Also, California Public Resources Code Section 21083.2 require documentation and analysis of archaeological items that meet the standard in Section 15064.5 (a)(b)(f).

If there is federal jurisdiction of this project due to funding or regulatory provisions; then the following may apply: the National Environmental Policy Act (NEPA 42 U.S.C 4321-43351) and Section 106 of the National Historic Preservation Act (16 U.S.C 470 *et seq.*) and 36 CFR Part 800.14(b) require consultation with culturally

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affiliated Native American tribes to determine if the proposed project may have an adverse impact on cultural resources

We suggest that this (additional archaeological activity) be coordinated with the NAHC, if possible. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. Any information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure pursuant to California Government Code Section 6254.10.

A list of appropriate Native American Contacts for consultation concerning the project site has been provided and is attached to this letter to determine if the proposed active might impinge on any cultural resources.

California Government Code Section 65040.12(e) defines "environmental justice" to provide "fair treatment of People...with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations and policies." (The California Code is consistent with the Federal Executive Order 12898 regarding 'environmental justice.' Also, applicable to state agencies is Executive Order B-10-11 requires consultation with Native American tribes their elected officials and other representatives of tribal governments to provide meaningful input into the development of legislation, regulations, rules, and policies on matters that may affect tribal communities.

Lead agencies should consider first, avoidance for sacred and/or historical sites, pursuant to CEQA Guidelines 15370(a). Then if the project goes ahead then, lead agencies include in their mitigation and monitoring plan provisions for the analysis and disposition of recovered artifacts, pursuant to California Public Resources Code Section 21083.2 in consultation with culturally affiliated Native Americans.

Lead agencies should include provisions for discovery of Native American human remains in their mitigation plan. Health and Safety Code §7050.5, CEQA §15064.5(e), and Public Resources Code §5097.98 mandates the process to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery.

Sincerely,


Dave Singleton
Program Analyst

CC: State Clearinghouse

Attachment: Native American Contacts list

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RESPONSE TO COMMENT LETTER 9

Commenter: Scott Morgan, Director, Governor's Office of Planning and Research

Date of Letter: June 9, 2014

Response to Comment 9-1: The comment states that the Draft EIR was submitted to selected state agencies for review. The comment notes that comments from agencies are forwarded to use in preparing the final environmental document. Lastly the comment acknowledges that the Project has complied with the State Clearinghouse requirements for draft environmental documents pursuant to CEQA. This comment is administrative in nature. Comment noted. No response is required.

Response to Comment 9-2: The comment is the "Document Details Report State Clearinghouse Data Base" included as an attachment to Comment Letter 9. The form is for administrative purposes and does not require a response. In addition, a copy of the letter from the California Department of Fish and Wildlife (CDFW) and the Native American Heritage Commission (NAHC) and were also attached to Comment Letter 9. The NAHC letter appears, and is responded to, as Comment Letter 1 in this Final EIR; the CDFW letter appears as Comment Letter 5.

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