

22 January 2011

Joshua Hart, Director  
Inyo County Planning Department  
Post Office Drawer L  
Independence, CA  
93526

Mr. Hart,

Please consider the following response to Inyo County's Draft General Plan Amendment to accommodate utility-scale wind and solar energy facilities.

The County's finding that the draft plan would not have significant environmental impacts and does not require an Environmental Impact Review is misleading. Although the County's draft plan may constitute a ministerial development at this point (CEQA, Sec. 15268), the scale of development that the plan intends to encourage almost certainly will incur significant damage to the County's natural, scenic, and cultural resources. This fact should be acknowledged in the plan, with a statement that projects—even in the designated areas—are likely to cause significant impacts that will require an environmental impact report, as a caution to private interests seeking permits.

12-1

- Several utility-scale solar developers have already underestimated the value of desert resources to the American public, and their lack of judgment and attempts to downplay the significant scale of environmental impacts has led to a waste of State and Federal resources to review and defend improperly sited proposals. Inyo County should strive to avoid repeating these mistakes by carefully filtering and limiting proposed development areas.

12-2

**The ability to mitigate each project's impacts, let alone the cumulative impacts of the County-wide development (Land Use Diagram #32a), may not be feasible.** The draft plan should be reworded to acknowledge the limitations of the amendment and the fact that the impacts of development on some of the sites is unlikely to be mitigated to less than significant levels, especially if they obstruct wildlife movement corridors, result in avian collision, affect cultural and historical resources, or impact neighboring wilderness or areas of critical environmental concern.

12-3

According to CEQA Section 15064:

"(d) In evaluating the significance of the environmental effect of a project, the Lead Agency shall consider direct physical changes in the environment which may be caused by the project and reasonably foreseeable indirect physical changes in the environment which may be caused by the project."

12-4

According to CEQA Section 15065:

"(3) The project has possible environmental effects that are individually limited but cumulatively considerable. Cumulatively considerable means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects."

**In addition to the scale of areas proposed for utility-scale energy development according to the draft plan amendment and accompanying maps, the need for transmission would add another significant layer of environmental impacts that is not explored in the plan.** Developing far flung areas of the County is likely to necessitate hundreds of miles of transmission line installation and upgrades that would have equally, if not more significant impacts on County resources than the projects themselves.

The County's amendment also limits solar development consideration to photovoltaic projects, perhaps because of the water requirements of some CSP technologies. However, all photovoltaic projects will also require substantial water use to wash the panels, and grading of the land that will irreparably harm the natural character of the County. For this reason, the County should reconsider the scope of lands upon which it will consider utility-scale development.

**The draft plan has the potential to significantly alter the character of Inyo County and deplete the rich natural and recreational resources that attract so many visitors. The imperative to increase generation of renewable energy should be met with careful planning, and a policy of "no regrets."** As the County has noted during public meetings and in the plan amendment, distributed generation (rooftop solar, backyard wind turbines) is a possibility for private residents and businesses in the county. The County should consider its policy options to take advantage of State and Federal incentives to boost distributed generation as a strong element in its renewable energy plans.

Sincerely,

Shaun Gonzales  
1526 17<sup>th</sup> St NW Apt 405  
Washington DC, 20036

12-4

12-5

12-6

**Responses to Comment Letter No. 12**  
**Shaun Gonzalez**

- 12-1 Refer to Response to Public Comment No. 1 regarding the requirements for an EIR. Note that the project is not ministerial, but does not have the potential for environmental impacts [refer also to CEQA Guidelines Section 15061(b)(3)].
- 12-2 The comment expresses subjective value judgments. Note that the County has and continues to work extensively to identify appropriate sites for renewable wind and solar energy development (refer to pages 6 and 7 of the MND/IS and the Resolution).
- 12-3 Refer also to Response to Public Comment No. 16. Overall, the proposed GPA will work to avoid, eliminate, and minimize potential impacts, and is expected to be beneficial.
- 12-4 The MND/IS evaluates potential direct, indirect, and cumulative impacts throughout. As indicated on page 27 of the MND/IS, no significant direct or indirect project-specific or cumulative impacts on the environment or human beings are anticipated, provided that mitigation is developed based on site-specific studies and applied to projects to preclude impact. Compliance with BMPs, the Inyo County General Plan, the Renewable Energy Ordinance, and other relevant local, State, and federal rules, regulations, policies, and procedures will work to ensure less than significant impacts. Refer also to Response Nos. 12-1 and 12-3.
- 12-5 The proposed GPA does not limit development to photovoltaic (refer also to Response No. 6-8). Potential hydrological impacts are discussed on pages 19, 20, 21, and 26 of the MND/IS. As indicated, compliance with BMPs, the Inyo County General Plan, the Renewable Energy Ordinance, and other relevant local, State, and federal rules, regulations, policies, and procedures will work to ensure less than significant impacts.
- 12-6 The proposed GPA works to protect the County's character as well as natural and recreational resources. The County has undertaken substantial outreach regarding the GPA, as described in the Resolution. The GPA provides for distributed generation.



DEPARTMENT OF THE NAVY  
NAVAL AIR WEAPONS STATION  
1 ADMINISTRATION CIRCLE  
CHINA LAKE CA 93555-6100

IN REPLY REFER TO:

5726  
Ser ARE2P/107  
January 26, 2011

Mr. Joshua Hart  
Director  
Inyo County Planning Department  
P.O. Box L  
Independence, CA 93526

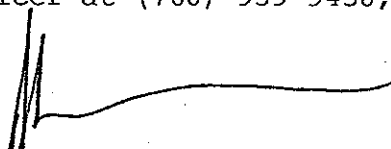
Dear Mr. Hart:

SUBJECT: GENERAL PLAN AMENDMENT NO. 2010-03 (RENEWABLE SOLAR AND WIND ENERGY)

Thank you for providing the opportunity for my staff to brief you, Ms. Richards and Mr. Carunchio on potential operational conflicts with certain types of renewable energy technology. I would also like to thank you for inserting language into the General Plan Amendment that reflects Inyo County's intent to coordinate with Naval Air Weapons Station (NAWS) China Lake to site renewable energy facilities in a manner that does not significantly impact military readiness.

Because NAWS China Lake is a vital national asset for the advancement of technology that allows our sailors to be successful when they are called upon for duty, it is imperative that development is done in such a way that does not diminish the mission capabilities of the base.

We realize the importance of renewable energy development in Inyo County. My staff is committed to actively participating in the review process for projects and looks forward to working with you in the future. If you have questions, please contact Mr. Tim Fox, Community Plans and Liaison Officer at (760) 939-9438, or email [timothy.h.fox@navy.mil](mailto:timothy.h.fox@navy.mil).

  
JEFFREY A. DODSON  
Captain U.S. Navy  
Commanding Officer

Copy to:  
NAWCWD  
BLM Ridgecrest Office (Mr. Hector Villalobos)

13-1

**Responses to Comment Letter No. 13**  
**Department of the Navy**

- 13-1 The comment acknowledges the County's intent to work to site renewable energy facilities in a manner that does not significantly impact military readiness.

Letter No. 14

## R-2508 COMPLEX SUSTAINABILITY OFFICE

Naval Air Warfare Center Weapons Division



8 February 2011

Sustainability Office, Code 52F00ME  
575 I Avenue, Suite 1  
Point Mugu, California 93042-5049

Mr. Joshua Hart  
Director  
Inyo County Planning Department  
P.O. Box L  
Independence, CA 93526

Dear Mr Hart:

I am writing on behalf of the R-2508 Complex and in regard to the Solar and Wind Renewable Energy Draft General Plan Amendment number 2010-03.

Your staff has been working hard with the military in this region to insert language into Policy LU-1.17 (Solar and Wind Renewable Energy Development) that ensures coordination with the Department of Defense on all renewable energy facility sitings in Inyo County that have the potential to significantly impact our mission. Such coordination is critical to the protection of military readiness and specifically the operations we conduct in the R-2508. We will review these projects and provide our input in a timely manner.

14-1

I would like to extend our gratitude for their efforts in drafting this language and also the pleasure we've encountered working with the staff. Please pass along my sincere gratitude and feel free to contact me if you have any questions at (805) 989-9209, or email [anthony.parisi@navy.mil](mailto:anthony.parisi@navy.mil).

A. M. Parisi, PE  
Complex Sustainability Officer

Copy to:

BLM Ridgecrest Office (Mr. Hector Villalobos)  
Naval Air Warfare Center Weapons Division (Mr. Dwight Deakin)  
Naval Air Weapons Station China Lake (Mr. Tim Fox)  
Air Force Flight Test Center (Mr. Scott Kiernan)

**Responses to Comment Letter No. 14**  
**R-2508 Sustainability Office**

14-1 The comment expresses gratitude for to the efforts in drafting the language to work to protect military readiness.

**OFFICE OF HISTORIC PRESERVATION  
DEPARTMENT OF PARKS AND RECREATION**

1725 23<sup>rd</sup> Street, Suite 100  
SACRAMENTO, CA 95816-7100  
(916) 445-7000 Fax: (916) 445-7053  
calshpo@parks.ca.gov  
www.ohp.parks.ca.gov



letter no. 15

February 14, 2011

Josh Hart  
Planning Director  
Inyo County Planning Department  
Post Office Box L  
168 N. Edwards Street  
Independence, CA 93526

- Sent via email and United States Postal Service -

Mitigated Negative Declaration for the Inyo County General Plan Amendment,  
Renewable Solar and Wind Energy (MND)

Dear Mr. Hart,

The State Office of Historic Preservation (OHP) has broad responsibility for the implementation of federal and state historic preservation programs in California. We thank you for the opportunity to comment on the above Mitigated Negative Declaration (MND) issued under the California Environmental Quality Act (CEQA).

We are concerned that the MND for the General Plan Amendment that will rezone thousands of rural acres into industrial uses may be insufficient. CEQA recognizes that planning decisions that could lead to significant effects on the environment are considered projects. CEQA defines a project as the "whole of the action which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." (CEQA Guidelines § 15378, (a)) If a project may have significant adverse effect on the environment then an Environmental Impact Report (EIR) is usually required. The California courts have consistently held that if evidence supports a "fair argument" that a project may have a substantial impact to a historical resource the lead agency must prepare an EIR for the project. *League for Protection of Oakland's Architectural and Historic Resources v. City of Oakland* (1<sup>st</sup> Dist. 1997) 52 Cal. App. 4<sup>th</sup> 896, 905-906 [60 Cal. Rptr. 2d 821]. Therefore, the rezoning of thousands of acres of rural land into industrial uses could have significant cumulative adverse impacts and we recommend that the County prepare an EIR for the project.

We thank you for the opportunity to comment on the above project. Please understand that our comments herein are specifically related to the environmental review process and adequacy of documents prepared for the environmental review purposes. We do not take positions in support of or against projects, but rather focus on the environmental review process itself.

15-

Josh Hart, pg. 2

If you have any further questions, please do not hesitate to contact Ronald Parsons, Historian I, CEQA Coordinator, Local Government Unit at (916) 445-7016 or at [rparsons@parks.ca.gov](mailto:rparsons@parks.ca.gov).

Sincerely,

A handwritten signature in cursive script, appearing to read "Milford Wayne Donaldson".

Milford Wayne Donaldson, FAIA  
State Historic Preservation Officer

Cc: Bill Helmer, Tribal Historic Preservation Officer, Big Pine Paiute Tribe

**Responses to Comment Letter No. 15**

**State of California, Office of Historic Preservation, Department of Parks and Recreation**

- 15-1 Refer to Response to Public Comment No. 1 regarding preparation of an EIR. Note that as indicated on pages 6 and 7 of the MND/IS, the project does not involve rezoning rural land for industrial uses, but to the contrary, is intended to guide appropriate renewable wind and solar energy development, direct renewable energy developers where to investigate solar and wind renewable energy development potential, incorporate community input into where renewable wind and solar energy development might occur, and reduces the share of the County that the General Plan permits renewable energy from over 90 percent to about 15 percent. Not also that according to CEQA Guidelines Section 15064, the existence of public controversy over the environmental effects of a project will not require preparation of an EIR if there is no substantial evidence that the project may have a significant effect on the environment, and that argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence. No fair argument has been submitted that an EIR should be prepared.

Letter No. 16

Department of Water and Power



the City of Los Angeles

ANTONIO R. VILLARAIGOSA  
Mayor

Commission  
THOMAS S. SAYLES, *President*  
ERIC HOLOMAN, *Vice-President*  
CHRISTINA E. NOONAN  
JONATHAN PARFREY  
BARBARA E. MOSCHOS, *Secretary*

RONALD O. NICHOLS  
*General Manager*  
RAMAN RAJ  
*Chief Operating Officer*

February 11, 2011

Mr. Kevin Carunchio  
Administrative Officer  
County of Inyo  
P.O. Box N  
Independence, CA 93526

Dear Mr. Carunchio:

**Subject: Comments on Initial Study and Draft Mitigated Negative Declaration of Environmental Impact for General Plan Amendment No. 2010-03 (Renewable Solar and Wind Energy, Inyo County)**

Thank you for the opportunity to comment on the Initial Study and Draft Mitigated Negative Declaration of Environmental Impact for the General Plan Amendment No. 2010-03 (Renewable Solar and Wind Energy Inyo County) (GPA). We also appreciate Inyo County recognizing the importance of renewable resources in Southern Owens Valley. Pursuant to the Notice, the City of Los Angeles Department of Water and Power (LADWP) hereby submit the following comments.

The City of Los Angeles (City) is a municipal corporation and charter city organized under the provisions of the California Constitution. LADWP is a municipal and a proprietary department of the City that supplies, pursuant to the City Charter, water and electricity to residents and businesses in the City and parts of Owens Valley. To meet the demands of its native load, LADWP, a vertically-integrated utility, has planned, constructed and operates significant generation and transmission assets within the Western Interconnection, both in California and neighboring states. These facilities, controlled by LADWP, enable LADWP to meet its obligation to serve its approximately 1.4 million customers. LADWP's system includes substantial land holdings and operations in the Inyo County. These holdings and operations appear to be directly impacted by the proposed GPA.

The Notice of Availability of the Initial Study and Draft Mitigated Negative Declaration of Environmental Impact seeks comments on issues regarding an update to the Inyo County General Plan to address renewable solar and wind energy development. The purpose of the update is to propose where renewable energy projects may be developed and provide specific updates to related impacts. LADWP appreciates the County's initiative to prepare and support renewable energy development that preserves and protects the natural resources and citizens of Inyo County. LADWP has generally organized its comments to address issues in the order in which they are raised in the

**Water and Power Conservation ... a way of life**

111 North Hope Street, Los Angeles, California 90012-2607 Mailing address: Box 51111, Los Angeles 90051-5700  
Telephone: (213) 361-4211 Cable address: DEWAPOLA

16-1

Mr. Kevin Carunchlo  
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Notice, although LADWP has not addressed every issue raised in the Notice. Concerns regarding the recently announced Renewable Energy Ordinance (REO) and the General Plan Amendment (GPA) are summarized below:

- 1) Concerns on the requirement of a Project Agreement - A development agreement approach has been tried and tested elsewhere with varying degrees of success. Undue burdens and the lack of certainty posed by additional mitigation(s) over and beyond those identified in the CEQA process may lead projects to become uneconomical and deter development. 16-1
- 2) The California Environmental Quality Act (CEQA) Process - The existing CEQA process contains sufficient safeguards regarding impact analysis and mitigation enforcement. Once a renewable energy developer satisfies their CEQA mitigations, the terms and provisions in this Ordinance should already be covered. It is our initial perception that this Ordinance may go beyond the current environmental review and permitting process. 16-2
- 3) Reliance on Factual Data - Additional studies should be conducted to support the claims and mitigation considerations on which the General Plan Amendment No. 2010-03 relies upon. While Inyo County aims to expedite renewable energy development, this Ordinance does not provide any exemption for renewable energy developments that are in compliance with the CEQA process or to municipal utilities that have sovereign permitting rights under state law for facilities used for the purpose of the production, generation, storage, treatment, or transmission of water, or for the production or generation of electrical energy. This Ordinance appears to be a duplicate process that may hinder future renewable energy development. 16-3
- 4) Inyo County needs to be competitive with other counties attracting renewable energy development - If the Ordinance leads to excessive mitigation measures above and beyond those that are normally addressed under CEQA, it may cause solar energy projects, which are already more costly than conventional generation and other renewable technologies, to become cost prohibitive. Adding such financial burdens onto a potential project may discourage renewable energy developers from pursuing projects in Inyo County. 16-4
- 5) General Plan Amendment conflicts with the State's goals of promoting solar energy development - In order to lower the costs of solar energy generating facilities and reduce carbon emissions from fossil fuel based power plants, the State has recognized the need and has taken steps to provide tax incentives to help develop renewables in rural areas. Requiring alternative methods to tax solar energy projects through the use of a REO or GPA may be counterintuitive to the intent of the State's policy makers. 16-5

16-6

Mr. Kevin Carunchlo  
Page 3  
February 11, 2011

- 6) The GPA's reference to other renewable energy general plans - The CEC, BLM, USFWS, DFG, is currently conducting a Desert Renewable Energy Conservation Plan (DRECP) that includes Inyo County. The proposed Inyo County GPA does not mention if the development of the overlays took into consideration the proposed plan or any other plans already approved.
- 7) Incentives for Renewable Energy Projects - Many of the communities that have successfully developed renewable energy projects have usually provided incentives to attract these projects. Inyo County should consider how it might draw future renewable energy projects through such incentives.

16-7

16-8

LADWP is highly interested in a collaborative effort with Inyo County to accomplish common goals, using established parameters, while recognizing the uniqueness and interests of both parties. Thank you for considering our comments and we look forward to continue our working relationship with you as we move forward with the efforts of developing clean renewable energy in Inyo County. If you have any questions regarding this matter, please contact me at (213) 367-0403.

16-9

Sincerely,



Mark J. Sedlacek  
Director of Environmental Affairs

SG:aq  
c: Mr. Mark J. Sedlacek

**Responses to Comment Letter No. 16**  
**City of Los Angeles Department of Water and Power**

- 16-1 The comment is introductory.
- 16-2 The comment refers to the Renewable Energy Ordinance. As indicated in Section 1 of the Ordinance, the County supports and encourages the responsible utilization of its natural resources, including the development of its solar and wind resources for the generation and transmission of clean, renewable electric energy; the County has a responsibility to exercise its full authority to protect the health, safety and welfare of its citizens and to protect the County's environment, including its public trust resources, by requiring that the adverse impacts of the development of the County's solar and wind resources to generate and transmit clean, renewable electric energy are avoided or acceptably mitigated; the County has a responsibility to promote economic development in the County including attracting, expanding and retaining businesses which generate electricity, businesses that consume electricity, businesses that create living wage jobs, businesses that provide goods and services contributing to self-sufficiency for the County and its businesses and residents, and businesses which generate taxes and other revenues to maintain and enhance governmental and educational services to residents and businesses of the County; and, to facilitate the development of renewable electric energy in the County it is desirable to encourage agreements between developers of such projects and the County that expedite the approval and construction of renewable electric energy projects and that allow flexibility in the application of the County land use standards in appropriate circumstances.
- 16-3 The comment refers to the Renewable Energy Ordinance. As indicated in Inyo County Code (ICC) Section 21.08.010, for the purposes of the Ordinance, the term environment includes the ecological environment of the County as well as the social, aesthetic and economic environment of the County. Impacts upon the quality of life within the County are considered environmental impacts. Therefore, the definition of environment is not limited by and may be broader than environmental considerations under CEQA or NEPA. The County encourages potential developers and other agencies to address these broader issues in their environmental review process.
- 16-4 As indicated throughout the MND/IS, site-specific studies, permitting, and appropriate environmental review will be required for any future renewable energy projects in the County. The MND/IS includes over 28 pages of technical analysis and references to numerous technical reports, as encouraged by CEQA.

The County will work with applicants, developers, and other agencies to process proposals for such projects as expeditiously as possible (refer also to Response No. 16-2). All projects, including those for municipal utilities, are required to be consistent with CEQA and other applicable law, and no exemptions in these regards are necessary.

- 16-5 The comment refers to the Renewable Energy Ordinance. Refer to Response No. 16-2.
- 16-6 The GPA is consistent with State goals for renewable energy development. As indicated on page 6 of the MND/IS, the GPA is proposed to guide appropriate renewable wind and solar energy development, direct renewable energy developers where to investigate solar and wind renewable energy development potential, and incorporate community input into where renewable wind and solar energy development might occur.
- 16-7 As indicated on pages 5, 6, 20, and 21 of the MND/IS, the County has been participating in the referenced plans, and that individual projects are expected to be consistent.
- 16-8 The County may consider incentives for renewable energy projects. Refer also to Response No. 16-2.
- 16-9 Inyo County likewise looks forward to working collaboratively with the Department on any future renewable energy projects and other endeavors.

# BrightSource Energy

February 14, 2011

Via E-Mail & Facsimile

Inyo County Planning Commission  
168 N. Edwards Street  
Independence, California 93526  
[www.inyoplanning.com/inyocommittees](http://www.inyoplanning.com/inyocommittees)  
Fax: (760) 878-0382

Re: General Plan Amendment No. 2010-03/Inyo County  
(Renewable Solar and Wind Energy)

Dear Commissioners and Staff of the Inyo County Planning Commission,

BrightSource Energy, Inc. ("BrightSource") appreciates this opportunity to comment on the Inyo County Planning Commission's proposed General Plan Amendment No. 2010-03 / Inyo County (Renewable Solar and Wind Energy) (the "Solar & Wind General Plan Amendment"). First, we would like to thank Commission Staff for their efforts; they should be commended on their fine work on the proposed plan amendment. We would also like to offer a few comments and suggestions to further the Commission's objectives in promoting responsible solar and wind projects. Renewable energy can contribute good jobs, significant tax revenues, and a wealth of indirect economic benefits to Inyo County, and the adoption of this ordinance, with minor modifications, will help make this promise a reality.

BrightSource is a leading solar thermal energy company that designs, develops, owns and operates large-scale solar energy plants and supplies proprietary technology to deliver clean, low-cost, reliable solar energy in the form of steam and/or electricity. We have contracts to provide fourteen solar power plants to Pacific Gas & Electric Company and Southern California Edison Company, which will collectively supply 2,610 MW of renewable energy. Construction of the first three of these power plants, which is now underway, will create 1000 jobs; over the first 30 years of their operation, these power plants will provide \$650 million in wages and \$300 million in state and local taxes. They will also avoid over 400,000 tons of carbon dioxide emissions annually, amounting to 13.5 million tons over 30 years, in addition to substantially reducing the energy system's criteria air pollutant emissions, which are harmful to both human health and the environment. The low-impact design we deploy reduces grading to a minimum, enabling vegetation and natural contours to largely

remain in place and allowing natural stormwater flow through the solar field. Our projects are also designed to protect the desert's precious water resources, with dry-cooling that uses a small fraction of the water required for conventional power, and with no liquid discharges. We are looking forward to building our technologically-advanced, environmentally-responsible solar power plants in Inyo County.

17-1

BrightSource's specific comments on the Solar & Wind General Plan Amendment follow.

- 1) Policy LU-1.17 (Solar and Wind Renewable Energy Development). The proposed provision suggests mitigation for potential, rather than actual, negative impacts, which is speculative and would create an unreasonable burden on renewable energy development. The extent of minimization required should also be clarified, to reflect reasonable limitations and avoid unnecessarily restrictive interpretation. BrightSource suggests the following changes to the proposed provision:

***Policy LU-1.17 (Solar and Wind Renewable Energy Development)*** – The County shall consider Solar or Wind Energy facilities within areas with a Renewable Energy Land Use Designation Overlay and in any zoning district under Title 18 of the Inyo County Code. Based on site-specific studies and appropriate environmental review, the County may process Solar or Wind Renewable Energy Facilities within the Overlay pursuant to Inyo County Code Title 21. ~~Potential *Negative*~~ social, economic, and environmental impacts from Solar or Wind Renewable Energy Facilities must be minimized to the extent reasonably feasible, considering *economic and technical constraints*.

17-2

- 2) Policy PSU-10.5 (Encourage Renewable Energy Development). The proposed provision, as with Policy LU-1.17, should be clarified, so as to avoid unnecessarily restrictive interpretations. BrightSource suggests the following changes to the proposed provision:

***Policy PSU-10.5 (Encourage Renewable Energy Development)*** – The County shall encourage appropriate development of renewable energy resources, provided that ~~*negative*~~ social, economic, and environmental impacts are minimized to the extent reasonably feasible, considering *economic and technical constraints*.

17-3

- 3) Policy ED-4.4 (Renewable Energy Development Beneficial to the Local Economy). The proposed provision should explicitly consider the positive economic benefits resulting from renewable energy development, including both direct benefits and the substantially larger indirect benefits, estimated to be many times larger than the direct benefits. The County should also retain discretion on mitigation or offset assessment, to avoid disincentives to desirable development. BrightSource proposes the following changes to the proposed provision:

17-4



**Policy ED-4.4 (Renewable Energy Development Beneficial to the Local Economy) –**

Renewable energy development shall provide means to offset net costs to the County and lost economic development potential, considering the direct and indirect economic benefits that renewable energy development provides to the County. If potential net negative economic impacts from renewable energy development are identified by the County, after assessing and offsetting the value of beneficial impacts, commensurate mitigation and/or offsets shall may be required if determined to be in the overall best interest of the County, including consideration of the potential impact to renewable energy development.

17-4

- 4) Policy VIS-1.8 (Renewable Energy Development). This proposed provision, in its current form, would inadvertently create substantial and potentially unachievable barriers to renewable energy development, regardless of the nature and importance of the affected visual resource. BrightSource proposes the following changes to the proposed provision to ensure that requirements are reasonable and proportional:

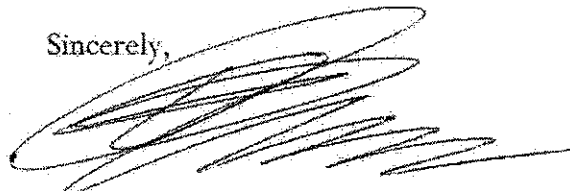
17-5

**Policy VIS-1.8 (Renewable Energy Development) –** The County shall encourage siting and screening to minimize significant changes to the significant visual environment resources from renewable energy development, including minimizing light and glare, to the extent possible reasonably feasible, considering economic and technical constraints.

BrightSource would also like to take this opportunity to note its support of the Commission Staff's response to comments from the January 6, 2011, public meeting, which demonstrate Staff's careful, thoughtful and balanced approach to the important issues addressed by the proposed plan amendment.

Once again, BrightSource thanks the Commission for this opportunity, and thanks the Commission Staff for all of their efforts on the Solar & Wind General Plan Amendment. We hope that the Commission will consider these comments in adopting the final plan amendment.

Sincerely,



Clay Jensen  
Director, Project Development



**Responses to Comment Letter No. 17**  
**Bright Source Energy**

- 17-1 The comment is introductory.
- 17-2 The General Plan is a policy level document, and the GPA is intended to address renewable energy at a broad perspective. These proposed additional clarifying language is usually inferred, but is acceptable.
- 17-3 The General Plan is a policy level document, and the GPA is intended to address renewable energy at a broad perspective. These proposed additional clarifying language is usually inferred, but is acceptable.
- 17-4 The language in the draft GPA better provides the County the flexibility to address potential adverse economic impacts from renewable energy development than that proposed by the commenter. Potential economic benefits from renewable energy development will be considered and weighed relative to potential impacts when implementing this policy, based on site-specific studies, permitting, and appropriate environmental review.
- 17-5 These proposed additional clarifying language is usually inferred, but is acceptable.



CENTER for BIOLOGICAL DIVERSITY

VIA ELECTRONIC MAIL AND U.S. MAIL

February 11, 2011

Inyo County Planning Department  
P. O. Drawer "L"  
Independence, CA 93526  
Email: [inyoplanning@inyocounty.us](mailto:inyoplanning@inyocounty.us)

**Re: General Plan Amendment No. 2010-03 (Renewable Solar and Wind Energy)  
(Inyo County) and Draft Mitigated Negative Declaration of Environmental Impact  
and Initial Study.**

Dear Planning Department:

These comments are submitted on behalf of the Center for Biological Diversity's 255,000 staff, members and on-line activists in California and throughout the United States, regarding the General Plan Amendment No. 2010-03 (Renewable Solar and Wind Energy)(Inyo County) ("proposed GPA") and Draft Mitigated Negative Declaration of Environmental Impact and Initial Study for the proposed GPA ("MND/IS").

The development of renewable energy is a critical component of efforts to reduce greenhouse gas emissions, avoid the worst consequences of global warming, and to assist California in meeting emission reductions set by AB 32 and Executive Orders S-03-05 and S-21-09. The Center for Biological Diversity (the "Center") strongly supports the development of renewable energy production, and the particularly support planning efforts to ensure that projects are sited appropriately. Like any other industrial projects, renewable energy projects should be thoughtfully planned to minimize impacts to the environment. In particular, renewable energy projects should avoid impacts to sensitive species and habitats, and should be sited in proximity to the areas of electricity end-use and existing transmission in order to reduce the need for extensive new transmission corridors or lines and the efficiency loss associated with extended energy transmission. Only by maintaining the highest environmental standards with regard to local impacts, and effects on species and habitat, can renewable energy production be truly sustainable.

According to the MND, the County proposes to adopt a General Plan Land Use Designation Overlay ("Overlay") that would steer renewable energy development into the adopted zones. The Center supports the County's efforts begin a rational process of planning for renewable energy development on private and public lands within the County. However, more work is needed to ensure that this planning process will have the desired results and that the development of renewable energy in Inyo County is properly sited to avoid significant impacts to environmental resources to the greatest extent feasible.

Arizona • California • Nevada • New Mexico • Alaska • Oregon • Montana • Illinois • Minnesota • Vermont • Washington, DC

Lisa T. Belenky • Senior Attorney • 351 California St., Suite 600 • San Francisco, CA 94104  
tel: (415) 436.9682 ext. 307 fax: (415) 436.9683 lbelenky@biologicaldiversity.org [www.BiologicalDiversity.org](http://www.BiologicalDiversity.org)

18-1

18-2

A Determination that revisions/mitigations will result in the project having no significant effects is not warranted. The areas that would within the overlay adopted in the proposed GPA contain the significant biological and other resources that will be affected by the proposed GPA an EIR is needed. We are also concerned that the proposed GPA fails to address the transmission needs for renewable energy development in these proposed overlay areas and as a result has ignored many additional significant impacts of the proposed GPA.

18-2

Although additional information is needed and a full analysis in an EIR, based on the information in the MND/IS it appears that some of the proposed overly zones should be studied further and others should likely be abandoned as wholly inappropriate.

### **I. The County Has Failed to Comply with CEQA.**

The proposed GPA requires full environmental review under CEQA in an EIR. The County cannot rely on a mitigated negative declaration for approval of the proposed project because the project may significantly impact species and habitats, rare plants, water quality, and other environmental resources.

#### **A. Legal Background.**

The Legislature enacted CEQA to “[e]nsure that the long-term protection of the environment shall be the guiding criterion in public decisions.” *No Oil, Inc. v. City of Los Angeles*, 13 Cal. 3d 68, 74 (1974). The Supreme Court has repeatedly held that CEQA must be interpreted to “afford the fullest possible protection to the environment.” *Wildlife Alive v. Chickering*, 18 Cal. 3d 190, 206 (1976) (quotation omitted). CEQA also serves “to demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action.” *Laurel Heights Improvement Ass’n v. Regents of Univ. of Cal.* (1988) 47 Cal. 3d 376, 392 (“*Laurel Heights I*”). If CEQA is “scrupulously followed,” the public will know the basis for the agency’s action and “being duly informed, can respond accordingly to action with which it disagrees.” *Id.* Thus, CEQA “protects not only the environment but also informed self-government.” *Id.*

18-3

CEQA applies to all “discretionary projects proposed to be carried out or approved by public agencies.” Pub. Res. Code § 21080(a). CEQA defines a “project” as an action by a public agency that has the potential to cause a physical change in the environment. Guidelines § 15378. CEQA applies to “discretionary projects proposed to be carried out or approved by public agencies, including, but not limited to, the enactment and amendment of zoning ordinances...” Cal. Pub. Res. Code, § 21080(a). The definition of “project” includes the adoption, amendment or revision of a general plan. Guidelines § 15378(a)(1); *Sierra Club v. County of Sonoma* (1992) 6 Cal. App. 4th 1307; *City of Redlands v. County of San Bernardino* (2002) 96 Cal. App. 4th 398

A “project” is “the whole of an action” directly undertaken, supported, or authorized by a public agency “which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” Pub. Res. Code § 21065; CEQA Guidelines § 15378(a). Under CEQA, “the term ‘project’ refers to the underlying activity and not the governmental approval process.” *California Unions for Reliable Energy v. Mojave*

*Desert Air Quality Mgmt. Dist.* (2009) 178 Cal. App. 4th 1225, 1241 (quoting *Orinda Ass'n v. Bd. of Supervisors* (1986) 182 Cal. App. 3d 1145, 1171-72). The definition of "project" is "given a broad interpretation in order to maximize protection of the environment." *Lighthouse Field Beach Rescue v. City of Santa Cruz* (2005) 131 Cal. App. 4th 1170, 1180 (internal quotation omitted).

Where, as here, there is a fair argument that the proposed project may have a significant effect on the environment, preparation of an EIR is required. Public Resources Code §§ 21100, 21151; CEQA Guidelines § 15064(a)(1); *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal. 3d 68, 82. Before reaching a decision on the project, the lead agency must consider any comments submitted. Pub. Resources Code, § 21091, subd. (d)(1); CEQA Guidelines, § 15074 (b)). Under CEQA, an EIR must be prepared even if the lead agency can point to substantial evidence in the record supporting its determination that no significant effect will occur. *Architectural Heritage Assn. v. County of Monterey* (2004) 122 Cal. App. 4th 1095, 1110. The lead agency may not dismiss evidence because it believes that there is contrary evidence that is more credible. *Pocket Protectors v. City of Sacramento* (2005) 124 Cal. App. 4th 903, 935. Either there is substantial evidence showing the possibility of a significant environmental effect or there is not. If there is, then the lead agency must prepare an EIR. *Architectural Heritage Assn.*, 122 Cal. App. 4th at 1109-1110. Importantly, the "fair argument" test "establishes a low threshold for initial preparation of an EIR, which reflects a preference for resolving doubts in favor of environmental review." *Id.* at 1110. Notably, even where the ultimate goal of an action may be to improve the environment, an EIR may be needed. CEQA Guidelines § 15063 (b)(1) (where a project may cause significant effect on the environment "regardless of whether the overall effect of the project is adverse or beneficial" the agency shall prepare an EIR).

18-3

By contrast, negative declarations are appropriate only when there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment. Pub. Resources Code, § 21064.5; see also § 21080, subd. (c); CEQA Guidelines §§ 15006, subd. (h), 15064, subd. (f)(2), 15070, subd. (b), 15369.5. No such determination can be made in this instance. By adopting a GPA for solar zones within the County, the decision will steer development of renewable energy and transmission in ways that will substantially effect the environment.

18-4

Further, CEQA requires the preparation of environmental review documents "as early as feasible in the planning process to enable environmental considerations to influence project program and design and yet late enough to provide meaningful information for environmental assessment." *Laurel Heights I*, 47 Cal.3d at 395; see also CEQA Guidelines § 15004(b). The purpose of CEQA is to provide decision-makers and the public with environmental information before decisions are made, not after. As the California Supreme Court observed in *Laurel Heights I*, "[i]f post-approval environmental review were allowed, [CEQA analyses] would likely become nothing more than post hoc rationalizations to support action already taken. We have expressly condemned this [practice]." 47 Cal. 3d at 394 (citation omitted). Accordingly, "public agencies shall not undertake actions concerning the proposed public project that would have a significant adverse effect or limit the choice of alternatives or mitigation measures, before completion of CEQA compliance." CEQA Guidelines § 15004(b)(2). In particular, an agency shall not "take any action which gives impetus to a planned or foreseeable project in a manner

18-5

that forecloses alternatives or mitigation measures that would ordinarily be part of CEQA review of that public project." CEQA Guidelines § 15004(b)(2)(B). 18-5

There is no question that the proposed general plan amendment will have a direct and foreseeable indirect impacts on the environment or that it is intended to facilitate industrial scale solar energy development within the County and steer that development to specific areas. As a result, this is the time when a full environmental review should be conducted for the impacts of the project as a whole. The time for complete CEQA review of this proposed project is now, when environmental considerations still can inform the County's decision, and before the County takes any steps that could foreclose any potential alternatives or mitigation measures. *Laurel Heights I*, 47 Cal.3d at 394-95; CEQA Guidelines § 15004(b)(2)(B). It does not matter for purposes of CEQA that the County or any other public agency may need to render some later decision with regard to the specific project approvals. See *Fullerton Joint Union High Sch. Dist. v. State Bd. of Educ.* (1982) 32 Cal. 3d 779, 795. The County cannot defer evaluation of environmental impacts until after project approval or skirt the required procedure for public review and agency scrutiny of potential impacts. *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 307-09. 18-6

**B. Direct, Indirect, and Cumulative Impacts are Not Adequately Identified or Analyzed.**

Because the proposed GPA may have significant direct and indirect impacts on many environmental resources including surface waters and ground water resources, air quality, open space, visual resources, and rare and imperiled wildlife and plant species, an EIR is required. See, e.g., CEQA Guidelines §15065(a)(1) (mandatory findings of significance). Impacts to habitat for rare flora and fauna are significant under section 15065 and require full evaluation under CEQA. See *Mira Monte Homeowners Association v. Ventura County*, 165 Cal.App.3d 357, 363-364. 18-7

For example, several rare, threatened and endangered species currently inhabit areas proposed for solar development zones (identified as Overlays on the Land Use Diagram #32a DRAFT: Wind and Solar Renewable Energy GPA) including but not limited to:

Common Name	Scientific Name	State/Federal/Other Status
Desert Tortoise	<i>Gopherus agassizii</i>	CT/FT
Owens Tui Chub	<i>Siphateles bicolor snyderi</i>	CE/FE
California Inyo Towhee	<i>Pipilo crissalis eremophilus</i>	CSC/FT
Southwestern Willow Flycatcher	<i>Empidonax traillii extimus</i>	CE/FE
Swainson's Hawk	<i>Buteo swainsoni</i>	CT/MB
Black Toad	<i>Anaxyrus [Bufo] exsul</i>	ST/FP
Yellow Billed Cuckoo	<i>Coccyzus americanus occidentalis</i>	CE/MB
Western Snowy Plover	<i>Charadrius alexandrinus</i> (Interior Population)	CSC/MB
Mojave ground squirrel	<i>Spermophilus mojavenensis</i>	ST/Petitioned FT
Least Bell's Vireo	<i>Vireo belli pusillus</i>	SE/FE
Owens pupfish	<i>Cyprinodon radiosus</i>	SE/FE
Ash meadows gumplant	<i>Grindelia fraxino-pratensis</i>	FE/Cal List 1B.2.
Amargosa niterwort	<i>Nitrophila mohavensis</i>	FE/Cal List 1B.1

Owens Checkerbloom	<i>Sidalcea covillei</i>	SE/Cal List 1B./BLM SS
Death Valley sandpaper-plant	<i>Petalonyx thurberi ssp. gilmanii</i>	Cal List 1B.3/BLM SS
Tecopa bird's-beak	<i>Cordylanthus tecopensis</i>	Cal List 1B.2/BLM SS
Charlotte's phacelia	<i>Phacelia nashiana</i>	Cal List 1B.2/BLM SS
Creamy blazing star	<i>Mentzelia tridentata</i>	Cal List 1B.3/BLM SS
Forked buckwheat	<i>Eriogonum bifurcatum</i>	Cal List 1B.2/BLM SS
DeDecker's clover	<i>Trifolium dedeckerae</i>	Cal List 1B.3/BLM SS
Inyo Rock Daisy	<i>Perityle inyoensis</i>	Cal List 1B.2/BLM SS
Pinyon Mesa buckwheat	<i>Eriogonum mensicola</i>	Cal List 1B.3/BLM SS
Amargosa beardtongue	<i>Penstemon fruticiformis var. amargosae</i>	Cal List 1B.3/BLM SS
Darwin Mesa milk-vetch	<i>Astragalus atratus var. mensanus</i>	Cal List 1B.1/BLM SS
Inyo County star-tulip	<i>Calochortus excavatus</i>	Cal List 1B.1/BLM SS
Horn's milk-vetch	<i>Astragalus hornii var. hornii</i>	Cal List 1B.1/BLM SS
Parish's popcorn-flower	<i>Plagiobothrys parishii</i>	Cal List 1B.1/BLM SS
Mono County phacelia	<i>Phacelia monoensis</i>	Cal List 1B.1/BLM SS
<b>State Designation</b> SE – State listed as endangered. ST State listed as threatened. Species that although not presently threatened in California with extinction are likely to become endangered in the foreseeable future. CSC California Department of Fish and Game "Species of Special Concern." Species with declining populations in California. <b>Federal Designation</b> FE Federally listed as endangered. FT Federally listed as threatened. MB Migratory Bird Treaty Act. of 1918. Protects native birds, eggs, and their nests. BLM SS BLM Sensitive Species. <b>Other</b> Cal List – California Rare Plant Rank 1B.1 Plant rare, threatened or endangered in California and elsewhere, and very threatened. 1B.2 Plant rare, threatened or endangered in California and elsewhere, and fairly threatened in CA. 1B.3 Plant rare, threatened or endangered in California and elsewhere, and not very threatened in CA.		

18-8

The California Rare Plant Rank of 1B indicates that these species qualify for Endangered Species Act protection, but they have not yet been petitioned for protection.

While other rare and endangered species are not directly in the footprint of the overlay zones, they may be significantly impacted by the activities in the overlay zones. Groundwater use in any of the zones may affect down-gradient springs, seeps and riparian areas that are critical for rare, threatened and endangered species. For example, the state and federally endangered Amargosa vole is limited to the moist meadows in and around Tecopa. Activities in the Death Valley Junction Overlay and others could have downstream effects on the Amargosa River and potentially impact the Amargosa vole and other downstream resources. These types of issues for a variety of rare and endangered species simply are unaddressed in the MND/IS. Impacts to down-gradient ground water resources is wholly unaddressed and it is not clear from the documents whether the County notified the Lahontan Regional Water Quality Control Board as a responsible agency and/or provided the board with an opportunity to review and comment on the draft MND/IS and the potential impacts to water quality from the proposed GPA.

18-9

The MND/IS fails to recognize and evaluate the potential impacts of these zones on the Mojave Ground Squirrel Conservation Area which was designated in the Bureau of Land

18-10

Management's West Mojave Plan in 2006.<sup>1</sup> In fact, several of the Overlays cover the BLM designated Conservation Area. The Conservation Area has a one-percent allowable development cap. The Overlays are proposed clearly exceed the development cap, yet this issue is not discussed or analyzed in the MND/IS. We maintain that the proposed overlays conflict with the provisions of the regional conservation plan as adopted- in this case the West Mojave Plan.

18-10

The Owens Lake and Keeler, Owens Valley and Deep Springs Overlays are coincident with Audubon's Important Bird Areas (IBA's)<sup>2</sup>. The impact to these IBAs is not addressed in the MND/IS.

18-11

The MND/IS also fails to address potential impacts to golden eagles, a state fully protected species and a federal species of concern protected both under the Migratory Bird Treaty Act and the Bald and Golden Eagle Act. Because of significantly declining populations of golden eagles, the U.S. Fish and Wildlife Service issued new guidance March of 2010 with regards to surveying and impact analysis to golden eagles.<sup>3</sup> They recently released a Draft Eagle Conservation Plan.<sup>4</sup> The MND/IS fails to address and implement the new guidance which is a critical to understanding the potential impacts to golden eagles from the proposed overlay zones.

18-12

Additionally the MND/IS also fails to address crucial plant and animal connectivity issues. The proposed overlay zones from Independence in the north to Pearsonville in the south create the opportunity for a solid band of potential development to be developed - effectively impacting not only occupied habitat for threatened and endangered species, but also potentially blocking movement between the Argus, Coso and Inyo Mountains and the Sierra Nevada Range. Cutting off crucial connectivity especially in light of global climate change is a significant impact.

18-13

These potentially significant impacts, and others, show that there is a fair argument that the proposed general plan amendment may have one or more significant effects on the environment and, therefore, an EIR must be prepared.

18-14

Insufficient detail is provided to the public. The MND/IS fails to provide the public with essential information with which to determine the impacts of development in the overlay areas on the environment. Identification of the resources of these areas and the likely impacts on them is needed. Full disclosure of environmental impacts of these projects must include direct, indirect and cumulative impacts from the foreseeable development including impacts to biological resources, water resources, and air quality.

18-15

### C. Alternatives

The County has not provided sufficient information about feasible alternatives to comply with CEQA. Pursuant to CEQA and the guidelines, "public agencies shall not undertake actions

18-16

<sup>1</sup> <http://www.blm.gov/ca/st/en/fo/cdd/wemo.html>

<sup>2</sup> <http://ca.audubon.org/iba/ibamaps.php>

<sup>3</sup> [www.fws.gov/.../USFWS Interim GOEA Monitoring Protocol 10March2010.pdf](http://www.fws.gov/.../USFWS_Interim_GOEA_Monitoring_Protocol_10March2010.pdf)

<sup>4</sup> [http://www.fws.gov/windenergy/eagle\\_guidance.html](http://www.fws.gov/windenergy/eagle_guidance.html)

concerning the proposed public project that would have a significant adverse effect or limit the choice of alternatives or mitigation measures, before completion of CEQA compliance.” CEQA Guidelines § 15004(b)(2). In particular, an agency shall not “take any action which gives impetus to a planned or foreseeable project in a manner that forecloses alternatives or mitigation measures that would ordinarily be part of CEQA review of that public project.” CEQA Guidelines § 15004(b)(2)(B).

18-16

As noted above, the time for complete CEQA review of this proposed project is now, when environmental considerations still can inform the County’s planning decision for the proposed GPA, and before the County takes any step that could foreclose any potential alternatives or mitigation measures. *Laurel Heights I*, 47 Cal.3d at 394-95; CEQA Guidelines § 15004(b)(2)(B). It does not matter for purposes of CEQA that the County, the BLM, or any other public agency may need to render some later decision with regard to any site specific projects. *See Fullerton Joint Union High Sch. Dist. v. State Bd. of Educ.*, 32 Cal. 3d 779, 795 (1982). The County cannot defer evaluation of environmental impacts of this planning decision until after the proposed GPA is approved or skirt the required procedure for public review and agency scrutiny of potential impacts. *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 307-09.

18-17

Leaving surveys and formulation of mitigation measures to a future time undermines the purpose of CEQA including public participation and review by other agencies before project approval. The MND defers unlawfully identification and analysis of the many impacts to resources until site specific projects are proposed. Because for many of these areas little or no data exists on the biological resources, surveys should be done at the planning stage, prior to consideration of the proposed GPA in order to comply with CEQA because those surveys could find sensitive resources that, were their presence known before project approval, would lead the County to adopt a different alternative, change the size or lay out of some of the area, or otherwise change the decision.

18-18

CEQA requires that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects. *See* Public Resources Code § 21002. In this case, alternatives that should have been considered and fully analyzed but were not, include but are not limited to, the following alternatives that would: limit renewable energy zones to previously disturbed and/or type converted private lands that do not provide habitat for sensitive species; have fewer or smaller zones to avoid sensitive resources; limit renewable energy zones to areas with existing transmission lines; prioritize approval for distributed renewable energy projects that will supply local energy needs first; strictly limit the use of surface and groundwater for renewable energy projects within the County by requiring one to one off-sets in each basin and sub-basin; and distributed generation of renewable energy in the Los Angeles basin and other areas where the power is expected to be exported. This last alternative would not only avoid impacts to the resources within Inyo County from site specific renewable energy generation but would also avoid impacts from additional transmission and other infrastructure that would be needed for these proposed zones and be more efficient by avoiding power losses from long-distance transmission.

18-19

#### D. The Proposed GPA May Significantly Effect the Environment and An EIR is Required

Before authorizing an activity that will cause reasonably foreseeable significant direct and indirect physical changes in the environment of this magnitude the County must prepare an EIR. Many of the areas in the proposed GPA include sensitive resources that may be significantly adversely affected by the proposed GPA including but not limited to threatened and endangered species and other imperiled species and habitats. Moreover, the potential for water consumption by renewable energy projects, particularly solar thermal projects, could cause significant impacts within the County and exacerbate problems caused by past water exports. Soil disturbance and new roads needed for both solar and wind projects could cause significant impacts to soil surfaces and air quality impacts in an area that is already out of attainment for air quality.

18-20

Because the proposed project may have significant direct and indirect impacts on listed species and other riparian and aquatic species as well as other wildlife species and water quality, an EIR is required. *See, e.g.,* CEQA Guidelines §15065(a)(1) (mandatory findings of significance). Impacts to habitat for rare flora and fauna are significant under section 15065 and require full evaluation under CEQA. *See Mira Monte Homeowners Association v. Ventura County*, 165 Cal.App.3d 357, 363-364.

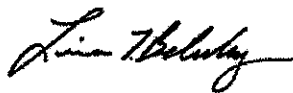
18-21

There is substantial evidence in the MND itself to support a fair argument that approval of the proposed project may cause significant environmental impacts, including but not limited to biological resources and water quality. In addition, these comments provide additional substantial evidence of such effects. Given this evidence, the County must prepare an EIR for the proposed project, even if the agency has been presented with other evidence suggesting that the proposed project will not have any significant impact. *See, e.g., No Oil, Inc. v. City of Los Angeles*, 13 Cal. 3d 68 (1974); CEQA Guidelines § 15064(f)(1). In summary, because the proposed GPA will have significant effects on the environment, including biological resources and water resources, the County is required to prepare an EIR.

18-22

If you have any questions regarding these comments, please feel free to contact us.

Sincerely,



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**Responses to Comment Letter No. 18**  
**Center for Biological Diversity**

- 18-1 The comment is introductory. Note that the County is working to minimize impacts to its ecological, social, and cultural environment to the greatest extent feasible within the framework of State and national goals for renewable energy production.
- 18-2 The MND/IS does not indicate that the GPA will steer renewable energy into zones, but to the contrary, as indicated on pages 6 and 7, is intended to guide appropriate renewable wind and solar energy development, direct renewable energy developers where to investigate solar and wind renewable energy development potential, incorporate community input into where renewable wind and solar energy development might occur, and reduces the share of the County that the General Plan permits renewable energy from over 90 percent to about 15 percent. Refer also to Response to Public Comment No. 1 and Response to Comment No. 15-1.
- 18-3 The comment recites State and case law, and does not refer to the project.
- 18-4 Refer to Response to Comment No. 18-2.
- 18-5 The comment recites State and case law, and does not refer to the project.
- 18-6 As indicated throughout the MND/IS, the project will not result in any direct physical impact. The potential environmental effects of the project are evaluated throughout the MND/IS, and environmental analysis is not being deferred. Evaluating specific impacts of potential future projects within the Overlay would require a substantial degree of speculation, and CEQA Guidelines Section 15145 discourages speculation. Refer also to Response to Comment No. 18-2.
- 18-7 The MND/IS evaluates mandatory findings of significance on pages 26 and 27. As indicated, the proposed GPA works to enhance and protect the quality of the County's environment, and will not result in direct impacts on the physical environment. Development of individual projects may have the potential to result in significant indirect impacts. As discussed throughout the MND/IS, the Inyo County General Plan addresses potential issues, and identifies goals, policies, and implementation measures to minimize those impacts. The proposed GPA is intended to compliment the General Plan and other renewable energy planning efforts and address renewable wind and solar energy development comprehensively to avoid, minimize, and eliminate potential impacts. The proposed GPA requires that site-specific studies and appropriate environmental review be conducted to minimize environmental, social, and economic impacts. Cumulative impacts will be evaluated for any specific individual projects in relation to other known projects in the potential area of impact, including but not limited to renewable energy projects. No significant direct or indirect project-specific or cumulative impacts on the environment or human beings are anticipated due to the

GPA, provided that mitigation is developed based on site-specific studies and applied to individual future renewable energy projects to preclude impact. Compliance with BMPs, the Inyo County General Plan, the Renewable Energy Ordinance, and other relevant local, State, and federal rules, regulations, policies, and procedures will work to ensure less than significant impacts.

18-8 As indicated on page 13 of the MND/IS, numerous special status species are known to occur in the County (including species listed in the commenter's table), and additional special status species not known to exist in the County could be present.

18-9 Potential impacts to biological resources are evaluated on pages 19 and 20 of the MND/IS. As indicated, Section 8.6 of the General Plan (Biological Resources) addresses biology issues, and provides goals, policies, and implementation measures to maintain and enhance biological diversity and healthy ecosystems throughout the County. The proposed GPA works to further minimize potential environmental, social, and economic impacts. Numerous BMPs, rules, regulations, policies, programs, and guidelines are available to address potential impacts to biological resources, including those outlined in the Best Management Practices and Guidance Manual for Desert Renewable Energy Projects. These resources provide measures to address potential downstream effects to biological resources. Refer also to draft General Plan Land Use Overlay No. 32f, which requires use of low-water using technologies at Death Valley Junction.

Potential hydrological effects from the project are evaluated on pages 19 and 20 of the MND/IS. As indicated, General Plan Sections 8.5 (Water Resources) addresses hydrological issues, and provide goals, policies, and implementation measures to protect and preserve water resources. Government Element Goal Gov-5 indicates that it is the County's policy is to protect the County's environment, citizens and economy from adverse effects caused by activities relating to the extraction and use of water resources and to seek mitigation of any existing or future adverse effects resulting from such activities. The proposed GPA works to further minimize potential impacts and consumption of water and potable water for renewable wind and solar energy projects. Numerous BMPs, rules, regulations, policies, and procedures are available to address potential impacts, including those described in the Best Management Practices and Guidance Manual for Desert Renewable Energy Projects. These include the following: identify site surface water runoff patterns and develop mitigation measures to prevent excessive and unnatural soil deposition and erosion, in construction areas, and in areas downslope; maintain natural drainages and pre-project hydrographs for the area; conduct regular inspections of permanent erosion control measures to ensure long-term effectiveness; limit the discharge of blowdown and waste waters from cooling facilities so as to maintain existing water quality and aquatic environment; promote all feasible means of energy and water conservation and all feasible uses of alternative energy and water supply sources; utilize zero-liquid discharge technologies unless such technologies are shown to be environmentally undesirable or economically unsound, and; use of dry cooling technologies for power plant cooling is encouraged and preferred.

The MND/IS was forwarded to the Lahntonan Regional Water Quality Control Board (refer to Comment Letter No. 21). Note also that draft GPA Policy WR-3.5 (Sustainable Renewable Energy Development) states that the County shall encourage renewable energy development to incorporate measures to minimize water consumption and use of potable water.

- 18-10 The MND/IS discussed MGS and the West Mojave Plan (WEMO) on page 14. As indicated, the project will not result in any direct impact. However, as required by existing policies and regulations and the proposed GPA, site-specific studies will be required to address and mitigate potential indirect impacts to biological resources. Mitigation measures based on these site-specific studies are anticipated to reduce any potentially significant indirect impacts that may be identified to less than significant levels.

Renewable energy development will be required to be consistent with the WEMO, the DRECP, any plan developed for the Owens Lakebed, or other applicable habitat conservation and/or natural community conservation plans. Compliance with BMPs, the Inyo County General Plan, the Renewable Energy Ordinance, and other relevant local, State, and federal rules, regulations, policies, and procedures will work to ensure less than significant impacts.

- 18-11 The Audubon Society's Important Bird Areas are not addressed by the CEQA Checklist. However, potential impacts to biological resources are evaluated on pages 19 and 20 of the MND/IS. As indicated, Section 8.6 of the General Plan (Biological Resources) addresses biology issues, and provides goals, policies, and implementation measures to maintain and enhance biological diversity and healthy ecosystems throughout the County. The proposed GPA works to further minimize potential environmental, social, and economic impacts. Numerous BMPs, rules, regulations, policies, programs, and guidelines are available to address potential impacts to biological resources, including those outlined in the Best Management Practices and Guidance Manual for Desert Renewable Energy Projects. These include the following: using modern and cost effective zero liquid discharge technologies for evaporation ponds; provide a draft habitat compensation plan; provide funding mechanism to address facility closure and habitat restoration; install and maintain facility lighting to prevent up and side casting of light towards wildlife habitat; bury electrical collector lines to minimize surface disturbance; designate a qualified biologist responsible for overseeing compliance with biological resources BMPs during mobilization, ground disturbance, grading, construction, operation, and closure/decommissioning or project abandonment; develop a bat and avian protection plan to protect bats and birds, while improving conservation and safety and reliability for utility customers; if guy wires are necessary for permanent or temporary towers, use bird flight diverters or high visibility marking devices; locate turbines to avoid separating birds and bats from their daily roosting, feeding, or nesting sites if documented that the turbines' presence poses a risk to species; monitor to determine if there is a potential for bird incineration, blinding, or heat stress mortality, and; use lights on heliostat towers to minimize avian collision

risk. Additional BMPs and mitigation concepts are provided in the Wind, Solar, and Transmission Corridor EISs, and these and other measures may be implemented based on site-specific studies. Development of the DRECP is expected to provide further guidance and potential mitigation possibilities.

As required by existing policies and regulations and the proposed GPA, site-specific studies will be required to address and mitigate potential indirect impacts to biological resources, including to any avian species that may be relevant to any future wind and/or solar energy development within the Owens Lake, Keeler, Owens Valley, and Deep Springs Overlays, as well as in the other Overlays. Mitigation measures based on these site-specific studies are anticipated to reduce any potentially significant indirect impacts that may be identified to less than significant levels. The proposed GPA is expected to compliment the DRECP, which is currently being formulated, and renewable energy development will be required to be consistent with the DRECP, the West Mojave Plan, any plan developed for the Owens Lakebed, or other applicable habitat conservation or natural community conservation plans. Compliance with BMPs, the Inyo County General Plan, the Renewable Energy Ordinance, and other relevant local, State, and federal rules, regulations, policies, and procedures will work to ensure less than significant impacts.

18-12 Refer to Response No. 18-11. The Eagle Conservation Plan Guidance may be consulted as appropriate for specific mitigation strategies for any specific future projects.

18-13 Potential impacts to biological resources, including regarding habitat connectivity and migratory corridors, are evaluated on pages 19 and 20 of the MND/IS. As indicated, compliance with BMPs, the Inyo County General Plan, the Renewable Energy Ordinance, and other relevant local, State, and federal rules, regulations, policies, and procedures will work to ensure less than significant impacts.

The proposed GPA reduces the share of the County that may be developed for renewable wind and solar energy resources from over 90 percent to about 15 percent. At most, a small percentage of the Overlays is expected to be developed. The exact nature of any potential development within the Overlays between Independence and Pearsonville is unknown, and speculation regarding potential impacts at this time would not be productive (refer to CEQA Guidelines Section 15145).

18-14 Refer to Response to Comment No. 15-1.

18-15 The MND/IS includes 28 pages of analyses that can provided at this planning level. A survey of potential resources in provided at this broad planning scale, including biological resources (refer to pages 13 and 14), air resources (refer to pages 11, 12, and 17), and water resources (refer to pages 19, 20, and 24-26), and various mitigation measures for potential indirect and cumulative impacts are detailed.

18-16 Refer to the Planning Commission staff report for a discussion of alternatives.

- 18-17 The MND/IS evaluates potential impacts from the project. In summary, the proposed GPA will not directly result in any significant physical change to the environment. Future renewable wind and solar energy projects may result in potentially significant indirect environmental impacts. With mitigation, such potential adverse environmental impacts are not expected to exceed thresholds of significance, either individually or cumulatively. Possible mitigation measures for individual projects are described in the Initial Study. Mitigation measures, such as those described, will be implemented as deemed necessary based on site-specific studies for individual projects. Identification and evaluation of any future projects would be speculative, which is discouraged by CEQA Guidelines Section 15145.
- 18-18 Extensive surveys have been completed within the County to provide the baseline information presented in the MND/IS, the General Plan EIR, RETI, DRECP, WEMO, and the vast library of other planning and physical projects in the County. This information provides adequate information for broad planning at a County-wide scale. The MND/IS identifies potential project-specific and cumulative impacts and a menu of associated mitigation measures for individual projects that may be proposed at some uncertain time in the future, which is appropriate to this scale. The County has solicited information through its outreach effort, and, if necessary, has modified the Overlay.
- 18-19 Refer to the Planning Commission staff report for a discussion of alternatives. Note that the proposed GPA encourages development of disturbed lands and minimizing water use, the County regulates water transfers between basins (refer to ICC Section 18.77), and development of the GPA took into account electrical conveyance facilities and corridors. The County encourages distributed generation, but is planning for renewable energy that may be proposed in the County to serve out-of-County markets to meet State and federal renewable energy goals.
- 18-20 Refer to previous responses.
- 18-21 Refer to Response No. 18-7.
- 18-22 Refer to Response No. 15-1 and previous responses.

Comment Letter No. 19



**BOARD OF SUPERVISORS  
COUNTY OF INYO**

P. O. BOX N • INDEPENDENCE, CALIFORNIA 93526  
TELEPHONE (760) 878-0373 • FAX (760) 878-2241  
e-mail: pgunsolley@inyocounty.us

MEMBERS OF THE BOARD  
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RICHARD CERVANTES

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*Clerk of the Board*

PATRICIA GUNSOLLEY  
*Assistant Clerk of the Board*

February 15, 2011

Mr. Virgil Moose, Tribal Chairperson  
Big Pine Paiute Tribe of the Owens Valley  
PO Box 700  
Big Pine, CA 93513

**Re: Request for Government To Government Consultation regarding General Plan  
Amendment No. 2010-03 (Renewable Solar and Wind Energy)**

Dear Mr. Moose,

Thank you for your correspondence dated January 24, 2011 requesting a consultation meeting between the Inyo County Board of Supervisors and the Big Pine Tribe regarding General Plan Amendment (GPA) No. 2010-03 (Renewable Solar and Wind Energy). Unfortunately, as the Board of Supervisors is the decision-maker for the proposed GPA, such a meeting could raise conflicts in relation thereto. Also, the Board of Supervisors is not able to treat the location of sensitive cultural sites confidentially, as can County staff, since the Board must conduct business in public. Therefore, on behalf of the Board of Supervisors, I must decline your invitation at this time.

The County has and will continue to consult with the Big Pine Tribe as required by Senate Bill 18 and Government Code Section 65352.3. Please coordinate your consultation efforts with Mr. Hart, the Inyo County Planning Director. Tribal representatives have been and will continue to be invited to participate in this planning process, and consultation can occur with the Planning Commission and the Board of Supervisors at any future hearings for the project.

Thank you for your continued interest in this GPA. The Board is committed to protecting any sensitive information that the Tribe may provide regarding cultural resources in the County through this process, and hopes to continue working with the Tribe to protect and enhance cultural resources throughout the County to the greatest extent possible. The Board has consistently expressed its support for appropriate renewable energy development in Inyo County, and your input into this important planning effort will be invaluable in guiding any such development in the future.

Sincerely,  
//s//

Supervisor Susan Cash, Chairperson  
Inyo County Board of Supervisors

19-1

**Responses to Comment Letter No. 19**  
**Inyo County Board of Supervisors**

- 19-1 The comment responds to the Big Pine Tribe's request for a consultation meeting with the Inyo County Board of Supervisors (refer to Comment No. 11-21).



State of California - The Natural Resources Agency  
 DEPARTMENT OF FISH AND GAME  
 Inland Deserts Region  
 407 West Line Street  
 Bishop, CA 93514  
 (760) 872-1171  
 (760) 872-1284 FAX  
 www.dfg.ca.gov

Letter No. 20  
 EDMUND G. BROWN, Jr, Governor  
 JOHN McCAMMAN, Director



February 16, 2011

Inyo County Planning Department  
 P. O. Drawer L  
 Independence, CA 93526

Sent via email to: [inyoplanning@inyocounty.us](mailto:inyoplanning@inyocounty.us)

Subject: General Plan Amendment No. 2010-03 (Renewable Solar and Wind Energy) State Clearinghouse Number 2010121050

Dear Inyo County Planning Department,

The Department of Fish and Game (Department) has reviewed the December 2010 Initial Study and Proposed Mitigated Negative Declaration (ISMND) for the General Plan Amendment (No. 2010-03) for Renewable Solar and Wind Energy. The Department is providing comments as the State agency which has the statutory and common law responsibilities with regard to fish and wildlife resources and habitats. California's fish and wildlife resources, including their habitats, are held in trust for the people of the State by the Department (Fish and Game Code §711.7). The Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and the habitats necessary for biologically sustainable populations of those species (Fish and Game Code §1802). The Department's fish and wildlife management functions are implemented through its administration and enforcement of Fish and Game Code (Fish and Game Code §702). The Department is a trustee agency for fish and wildlife under the California Environmental Quality Act (CEQA; see CEQA Guidelines, Title 14, California Code of Regulations §15386(a)). The Department is providing these comments in furtherance of these statutory responsibilities, as well as its common law role as trustee for the public's fish and wildlife.

20-1

AB 45 authorizes counties to adopt an ordinance that provides for the installation of small wind energy systems outside of urban areas, but within county jurisdiction and to establish a process for the issuance of a conditional use permit for these systems. On August 17, 2010 Inyo County filed a Notice of Exemption for a Renewable Energy Ordinance. The Ordinance (1158 § 3, 2010.) adds Title 21 of the Inyo County Code. Title 21, Chapter 21.04.030 identifies the Ordinance Purpose (A) and states Inyo County intends to: *"(1) support and encourage the responsible development of its solar and wind resources to generate and transmit clean, renewable electric energy while protecting the health, safety and welfare of its citizens and its environment, including its public trust resources, by requiring that the*

20-2

*Conserving California's Wildlife Since 1870*

adverse impacts of such development are avoided or acceptably mitigated;" and (B), "To support, encourage and facilitate the responsible utilization of its solar and wind resources for the generation and transmission of clean, renewable electric energy, the county encourages potential developers of such resources to work with the county and to enter into a mutually agreeable renewable energy development agreement in lieu of applying for the issuance of a renewable energy impact determination or a renewable energy permit." Title 21, Chapter 21.08.100 defines 'Renewable Energy Development Agreement' and establishes agreement component requirements that include a reclamation plan, acceptable financial assurances, consistency with the county general plan, approval by the board of supervisors, which will be the review and processing agency for compliance with the California Environmental Quality Act (CEQA), etc... (Ord. 1158 § 3, 2010.). The Department is pleased the ISMND includes recognition of the County's responsibility under CEQA; individual projects proposed pursuant to the GPA will have to undergo independent project-specific CEQA review.

The ISMND for a Proposed General Plan Amendment (No. 2010-03) (GPA) for renewable energy development includes a "Land Use Designation Overlay" map. Diagram #32 identifies the specific areas renewable energy projects may be developed "based on site specific studies pursuant to the County's Renewable Energy Ordinance and other applicable State, federal, and local laws." This map was circulated with the proposed Renewable Energy Ordinance in 2010, but at that time the map was provided for 'context' and was not part of the Ordinance. The GPA includes the overlay map to "show areas where it may be appropriate to develop renewable wind and solar energy projects based on a more comprehensive set of criteria" and by default, "renewable energy development in areas outside of the overlay [map areas] will not be permitted." The County estimates the overlay mapped area comprise approximately 15% of Inyo County. **The Department requests a more detailed discussion of how the "comprehensive set of criteria" used to describe the basis for which the overlay map areas was selected.** In addition, the Department would like to suggest that restricting renewable solar and wind energy developments to a dozen or so areas (that comprise approximately 15% of the County), may also have the unintended result of concentrating impacts in specific areas, possibly resulting in potentially significant impacts not addressed in the ISMND.

The ISMND on Page 14 states, "The proposed GPA will not directly impact biological resources." The Department concurs that the GPA itself will not directly or indirectly impact biological resources. However, while a CEQA analysis for a GPA is not required to be as detailed as a project-specific analysis, it is required to analyze the expected secondary effects. For example, in *City of Redlands, et al. v. County of San Bernardino* (2002) 96Cal.App.4th 398, Redlands and other cities sued San Bernardino County over a general plan amendment which modified existing County general plan provisions relating to development within City spheres of influence. Previous County policy had been to defer to City development standards. The general plan amendment would have provided the County more leeway to approve projects that did not conform to City standards. The County adopted a negative declaration for the general plan amendment. The court held the County's initial study "does not provide evidence to show how such a shift in policy would have little

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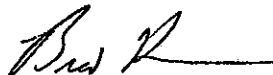
or no effect on the environment." The court also noted that "CEQA reaches beyond mere changes in the language in the agency's policy to the **ultimate consequences** of such changes to the physical environment." (emphasis added). The court ordered preparation of an EIR.

The ISMND on Page 14 also states, "**Construction and operation phases for renewable wind and solar energy projects may result in potential indirect temporary and long-term impacts to biological resources.**" This statement is **incomplete as written**. The Department can provide numerous examples of **direct** impacts similar projects have had on biological resources. In addition, the Department stated in its comment letter of August 12, 2010, that on-going natural resource development projects throughout the State, may, and often do, result in short-term, long-term, temporary and permanent impacts to State resources.

In compliance with Executive Order S-14-08, the Department, the California Energy Commission, the Bureau of Land Management, the U.S. Fish and Wildlife Service and other agencies formed a "Renewable Energy Action Team" (REAT). The main purpose of the REAT is to create a streamlined process for renewable energy permitting. To that end, the REAT has adopted the "*California Guidelines for Reducing Impacts to Birds and Bats from Wind Energy Development*" (*Guidelines*) ([www.dfg.ca.gov/habcon/energy/wind](http://www.dfg.ca.gov/habcon/energy/wind)). These Guidelines provide a science-based approach for addressing potential impacts to birds and bats. Use of the study methods in the *Guidelines*, in combination with the biological resource information for each proposed project, allows permitting agencies to use the best information available when reviewing these projects. The Department would like to work cooperatively with County Planning staff to assist with environmental review of future proposed renewable energy projects employing, as appropriate information presented in the *Guidelines*. Since the GPA establishes that no (commercial-sized) renewable energy projects will be permitted outside the overlay map areas, the Department can assist County Planning staff with identification of potential future project impacts in these focus areas.

Thank you for the extension that allowed the Department to provide comment. Questions regarding this letter and further coordination on these issues should be directed to Ms. Debra Hawk, Environmental Scientist, at (760) 872-1126.

Sincerely,



Brad Henderson  
Senior Environmental Scientist

cc: State Clearinghouse  
Chron  
Wendy Campbell, Renewable Energy Program  
Steven Ingram, Office of the General Counsel  
William Condon, Renewable Energy Program

20-4

20-5

20-4

**Responses to Comment Letter No. 20**  
**State of California, Department of Fish and Game**

- 20-1 The comment is introductory.
- 20-2 The comment describes the Renewable Energy Ordinance. Refer to ICC Chapter 18.79, which regulates small wind energy systems (see page 7 of the MND/IS).
- 20-3 The comment describes the proposed Overlay. Refer to Attachment 8 and the Resolution for more detail regarding development of the Overlay and the GPA. Note that the Overlay is not intended to focus development, and that at most only a small fraction of the Overlay is expected to be developed. The MND/IS describes potential impacts and mitigation measures for any future projects that may be developed within the Overlay.
- 20-4 The MND/IS evaluates potential direct, indirect, and cumulative effects from any renewable wind and/or solar renewable energy development that might occur within the Overlay. In summary, as indicated on page 1 of the MND/IS, the proposed GPA will not directly result in any significant physical change to the environment. Future renewable wind and solar energy projects may result in potentially significant indirect environmental impacts. With mitigation, such potential adverse environmental impacts are not expected to exceed thresholds of significance, either individually or cumulatively. Possible mitigation measures for individual projects are described in the Initial Study. Mitigation measures, such as those described, will be implemented as deemed necessary based on site-specific studies for individual projects.
- 20-5 The quoted statement has been misinterpreted. The statement refers to indirect effects from the GPA, not indirect effects from physical projects. It is understood that direct effects may result from any future individual renewable solar and/or wind energy projects that may be developed within the Overlay, but that these potential indirect impacts from the GPA may be mitigated.
- 20-6 As indicated on page 14 of the MND/IS, numerous BMPs, rules, regulations, policies, programs, and guidelines are available to address potential impacts to biological resources, including those outlined in the Best Management Practices and Guidance Manual for Desert Renewable Energy Projects. This document includes the executive summary of the California Guidelines for Reducing Impacts to Birds and Bats from Wind Energy Development in an appendix. The County intends to work with the Department and other applicable resource agencies during review of any future renewable solar and/or wind energy projects to minimize any potentially significant impacts, and as appropriate will consider and implement measures identified in the Guidelines and/or other plans, programs, or standards towards that end.

Comment Letter no. 21



JERRY BROWN  
GOVERNOR

STATE OF CALIFORNIA  
GOVERNOR'S OFFICE of PLANNING AND RESEARCH  
STATE CLEARINGHOUSE AND PLANNING UNIT



February 15, 2011

Josh Hart  
Inyo County Planning Department  
P.O. Drawer L  
Independence, CA 93526

Subject: General Plan Amendment (GPA) No. 2010-03 (Renewable Solar and Wind Energy)  
SCH#: 2010121050

Dear Josh Hart:

The State Clearinghouse submitted the above named Mitigated Negative Declaration 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 February 14, 2011, 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."

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

21-1



Document Details Report  
State Clearinghouse Data Base

---

*Date Received* 12/17/2010    *Start of Review* 12/17/2010    *End of Review* 02/14/2011

21-1

**NATIVE AMERICAN HERITAGE COMMISSION**

915 CAPITOL MALL, ROOM 364  
SACRAMENTO, CA 95814  
(916) 653-8251  
Fax (916) 657-5390  
Web Site [www.nahc.ca.gov](http://www.nahc.ca.gov)  
e-mail: [ds\\_nahc@pacbell.net](mailto:ds_nahc@pacbell.net)

clear: 2/14  
X/10/2011  
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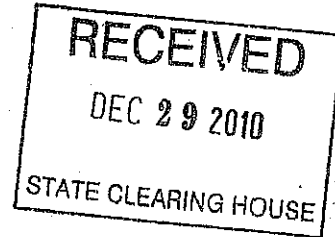
sc# 2010121050

December 27, 2010

Mr. Joshua Hart, AICP, Director

**Inyo County Planning Department**

P.O. Drawer "L"  
Independence, CA 93526



Sent by FAX to 760-878-0382

No. of Pages: 2

Re: Tribal Consultation Per Government Code §§ 65352.3, 65352.4 and 65560 (SB 18/Sacred Lands File Search) for Project- General Plan Amendment (GPA) No. 2010-03 (Renewable Solar and Wind Energy) Projects; located in Inyo County, California; sc# 2010121050

Dear Mr. Hart:

Government Code §65352.3, .4 and .5 requires local governments to consult with California Native American tribes identified by the Native American Heritage Commission (NAHC) for the purpose of protecting, and/or mitigating impacts to cultural places that might be impacted by a General Plan or Specific or modifications thereof. Attached is a Native American Tribal Consultation list of tribes with traditional lands or cultural places located within the requested plan, the Area of Potential Effect (APE).

21-1

As a part of consultation, the NAHC recommends that local governments conduct record searches through the NAHC and California Historic Resources Information System (CHRIS) (Contact the Office of Historic Preservation at (916) 445-7000 to find the nearest CHRIS Information Center) to determine if there are any recorded archaeological sites are located within the area(s) affected by the proposed action, in the California Historical Resources Information System (CHRIS) Inventory.

A NAHC Sacred Lands File search was conducted based on the project site information included in your request; **Native American cultural resources were identified.** In several areas of Inyo County. The NAHC recommends that the County consult with tribal government representatives on the attached list to determine areas of Native American cultural concern to them. The absence of archaeological items and/or Native American cultural resources does not mean they do not exist at the subsurface level and ground-breaking activity may expose them. Again, consultation with local Native American is the best and recommended manner for identifying specific sensitive cultural areas with which your agency should become familiar. Early consultation with the Native American tribes on the attached list is the best way to find out if the proposed project may impact Native American cultural resources. Local governments should be aware that records searches do not preclude the existence of and the discovery of sacred sites or a cultural place of special religious and cultural significance to local Native American tribes. And please note that a tribe or tribal members may be the only source of information regarding the existence of a sacred site or a cultural place.

If you have any questions, please contact me at (916) 653-6251.

Sincerely,

Dave Singleton, Program Analyst

Attachment: Native American Tribal Government Contacts

Native American Contacts  
Inyo County  
December 27, 2010

Big Pine Band of Owens Valley  
Virgil Moose, Chairperson  
P. O. Box 700 Owens Valley Paiute  
Big Pine , CA 93513  
**(760) 938-2003**  
bigpinetribaladmin@earthlink  
.net  
(760) 938-2942-FAX

Bishop Paiute Tribe  
William Vega, Chairperson  
50 Tu Su Lane Paiute - Shoshone  
Bishop , CA 93514  
william.vega@bishoppaiute.  
(760) 873-3584  
(760) 873-4143

Fort Independence Community of Paiute  
Carl Dahlberg Chairperson  
P.O. Box 67 Paiute  
Independence CA 93526  
stephanie@fortindependenc  
(760) 878-2126  
(760) 878-2311- Fax

Lone Pine Paiute-Shoshone Reservation  
Melvin R. Joseph, Chairperson  
P.O. Box 747 Paiute  
Lone Pine , CA 93545 Shoshone  
admin@lppsr.org  
(760) 876-1034  
(760) 876-8302 Fax

Timbisha Shoshone Tribe  
Joe Kennedy, Chairperson  
785 North Main Street, Suite Western Shoshone  
Bishop , CA 93514  
(760) 873-9003  
(760) 873-9004 FAX

Timbisha Shoshone Tribe THPO  
Barbara Durham, Tribal Historic Preservation  
P.O. Box 206 Western Shoshone  
Death Valley , CA 92328  
dvdurbarbara@netscape.  
(760) 786-2374  
(760) 786-2376 FAX

Big Pine Band of Owens Valley THPO  
Bill Hellmer, Tribal Historic Preservation Officer  
P.O. Box 700 Paiute  
Big Pine , CA 93513  
amargosa@aol.com  
(760) 938-2003  
(760) 937-3331 - cell  
(760) 938-2942 fax

Bishop Paiute Tribe THPO  
Theresa Stone-Yanez  
50 Tu Su Lane Paiute - Shoshone  
Bishop , CA 93514  
theresa.  
(760) 937-0351 -work cell  
(760) 873-4143 - FAX

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code. Also, federal National Environmental Policy Act (NEPA), National Historic Preservation Act, Section 106 and federal NAGPRA. And 36 CFR Part 800.

This list is only applicable for contacting local Native Americans for consultation purposes with regard to cultural resources impact by the proposed 2010121050; CEQA Notice of Completion; proposed Mitigate Negative Declaration for the General Plan Amendment GPA No. 2010-03 (Renewable Solar and Wind Energy); ; located in Inyo County California for which Tribal Consultation is required pursuant to California Government Code Section

a1-1

**Responses to Comment Letter No. 21**  
**State of California, Governor’s Office of Planning and Research, State Clearinghouse**  
**and Planning Unit**

- 21-1 The comment describes the State Clearinghouse’s review process, agencies to which the MND/IS was distributed, and the comment letter that was received. Refer also to responses to Comment Letter No. 1.

# The Inyo County Planning Department

This is Roche Novak, Assessors PARCEL No. 38-330-01- I RECEIVED A CARD FROM THE INYO COUNTY PLANNING DEPARTMENT, AND I'M VERY INTERESTED. (RENEWABLE SOLAR AND WIND ENERGY) I FEEL THIS IS A VERY GOOD AND A EXLANT IDEA FOR INYO COUNTY. AND CAN BRING IN LOTS OF WEALTH INTO THE COUNTY. WE HAVE LOTS OF SUN FOR SOLAR. AND WIND, AND OPEN LAND. PUT IT TO USE... I FEEL MY PROPERTY IN SOUTHERN INYO. WOULD BE A PERFICT PLACE. TO SET UP SOLAR OR WIND GENERATORS. FOR ELECTRICAL POWER. MY PROPERTY SETS NEXT TO 178. NEXT TO A POWER LINE. THE PROPERTY IS RATHER LEVEL - FLAT. WITH 3 ROADS ENTERING THE PROPERTY. AND APPROX 10 MINUTES FROM TRONA. SOMETIME IN THE FUTURE I MAY WANT TO BUILD A SMALL HOUSE OR MOVE IN A TRALOR HOME. THAT WILL ONLY BE A RATHER SMALL AREA. I HAVE 5 ACRES THERE. IF INYO COUNTY IS INTERESTED IN USING MY PROPERTY FOR SOLAR OR WIND POWER IF I CAN GET A LITTLE SOMETHING FROM IT. YOU CAN I'M ALL FOR THIS PLAN. GO FOR IT. AS A CARETAKER OF BALLARAT. I BEEN ON SOLAR FOR OVER 6 YEARS. IVE HAD NO PROBLEMS. WITH VERY LITTLE MAINTAINECE. VERY HAPPY WITH IT.

22-1

I WOULD LOVE TO COME TO YOUR MEETING ON FEB- 23<sup>RD</sup> BUT IM TAKING CARE OF DAD. hes 90. AND I CANT KEEP HIM ALONE FOR TO LONG. hes on Oxygen ALOT. AND HIS WALKING ABILITY IS NOT GOOD.

YES I AM VERY INTERESTED IN THIS PROJECT. AND WILLING TO HELP THE BEST I CAN. I FEEL. INYO COUNTY HAS A EXLANT PLAN.

Keep me up to ~~to~~ DATE AND INFORMED.

Thank you.

With my Best Regards

Roche Novak

P.O. Box 80

TRONA CA

93592

**Responses to Comment Letter No. 22**  
**Rock Novak**

22-1 The comment expresses support for the GPA.



the Owens Valley Committee

February 14, 2011

Joshua Hart, Director  
Inyo County Planning Department  
P. O. Drawer "L"  
Independence, CA 93526  
Email: [inyoplanning@inyocounty.us](mailto:inyoplanning@inyocounty.us)

SUBJECT: General Plan Amendment No. 2010-03 (Renewable Solar and Wind Energy)  
and Draft Mitigated Negative Declaration of Environmental Impact and Initial Study

Dear Mr. Hart:

The Owens Valley Committee (OVC) hereby submits its comments on the Inyo County General Plan Amendment No. 2010-03 (Renewable Solar and Wind Energy) and Draft Mitigated Negative Declaration of Environmental Impact and Initial Study.

OVC supports the development of renewable energy and long-term planning to ensure appropriate siting of renewable energy development projects and their associated power transmission lines. However, we believe that the potential for significant impacts from renewable energy projects that may result from the proposed General Plan Amendment are not adequately addressed in the Draft Mitigated Negative Declaration of Environmental Impact and Initial Study.

The proposed General Plan Amendment seeks to encourage development of large-scale solar and wind energy projects in the areas identified in the renewable energy overlay maps. These kinds of development cover large areas and result in substantial disturbance of existing soils and habitats. They require existing transmission lines with available capacity or new transmission facilities to transport the electricity produced to the areas it will be used. Most of the overlay areas outside of the Owens Valley and Rose Valley do not have existing or planned transmission facilities that would be adequate for new development.

With many of the proposed overlay areas far from existing or planned transmission facilities, the GPA should have addressed the transmission requirements for renewable energy development in the overlay areas. It does not and therefore has ignored potential significant impacts of any future energy development that would be indirect impacts of the proposed GPA.

23-1

23-2

23-3

The draft Mitigated Negative Declaration and Initial Study leaves resource surveys and development of mitigation measures to future analysis when specific projects are proposed. Other than to indicate the potential for significant environmental effects, there is no analysis of the potential effects of development within the renewable energy overlay areas on sensitive natural and cultural resources and no accounting of these resources and their significance is provided. We know that State or Federally listed threatened or endangered species occur within at least some of the overlay areas. These are not addressed in the Mitigated Negative Declaration other than to put off any analysis for the future.

23-4

The draft Mitigated Negative Declaration and Initial Study does not provide adequate evidence to support the finding that the proposed project would not have a significant adverse impact on the environment. The proposed General Plan Amendment does not contain anything that would ensure that future renewable energy projects promoted by the plan would not have significant environmental effects. There is language in the proposed General Plan Amendment that indicates the County will "encourage" future projects to incorporate measures to minimize various impacts, but this is no assurance that they will. Leaving all surveys and formulation of mitigation measures to a future time is inappropriate.

23-5

Because the proposed project may have significant impacts on listed and other sensitive species, cultural resources, agricultural lands, important viewsheds, air quality, and water quality and quantity, an Environmental Impact Report (EIR) is required.

23-6

Because of the potential for the project to result in significant environmental impacts, as recognized in the Initial Study, we believe that the County needs to complete an EIR for the proposed General Plan Amendment. The renewable energy projects envisioned in the plan would cover large areas. Many of the overlay areas in the proposed plan include sensitive resources such as habitats for special status species, cultural resources, and valuable agricultural lands that may be significantly adversely affected. The potential for water consumption by renewable energy projects, particularly solar thermal projects, could cause significant on-site and off-site impacts to water resources. Soil disturbance and new roads needed for both solar and wind projects could cause significant impacts to soil surfaces and air quality impacts in an area that is already out of attainment for air quality. Visual resources that are a key attraction for visitors to Inyo County are likely to be significantly impacted by energy development.

23-7

In the Owens Valley we are concerned about the potential for renewable energy projects to have significant impacts on visual resources, important wildlife habitats, water, and agricultural lands. Given the policy in the proposed plan amendment that would "encourage avoidance of productive agricultural lands for renewable energy development" (Policy AG-1.3) and the terms of the Inyo-Los Angeles Long Term Water Agreement it seems inconsistent that the Owens Valley overlay map includes the area west of the Owens River. Nearly all of this area is productive agricultural land and irrigated lands that are protected by the water agreement. We recommend that the Owens Valley overlay eliminate the areas west of the Owens River in order to preserve the agricultural uses of these lands and to move any renewable energy development

23-8

farther east from the Highway 395 corridor to minimize potential visual impacts.

23-8

We also recommend in the Rose Valley overlay, which includes the southern part of the Owens Valley, that the northeastern portion that contains the Olancho Dunes be eliminated as this is an unusual and important habitat and an area with soils that are not conducive to renewable energy development.

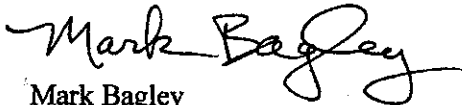
23-9

The draft Mitigated Negative Declaration and Initial Study does not provide sufficient information about feasible project alternatives to comply with CEQA. The proposed project and a reasonable range of alternatives should be thoroughly analyzed. A reasonable range of alternatives to the proposed project should include limiting renewable energy zones to private lands; limiting renewable energy zones to areas which are serviced by existing or planned transmission lines; and limiting technology for solar energy to photovoltaic panels or air-cooled solar thermal projects due to their inherent requirement for less water consumption.

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Thank you for your consideration of our comments.

Sincerely,



Mark Bagley  
OVC President and Policy Director