

November 13, 2020

By Email: Sarah.Mongano@slc.ca.gov
and CEQA.comments@slc.ca.gov

Ms. Sarah Mongano
Senior Environmental Scientist/
CSLC Project Manager
Suite 100-South
100 Howe Avenue
Sacramento, Calif. 95825

Re: Stagecoach Solar NOP Comments

Dear Ms. Mongano:

We are a coalition made up of the following community groups, businesses, agencies and individuals: Lucerne Valley Economic Development Association (LVEDA), Homestead Valley Community Council, Lucerne Valley Market/Hardware, Church of Our Lord and Savior (Lucerne Valley), Johnson Valley Improvement Association, Yucca Mesa Improvement Association, Morongo Basin Conservation Association (MBCA), San Bernardino Valley Audubon Society, California Desert Coalition, Granite Mountains Desert Research Center, Basin and Range Watch, Friends of Big Morongo, Expert Appliance Service, Lucerne Valley Realty, The Rock Corral Ranch, Jubilee Mutual Water Company, Inc., Center Water Company, Inc., Bill Peterson, Alyn Peterson, Pat Flanagan, Neil Nadler, Frazier Haney, Brian Hammer, Sue Hammer, Robert L. Berkman, Sharon Dove, Susan Blair, Barry Blair, Randy Polumbo, Nicole Hallam, Gregg Hallam, Kathryn Anema, Sheila Bowers, Jenny Wilder, Ed Ruscha, Elizabeth Stewart, Matthew McCarthy, Raymond M. Gagne, Jr., Gene Parsons, Star Decker, Kathy Ridler, Rod Ridler, Sheri Bush, Barbara Idouchi, Aaron Idouchi, Lorraine M. Cross, Richard Selby, Roger Peterson, Jennifer Bolande, Sara Fairchild, Meg Foley, Jack Unger, Rick Sayers, Dennis Morrison, Linda Morrison, Theresa Taylor, Todd Jones, Ann Garry, Dave Garry, Paula Deel, Paul Deel, Cindy Charlton, Neville Slade, Tamara Slade, John Smith, Bryan Baker and Betty Munson. Together, we represent a broad spectrum of residents, businesses, organizations, recreationists and conservationists in the High Desert of San Bernardino County (the “County”). There are scores of like-minded persons and organizations with similar views on the proposed Stagecoach Solar Project (the “Proposed Project”), but, given the time constraints imposed upon us, only a handful of them were able to sign onto this letter.

As you may recall, several of the above-referenced organizations and individuals made verbal comments at the October 28, 2020 public scoping meetings concerning the issues and concerns that must be addressed in the Environmental Impact Report (the “EIR”) for the Proposed Project, the proposed Edison regional substation (the “Calcite Substation”) and the generation transmission line (the “Generation Transmission Line”) that would link the Calcite Substation to the Proposed Project. Some of our comments also addressed the environmental effects of the utility-scale renewable energy projects that would be enabled by approval of the above-referenced development, including the three utility-scale solar projects (in addition to the Proposed Project) under application in Lucerne Valley (those three utility-scale projects, and the further utility-scale projects that they and the Calcite Substation would enable, will be referred to below as the “Cumulative Projects”).¹ All of our comments expressed opposition to the proposed new development.

The California State Lands Commission (the “CSLC”) sent out a Notice of Preparation of a Draft Environmental Impact Report and Notice of Public Scoping Meeting (the “Notice”), dated October 13, 2020. The Notice states that the CSLC, “as lead agency under the California Environmental Quality Act (CEQA), will prepare an Environmental Impact Report (EIR)” with respect to the Proposed Project. In this letter, we will further comment on the proper scope of the CEQA-mandated inquiry that must be undertaken and incorporated in that EIR. Only by preparing an EIR that comports with the scoping comments stated in the referenced oral comments, and in this letter, can the CSLC, as the designated lead agency, prepare an EIR that fully and accurately reports the full range of “unavoidable and significant” impacts that the Proposed Project, the Calcite Substation, Generation Transmission Line and Cumulative Projects would inflict on sensitive human and natural communities, locally and regionally.

It is particularly critical that a full and proper, CEQA-compliant EIR be prepared given that:

(1) the Proposed Project, if approved, would fundamentally and irrevocably industrialize over 3,000 acres of crucial Lucerne Valley desert habitat – and provide justification for the Calcite Substation and Generation Transmission Line needed to connect it with the Proposed Project. This would, in turn, foster the siting of additional nearby utility-scale Cumulative Projects that could then interconnect to the grid through the Calcite Substation, thereby transforming huge swaths of Lucerne Valley into an industrial zone that would inevitably destroy its human and natural communities. The Proposed Project, and the three utility-scale renewable energy solar projects that are currently under application for Lucerne Valley, would totally repurpose over 8,136 acres of desert land in Lucerne Valley;

¹ LVEDA made its scoping comments through its president, Chuck Bell. MBCA made its verbal scoping comments through its president, Steve Bardwell. Lucerne Valley Market made its verbal scoping comments through its director, Linda Gommel.

We request that all future notices and communications pertaining to the Proposed Project be directed to our representatives, Chuck Bell and Steve Bardwell, at the following email addresses: chuckb@sisp.net and steve@infinityranch.net.

(2) the Proposed Project site consists of an essentially undisturbed alluvial valley that is highly environmentally significant in terms of habitat connectivity. The mountains that all but surround the project site are federally-declared and protected Areas of Critical Environmental Concern (“ACECs”). One of those ACECs, the “Ord-Rodman National Conservation Lands,” is a part of the National Conservation Lands System, and hence has elevated environmental significance and protection.

(3) the Proposed Project site also falls within the Multi-Species Habitat Conservation Plan/Natural Community Conservation Plan (“MSHCP”) which the County and the Town of Apple Valley have long been co-developing. As stated in the Planning Agreement between the Town of Apple Valley and the United States Fish and Wildlife Service (“USFWS”), the MSHCP will conserve “approximately 44,000 acres of identified wildlife linkages that connect its plan areas to approximately 2.4 million acres of conserved habitat in the Mojave Desert, at the intersection of three significant wildlife linkages that are not only important to the region but also the Mojave Desert at large;”

(4) the Proposed Project site is within the County-recognized Lucerne Valley Community Plan Area. The County’s Renewable Energy and Conservation Element (“RECE”) – specifically its Policy 4.10 -- expressly prohibits the development of utility-scale renewable energy projects within Community Plan Areas like Lucerne Valley; and

(5) the Proposed Project, the Generation Transmission Line, Calcite Substation and Cumulative Projects (the Generation Transmission Line, Calcite Substation and Cumulative Projects will be referred to collectively as “Related Development”) would be built in an area that hosts a well-established human community which, while dispersed over a fairly large area, is substantial in the aggregate. By way of an example, the Proposed Project site is only approximately 2,600 feet from St. Joseph’s Monastery, an extensive 80-acre Catholic religious community/monastic facility (and church) that has made Lucerne Valley its home since 2005.

The EIR must acknowledge, in its “Mandatory Findings of Significance” section that the Proposed Project – even if it were not barred outright by the RECE and environmental strictures -- would have a host of negative, unavoidable and highly-significant impacts across the board. In order to be CEQA-compliant, the EIR cannot paper them over with the usual suite of band-aid mitigation measures that are typically proposed for desert utility-scale projects.

1. A Description of the Proposed Project

Construction on the scale contemplated for the Proposed Project and Related Development would clearly generate a full panoply of significant and unavoidable impacts that must be carefully assessed in the EIR. The sheer magnitude of the proposed development can be discerned from the project descriptions published by the CSLC.

A. Project Descriptions Provided with the CSLC’s “Environmental Justice Outreach Letter” and in the Project Application.

According to the project description included with the CSLC’s “Environmental Justice Outreach” letter, dated February 19, 2020 (the “EJ Outreach Letter”), the Proposed Project would consist of a 5,359-acre utility-scale renewable energy (solar panel) facility and a 7.6-mile 220 kV Generation Transmission Line to the proposed Calcite Substation. The EJ Outreach Letter states that the project area would be 3,600 acres, with “associated infrastructure to occupy approx. 1,750 acres.” It is not clear from the EJ Outreach Letter whether that acreage figure is meant to encompass the land needed to construct the Generation Transmission Line and the equipment and structures making up the Calcite Substation. Its buildings would be approximately 10 to 80 feet tall, while transmission line structures would be 50 to 180 feet tall, according to the DEIR (p. 3.1–38) for the Ord Mountain solar project.

According to the “Aurora Solar LLC (a subsidiary of Avangrid Renewable LLC) Application for Lease of State Lands (August 2016)” (the “Application”), the Proposed Project would produce up to 200 MWs (using fixed-tilt or tracking solar panels) on minimally disturbed land west of Hwy. 247, south of Stoddard Ridge, west of Black Mt. and north of Sidewinder Mt. (these two mountains are part of the Granite Mountains).

The Proposed Project site – which consists of only minimally disturbed mature creosote bush scrub that is hundreds to thousands of years old – is all but surrounded by DRECP-declared ACECs. This is depicted on Figure 4 of the attached environmental justice letter, dated April 30, 2020, which was sent to the CSLC by a coalition of High Desert residents, businesses and organizations (the “EJ Letter”). As also indicated on Figure 4, the Proposed Project site is in the midst of an important wildlife corridor which is incorporated in the DRECP as the “Desert Linkage Network.” Lucerne Valley hosts arms of this network that provide passage from the San Bernardino Mountains north through the basins and ranges connecting with China Lake North Range and the southern Sierra.

Each of the solar panels making up the Proposed Project would require support structures and footings, as well as extensive perimeter fencing, lighting and access/service roads. This would require the grading and removal of the existing desert soil and the plants that anchor it.

The Proposed Project would be of such magnitude that, according to the Application, it would have: (1) an on-site operations and management building for the life of the project with up to 10 permanent full-time employees (a typical utility-scale project does not require any full-time, on-site employees); and (2) its own 34.5/220 kV substation on a 5-acre site for the purpose of stepping-up energy generated onsite to 220 kV for connection to the Generation Transmission Line.

The Application proposed three alternate routes for the Generation Transmission Line. One would traverse BLM land in the Granite Mountains (which is designated by the DRECP as an ACEC) almost exclusively; a second proposed route would be mostly on BLM land (with two short stretches over private County lands, including a final easterly run from BLM land in the Granite Mountains to the Calcite Substation); and a third proposed route would run mostly on private County land in the valley between the Granite Mountains and Ord Mountains. The Application states that transmission poles would be dug into the ground off-site by drilling and foundations would be established for the Generation Transmission Line.

Both the EJ Outreach Letter and the Notice indicate that the project proponent has settled on a proposed route for the Generation Transmission Line that would run through the above-referenced valley, which is the route that would inflict the most environmental harm on Lucerne Valley's environment and residents, especially those living in the relatively narrow inter-mountain area between the Granite Mountain and Ord Mountain ACECs; it would also mean that the Generation Transmission Line would run alongside (and, in places, over) Hwy. 247, which has been designated by the County as a scenic highway (and which is now in the final stages of obtaining inclusion in the State Scenic Highway system, a designation which would provide protection against development that would ruin the desert and mountain vistas that draw motorists to Lucerne Valley and support its economy).

B. Project Description As Per the Notice.

The Notice provides a description of the Proposed Project that differs in some respects from that provided in the EJ Outreach Letter and in the Application.

According to the Notice, the Proposed Project and associated infrastructure would be constructed on approximately 1,950 acres within an approximately 3,000-acre project area, with a 5-acre 34.5/220 kilovolt (kV) onsite electric substation and a 5,000-square-foot operations and maintenance building ("O&M Building"), a battery storage facility up to 200 MW and 100 acres in size, solar resource and meteorological measurement stations, a septic tank system and leach field serving the O&M Building, permanent groundwater wells, or an onsite water tank using water transported from offsite providing water for the O&M Building and to wash the PV panels.

According to the Notice, the 220 kV Generation Transmission Line would be 9.1-miles in length, and the proposed Calcite Substation would be seven acres.

The CLSC's Notice also acknowledges that the Proposed Project site includes land in addition to "state school" land under its jurisdiction. As stated in the Notice (on p. 1 of its attachment):

"The Project area boundary encompasses five sections of undeveloped State land under the jurisdiction of the CSLC, as well as 640 adjacent acres of private land owned by Aurora Solar, LLC [which is the developer]. Private lands and federal lands managed by the U.S. Bureau of Land Management are adjacent to the Project area."

While none of these inconsistencies materially alter the severity or scope of the impacts that the immense Proposed Project, Generation Transmission Line and Calcite Substation would have, the EIR must provide a full, final and definitive description of the Proposed Project that resolves all such inconsistencies.

2. The EIR Must Thoroughly Consider the "Indirect and Secondary Effects," "Growth-Inducing Impacts" and Overall "Cumulative Effects" of the Proposed Project.

Under Section 15358(a)(2) of the CEQA Guidelines, indirect or secondary effects “may include growth-inducing effects and other effects related to induced changes in the pattern of land use... and related effects on air and water and other natural systems, including ecosystems.”

The CEQA Guidelines further note that indirect or secondary effects include “an indirect physical change in the environment...which is not immediately related to the project, but which is caused indirectly by the project.” (Section 15064 (d)(2)).

CEQA requires analysis of cumulative impacts and mitigation of such impacts where needed. Cal. Pub. Resources Code § 15130. The EIR must do a complete job of evaluating the Cumulative Projects, including (but not limited to) the utility-scale projects that are currently (and will likely be) under application in Lucerne Valley, and meaningfully analyze their cumulative impacts to resources in the desert areas of California, as well as the cumulative impacts from the many proposed transmission, military expansions and other development projects.

Further, CEQA requires that the EIR give full consideration to “growth-inducing impacts.” Specifically, CEQA Guidelines, Section 15126.2(d), says that environmental documents must “. . . discuss the ways in which the project could foster economic or population growth, or the construction of additional housing, either directly or indirectly in the surrounding environment . . .” Included in this analysis must be this question: Does the Proposed Project and Calcite Substation encourage and facilitate other activities that could significantly affect the environment, either individually or cumulatively?

Still further, CEQA mandates a consideration of “cumulative effects” of the Proposed Project. Section 15355(b) of the CEQA Guidelines says that “the cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects.”

Section 15131(a) states that an “EIR may trace a chain of cause and effect from a proposed decision on a project through anticipated social changes resulting from the project to physical changes caused in turn by the economic or social changes.” As stated in Section 15131(b), “[e]conomic or social effects of a proposed project may be used to determine the significance of physical changes caused by the project.”

The EIR must provide a well-considered discussion of the many direct, and indirect or secondary, growth-inducing – or cumulative – effects of the Proposed Project and Calcite Substation, as well as of the Cumulative Projects themselves.

A. The Proposed Project Would Be Used to Validate the Proposed Calcite Substation, Which Could, in Turn, Be Cited as Justifying the Revival of the Coolwater-Lugo Transmission Project.

The Proposed Project is being cited by Southern California Edison (“Edison”) as justification for establishment of the Calcite Substation in an ecologically fragile portion of

North Lucerne Valley. The Calcite Substation is touted for its close proximity to the Pisgah-Lugo transmission line, and, if the Proposed Project were to be approved, it would be only one Generation Transmission Line away from it.

Edison's website makes no bones at all about why it thinks a new Calcite Substation should be established in Lucerne Valley: "[t]he project will connect [i.e., encourage the proliferation of] new renewable generation projects in the San Bernardino County High Desert to the transmission grid."

The DEIR for the Ord Mountain Solar Project contains a key sentence (p. 5-4) that acknowledges that the Calcite Substation would be the linchpin for the industrialization of Lucerne Valley:

"While Calcite Substation may not induce growth, it could accommodate the development of renewable projects in the Lucerne Valley area, because it would serve as an access point to SCE's transmission grid. For example, the Sienna Solar project is also currently proposed in Lucerne Valley and, similar to the Ord Mountain Solar project, is reliant on the development of the Calcite Substation to be a viable project."

The following conclusion flows unavoidably from the above-quoted sentence: the Calcite Substation could accommodate utility-scale projects in addition to the Proposed Project, such as the Cumulative Projects, and it will induce further utility-scale development in the region.

The prospect of a new Calcite Substation has in fact triggered an influx of proposals for utility-scale facilities in its vicinity: (1) the Proposed Project; and (2) there are three other utility-scale solar projects currently under application (which are considered as being among the Cumulative Projects, as that term is used in this letter): (1) Sienna Solar North, East & West (which would consist of four separate solar generation facilities totaling 1,630 acres); (2) Ord Mountain Solar (483 acres); and (3) Calcite Solar I (which would consist of four separate solar generation facilities totaling 664 acres). Those three projects (whose locations are depicted in red on the maps attached to the EJ Letter as Figures 3 and 5, under the legend: "Proposed County Projects"), together with the Proposed Project, would totally repurpose over 8,136 acres of desert land in Lucerne Valley as industrial sites.² Their effects would extend far beyond the project footprints, and the interstitial land – the land that falls between and around the projects --

² Proponents of the Ord Mountain and Calcite Solar I projects have put them on hold for the time being, according to the "County of San Bernardino Land Use Services Planning Division Renewable Energy Projects as of March 2020." Nevertheless, they are still very much in the approval "pipeline." Savvy large-scale renewable energy developers file applications to establish "grandfather" status for their projects, and then put them on hold to serve strategic aims. The developers of Ord Mountain and Calcite Solar I might be waiting to see whether political momentum would be generated by approval of the other proposed Lucerne Valley projects. If that happens, you can bet that the "holds" would then be lifted.

would also be rendered uninhabitable, ecologically dead and visually unappealing due to its unfortunate proximity to the industrially-altered project sites.

Edison is attempting to propel all four Lucerne Valley utility-scale projects into existence by proposing to build the Calcite Substation in order to interconnect them to the grid. The Calcite Substation is so integral to the Ord Mountain Solar project that it is considered a connected project for CEQA review.³ The green-lighting of any of the four proposed Lucerne Valley utility-scale projects would be cited by Edison as justification for the new Calcite substation. Approval of that substation would, in turn, encourage approval of the four projects, as well as a cluster of additional utility-scale generation facilities in its vicinity.

In short, the Proposed Project – which is the biggest by far of any of the Lucerne Valley utility-scale projects currently under application -- would, if approved, be key to transforming the region into an industrial zone (with Lucerne Valley at its epicenter) characterized by vast complexes of solar panels, graded/scraped land, a honeycomb of roads for construction, maintenance, cleaning and security and a web of visually-intrusive (and electrical field-producing) lines crackling and humming overhead.

With a bevy of new utility-scale projects in the pipeline all clustered around a Calcite Substation – a substation that would provide a critical infrastructure link for new transmission lines -- Edison may well attempt a revival of the highly controversial, intensely opposed: (1) Coolwater-Lugo Transmission Project, which proffered – as one of its chief justifications – the dubious proposition that new transmission would be needed to interconnect posited renewable energy projects to the north, east and south of the Granite Mountains; and (2) the proposed Desert View super-collector electrical substation (at Desert View Road and Milpas Road in Apple Valley), which was to be a relay point for Coolwater-Lugo Transmission Line.

In short, the EIR must carefully consider that approval of the Proposed Project would have an enormous “growth-inducing impact.” The EIR must also thoroughly analyze the impact of Coolwater-Lugo, and discuss alternatives that do not open the floodgates to more industrial-scale development.

³ The Draft Environmental Impact Report (the “DEIR”) for the Ord Mountain project, which states (in its section 2.1) with respect to the “Calcite Substation Project” (which is described in Appendix K of the DEIR) that “[b]ecause it is a necessary infrastructure improvement to allow the proposed solar and energy storage project to connect to the grid, the Calcite Substation is a connected project for CEQA review.”

The referenced proposed Lucerne Valley solar projects are, in turn, cited by Edison as justifying construction of the new substation. As stated by Edison representative, Jennifer Cusack (at a December 6, 2016 public meeting in Lucerne Valley), “we [Edison] have to interconnect new projects.”

B. Approval of One Utility-Scale Renewable Project in the Desert Has the “Secondary Effect” of Creating a “Beach-Head” for the Proliferation of Other Such Projects in Its Immediate Vicinity, All of Which Incrementally Industrialize Hitherto Intact Desert Parcels, Thereby Creating Classic “Induced Changes in the Pattern of Land Use.”

Desert areas, wild or rural in character, have little attraction for industrial-scale renewable energy facilities, like the Proposed Project, so long as no means exist to deliver the electricity to the grid. Hence, proponents of new renewable energy projects seek to site them next to substations (either those which are in existence or which are predicated on approval of one or more utility-scale projects), or next to other existing renewable energy facilities in order to “piggy-back” on transmission lines connecting their neighbors’ renewable projects to the grid. Hence approval of one utility-scale renewable project in the desert has the “secondary effect” of creating a “beach-head” for the proliferation of other such projects in its immediate vicinity, all of which incrementally industrializes hitherto intact desert parcels, thereby creating classic “induced changes in the pattern of land use.”

Such projects, because they result in profound and permanent destruction of the natural environs, are often posited as rendering the surrounding desert lands “disturbed,” i.e., these parcels can be mischaracterized as biologically-defunct, “damaged goods” no longer possessing environmental, aesthetic and recreational worth. Therefore, they are often mistakenly deemed ripe for more large-scale commercial development, regardless of their existing rural desert designation and irrespective of the above-referenced land use policies dedicated to protecting that character. In short, land use planners’ perceptions as to a parcel’s environmental, aesthetic and recreational value are strongly influenced by the level of development activity on other nearby parcels, and this is why it is so important that the EIR fully and comprehensively assess the cumulative, growth-inducing effects of the Proposed Project and Calcite Substation, as well as the cumulative, growth-inducing effects of the three other above-referenced utility-scale solar projects under application in Lucerne Valley and of other such projects they engender in the region (of which fall under the definition of Cumulative Projects, as used in this letter).

There are still further “secondary” and “growth-inducing” effects. Once utility-scale renewable projects begin to move in, rural residents move out; this is true because such projects have historically made bad neighbors. The exodus of rural residents would, in turn, accelerate the process of industrialization as renewable project proponents seek to develop former, so-called “disturbed” home-sites.

Attention must also be given to the growth-inducing effects in the arena of inter-connection and transmission, and the ensuing “closed loop” effect, in which a remotely-located generating project like this one is used as a justification for the construction of extensive, environmentally-threatening transmission facilities, which in turn become a justification for more generation plants, and so on. Thus, what on the surface is a generation project having a footprint of “only” approximately 3,000 acres becomes a continuous trigger for more and more transmission and generating projects. CEQA requires an analysis of such secondary effects and growth-inducing impacts, because otherwise these very real consequences grow and multiply “in the cracks” between one project and the next, never undergoing direct scrutiny.

In short, the enabling of new utility-scale renewable projects, like the Proposed Project, which, in turn, enable new transmission infrastructure projects like a Calcite Substation (that, in turn, beget even further renewable energy Cumulative Projects), would have an obvious “secondary effect” and an “induced change in the pattern of land use.” Section 15358(a)(2). The environmental impact of each new generating plant on the desert is large and enduring. Thus the enabling of utility-scale renewable energy projects causes “an indirect physical change in the environment . . . which is not immediately related to the project, but which is caused indirectly by the project.” (Section 15064 (d)(2)). The EIR must discuss these crucial factors and their implications.

Moreover, as part of an “Environmental Justice” analysis (which is more fully addressed below in Section 12), the EIR is required to address the long-term and short-term effects that a proliferation of centralized energy generation facilities would have on the economic welfare of the County’s residents. The County’s economy is heavily dependent on tourism. It has been estimated at **\$1 Billion per year** according to a University of Idaho study discussed in Basin Energy Assessment Team’s “Renewable Energy Analysis” (October 2013). As part of an effort to promote tourism, Hwy. 247 has been proposed as (and is under consideration for) designation as an official state scenic highway; filling adjacent desert lands with vast new solar fields and transmission would create visual blight that will detract from that effort.

As will be discussed below, the Proposed Project and Calcite Substation would require extensive scraping, grading and excavation for trenches. This intensive and obtrusive activity would destroy the surface soil on the majority of the 3,000 plus acres involved, which would result in permanent loss of a fragile mini-ecosystem, and the loss of carbon dioxide sequestration capability, which in this desert happens below the surface.⁴ Moreover, the required grading and trenching would destroy the vital caliche surface layer and the micro-biologically-rich subsurface of the proposed site. The desert has been likened to a “reverse rain forest,” where the most biologically productive systems – the root systems – are underground.

Hence the EIR must assess, in terms of cumulative effects, the degree to which the Proposed Project and Related Development would lead to a release, rather than a reduction, of greenhouse gases, and these offsetting negative effects must be carefully quantified in the EIR. (The capacity of the Proposed Project and the Related Development for releasing dust, Valley

⁴ The EIR must include in its analysis a study of the degree to which the desert’s natural ability to sequester carbon would be lost. See “Solar Power in the Desert: Are the current large-scale solar developments really improving California’s environment?” UC Riverside. The authors of this article, Michael F. Allen and Alan McHughen, point out in their study, among many other things, that the benefits of reduced GHG emissions from a large-scale solar project are finite, because the project has a limited life, whereas the detriments caused by the destruction of soils entailed by the building and maintenance of the power plant and the related transmission facilities are extremely long-term. “Understanding the lifespans of the solar plants, compared with this long-term slow C [carbon] balance is a critical need for determining if these solar developments represent a net long-term reduction in greenhouse gases.” The article concludes that solar projects represent a net loss in that respect.

Fever spores and fine particulates, among other things, must also be addressed in the EIR.)

Another aspect of this Proposed Project and Related Development sure to create a cascade of increased environmental problems is that any perimeter road around the project would invite and enable OHV use on the adjacent open desert. The EIR must also address this issue.

3. The EIR Must Thoroughly Consider All of the Substantial Adverse Effects that the Proposed Project and Related Development Would Have on Natural Communities and Wildlife Connectivity Corridors.

Given their sheer magnitude and proposed locations, the Proposed Project and Related Development would have substantial and unavoidable adverse effects on irreplaceable habitat, on sensitive or special status plant and animal species, on natural communities and on recognized wildlife corridors. But the proponent of the Proposed Project, having responded in the Notice to five of the six questions posed (they are derived from Section IV of CEQA's Environmental Checklist), declined to state whether the Proposed Project would:

“d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?”

The EIR cannot, if it is to be CEQA-compliant, side-step meaningful study of this issue. The Proposed Project, Generation Transmission Line and Calcite Substation would be located within scientifically-recognized -- and federally and state-sanctioned -- wildlife corridors and linkages, and in close proximity to extremely sensitive habitat where state and federally listed Special Status Species and covered species are present and/or very close by, such as bighorn sheep, desert tortoises, golden eagles and Bendire's Thrasher. In fact, the area is considered core habitat for golden eagles.

The high biological value of the area in question, in terms of habitat connectivity and species sustainability, is confirmed by the following nationally-recognized scientific studies and maps:

1. The SC Wildlands “California Desert Project” (Penrod et al. 2012), which depicts the “Desert Linkage Network,” and SC Wildlands “California Desert Connectivity Project” (Kristeen Penrod et al. 2012) – which is lauded in the draft DRECP as providing “a comprehensive and detailed habitat connectivity analysis for the California deserts” (App. Q (Sections 3.4.1 and 3.4.2)) – and depicts the “Desert Linkage Network.” This linkage network reflects the interconnections between individuals of a species and among species, with a focus on how they subsist, migrate and procreate over time as part of a desert knit together by

connectivity corridors;⁵

2. Ms. Penrod’s report for the Alliance for Desert Preservation, which embodied her comments on the draft DRECP (a copy of which is attached to this letter), expanded the linkage network depicted in the above-referenced publication, and demonstrates that almost all of Lucerne Valley should be protected from large-scale development as part of a far-reaching wildlife linkage network integral to connecting the intact landscape block of the San Bernardino Mountains with the desert region to the north;
3. “Desert Bighorn Sheep Intermountain; Unfiltered Core Habitat, DRECP” map, prepared by the California Dept. of Fish and Wildlife,⁶ which are considered to have a “Very High” to “Moderately High” habitat on the Granite Mountain and Ord Mountain ACECs. The Granite Mountain ACEC nearly touches the Proposed Project site;
4. Bighorn Sheep Intermountain Habitat (California Dept. of Fish and Wildlife 2013);
5. “Golden Eagle Nest Occurrences, DRECP map” (prepared by the California Dept. of Fish and Wildlife) and “DRECP Species Distribution Map for Golden Eagles, DRECP map,” prepared by Conservation Biology Institute (CBI). SC Wildlands has stated, in a comment letter, dated November 10, 2020, submitted to the CSLC regarding the Proposed Project (the “SC Wildlands 11/10/20 Letter,” a copy of which is appended to this letter as Attachment 5 and incorporated in this letter by reference), that there are 40 golden eagle nests within an 11-mile radius of the Proposed Project, and that a number of bird species, particularly large-bodied raptors, have been recorded crashing into solar arrays or getting burned by the

⁵ SC Wildlands also prepared written comments on the DEIR for the proposed Ord Mountain Solar Project, by way of a letter, dated November 16, 2018, which is attached hereto. Given that the sites for the proposed Ord Mountain Solar Project and the Proposed Project are fairly close to each other, Ms. Penrod’s observations in that letter are equally applicable to the Proposed Project, and they are incorporated herein in their entirety by this reference.

SC Wildlands’ letter commenting on the Draft EIR/EIS for the DRECP, dated February 19, 2015 (a copy of which is attached), includes maps and tables depicting the focal plant and animal species in the Desert Linkage Network in the environs of the Proposed Project, Generation Transmission Line and Calcite Substation, all of which demonstrate that the region around the Proposed Project site is high value natural habitat.

⁶ This map, and the others referred to below in this section, are datasets on the DRECP Data Basin, and can be accessed through DRECP.databasin.org.

concentrated rays.⁷

6. “Wildlife Allocation (WA) and Areas of Critical Concern (ACEC) Designations, DRECP and Final EIS, LUPA, Final map,” prepared by the California Energy Commission, the BLM, the California Dept. of Fish and Wildlife and U.S. Fish and Wildlife Service (“USFWS”);
7. “Desert Tortoise TCA Habitat Linkages, DRECP” map, prepared by the U.S. Fish and Wildlife Service. Also, the USFWS has done an extensive study of desert tortoise linkages in the Ord-Rodman area, and identified the valley area where the Proposed Project would be located as vitally important to maintaining intact linkages;
8. Desert Tortoise TCA Habitat Linkages (Averill-Murray 2013, Croft 2013), and range-wide omnidirectional connectivity model for the Mojave Desert Tortoise (Gray et al. 2019); and
9. Desert Tortoise Modeled Future Distribution (Davis and Soong, for the DRECP).

The SC Wildlands 11/10/20 Letter confirms that the Proposed Project site would be located within, and interfere with, important wildlife corridors, and would seriously compromise habitat connectivity on a region-wide basis. Incorporating the studies referenced above, the letter cites (on its p. 6) a recent USFW Internal Discussion Draft, dated Sept. 25, 2020, entitled “Connectivity of Mojave Desert Tortoise Populations: Management Implications for

⁷ Golden eagles (*aquila chrysaetos*) need ample foraging areas around their nests, and the Proposed Project and Related Development would markedly reduce such areas and threaten their survival. According to the Conservation Biology Institute and the California Natural Diversity Database (CNDDDB) – which is a product of the California Department of Fish and Wildlife's Biogeographic Data Branch (BDB) – a foraging area with a ten-mile radius (from a given nest) is required. (The CNDDDB is a computerized library of the status and locations of California's rare species and natural community types, and includes in its data all federally and state listed plant and animal species that are species of special concern or considered "sensitive" by government agencies and the conservation community, as well as candidates for such status.)

(The referenced DRECP map was created by merging the DRAFT__BRC__EagleNest__Data and Golden Eagle__DFG layers provided by the BLM. This data reflects nest locations recorded by various state agencies and their contractors during, among other time periods, 2008, 2010 and 2012.)

We have been informed that, according to Larry LePre -- a biologist with the San Bernardino Valley Audubon Society -- there is an active golden eagle nest (in season) on Stoddard Ridge directly adjacent to (and less than a quarter mile from) the Proposed Project site, and that golden eagles regularly fly over that site to the Sidewinder Mountains (which are part of the Granite Mountains) to an alternate nest.

Maintaining a Viable Recovery Network,” which “emphasized the importance of the State Lands Commission land proposed for Stagecoach Solar [Proposed Project site] to the desert tortoise.” The SC Wildlands letter also noted that “[t]he desert tortoise is a corridor dweller that may take multiple generations to move between TCAs. In order to sustain desert tortoise populations, habitat linkages between TCAs must be wide enough to support multiple home ranges . . . Forcing desert tortoises to go around the fenced perimeter of the entire 1,950 acre proposed Stagecoach Solar project would create a significant barrier to movement of desert tortoises, especially dispersing juveniles, which could not be mitigated to a threshold that is less than significant.” The SC Wildlands letter also observed that “bighorn sheep are extremely sensitive to habitat loss and fragmentation,” and that “[m]aintaining habitat connectivity is one of the most important climate adaptation strategies.”

The Desert Tortoise Council has submitted a CEQA comment letter to the CSLC regarding the Proposed Project, which is dated November 11, 2020. That letter is incorporated by reference into this letter.

The Burrowing Owl, Golden Eagles, Loggerhead shrike, Desert Tortoises, Bendire’s Thrasher, Prairie Falcon and Mohave Ground Squirrel are not the only species that would be impinged upon by the Proposed Project and Related Development. According to the DRECP Data Basin, the following species have a very suitable habitat there or are known to have a presence: (1) Le Conte’s Thrasher; (2) Kit Fox; and (3) American Badger. The Proposed Project site is in a moderately high-value “species stack” for eight to ten special-status species according to a DRECP Data Basin Map entitled “Covered Species Stack.”

The referenced data and maps, and particularly the SC Wildlands reports and its 11/10/20 Letter, make it clear that the desert region surrounding the Proposed Project site is an intact, living and breathing biome that emphatically deserves the CSLC’s protection, and that there will be dire environmental consequences if wildlife is kept from using natural features -- like the valley and dry lake bed between the Granite Mountains and the Ord Mountain ACECs -- for passage, forage and living habitat.

The Multi-Species Habitat Conservation Plan and Natural Community Conservation Plan being co-sponsored by the Town of Apple Valley (the “Town”) and the County – which expressly includes the site of the Proposed Project -- is in full accord. The Town’s NCCP Planning Agreement with the USFWS (April 2017) states that:

1. “The MSHCP/NCCP will also conserve approximately 44,400 acres of identified wildlife linkages that connect the Planning Area to approximately 2.4 million acres of conserved habitat in the Mojave Desert. ***The Planning Area is strategically located at the intersection of three significant wildlife linkages that are not only important to the region but also to the Mojave Desert at large*** [which are the San Bernardino-Granite Mountain Connection, the Northern Lucerne Wildlife Linkage/Wild Wash Linkage and Mojave River Corridor]. The identification and protection of these linkages will facilitate wildlife movement and gene flow across a wider regional landscape, making the entire region more resilient to the effects of

climate change by ensuring the long-term viability of six (6) Areas of Critical Environmental Concern” (emphasis added);

2. “[t]hese areas, due to the high degree of genetic diversity and divergence among species present, can be considered evolutionary hotspots (Vandergast 2013);”
3. “[b]ecause of the variation in elevation, slope, and aspect, the Town’s Plan Area is composed of 21 plant communities recently mapped by the DRECP [which entailed evaluation for inclusion in the plan of “50 listed and/or sensitive species];” and
4. “[i]n 2005, South Coast Wildlands ranked this linkage as one of the top 12 southern California linkages for priority conservation. The linkage represents landscape-level connection between the coastal and desert mountains. It facilitates the direct dispersal and multigenerational movement of over 14 focal species, including the desert bighorn sheep, American badger, Pacific kangaroo rat and Joshua Tree . . .”

But the Proposed Project would interfere with wildlife movement in this critical confluence of wildlife linkages and destroy species-sustaining habitat there. The Proposed Project would effectively close off most of the northern tip of the narrow North Lucerne Valley, as it runs between the Granite Mountain and Ord Mountain ACECs⁸, with miles of nine-foot high electrified security fencing (which would kill a wide array of avian and non-avian species). The Generation Transmission Line would, in turn, transect the entire length of that valley. The Calcite Substation and Ord Mountain Solar Project would all but occlude the southern mouth of that valley.

It is an unfortunate truism that, if you break one link in the connectivity chain, the whole chain falls apart, especially when facing the challenge of increasing climate change. As stated in SC Wildlands’ letter commenting on the Draft EIR/EIS for the DRECP, dated February 19, 2015, “[e]nhancing connectivity and linking natural landscapes has been identified as the single most important adaptation strategy to conserve biodiversity during climate change.” The EIR must thoroughly address these issues comprehensively, scientifically and honestly.

The EIR cannot side-step meaningful study of these effects by calling the sites of the Proposed Project, Generation Transmission Line and Calcite Substation disturbed land. The Application points to the presence of scattered homes in the area. But the presence of home sites there does not diminish the fact that the Proposed Project and Related Development sites are integral parts of an intact, living and breathing biome, as well as components of significant wildlife linkages.

⁸ The DRECP’s “Relevance and Importance Criteria” for the Granite Mountains ACEC states that the “area is critical for bighorn sheep, golden eagles, desert tortoise and prairie falcons and several other species. Additionally, numerous rare and sensitive plants have major populations here, making the area regionally important.”

The EIR will be deficient if it seeks to undermine the significance of such linkages by myopically focusing on on-site biological observations that are limited in scope and effectiveness, and that would almost certainly fail to identify something as nuanced as regional wildlife connectivity patterns. Biological observations – which would amount at most to a “snap-shot in time” species census of the Proposed Project site only (and maybe some adjacent lands)⁹ – would be entirely superfluous given the publication of the above-cited *long-term, regional scientific* studies on biological connectivity in the Southern California deserts. In point of fact, an on-site wildlife census does not have even a fraction of the value of the published connectivity studies, which will be discussed in the following paragraphs.

The Proposed Project and Related Development sites would be particularly bad places to construct utility-scale facilities and transmission infrastructure because, as will be discussed in the following section of this letter, they would be located in an area where there is a confluence of high wind erosion potential and erosive soils. Disturbance of topsoil on these sites, and destruction of vegetation that would otherwise anchor it, would produce a great deal of dust – dust that would essentially eliminate a large foraging area for a number of special status species (including birds and bats) in the surrounding area outside of the project footprint.

As will be discussed in the following section of this letter, blowing dust has, unfortunately, been a frequent by-product of utility-scale projects in the County.

Glare coming off vast arrays of solar panels would also affect bird and bat species in the area, as would noise emitted by the Proposed Project and Related Development during construction, maintenance and operation. As noted above, the area is extremely quiet (readings of 22 decibels are not unheard of), and that quiet would most certainly be shattered by the construction, maintenance and operation of industrial-scale projects.¹⁰

To summarize, in light of the confluence of factors cited above, the desert habitat comprising the sites of the Proposed Project and Related Development is just about the last place that large industrial generation facilities and transmission infrastructure should be constructed and operated. This, and the fact that a Calcite Substation would invite a parade of additional nearby utility-scale and transmission projects, create a number of extremely troubling consequences in terms of biological resources.

⁹ Even so, the biological analysis for the Ord Mountain Solar Project DEIR (the site for this project would be just east of the Calcite Substation), as limited as it was, verified (p. 3.3-13) that no less than “**seven special-status wildlife species were either observed or identified as having moderate to high potential to occur within the project sites**” (emphasis added), listing the Burrowing Owl, Golden Eagle, Loggerhead Shrike, Desert Tortoise, Bendire’s Thrasher, Prairie Falcon and Mohave Ground Squirrel.

¹⁰ The dust, glare and noise, and the visual blight created by the Proposed Project and Related Development would also damage the human communities in and around the Proposed Project area.

In order to comply with CEQA, the EIR must analyze each of the highly significant impacts mentioned above. When factors, such as the presence of wildlife corridors, special species and critical habitat, are considered, it is clear that the Proposed Project and Related Development would inflict substantial and unavoidable biological impacts that could not be mitigated away.

4. The EIR Must Independently Assess the Amount of Soil Disturbance and Vegetation Destruction That Would Be Caused by Construction and Operation of the Proposed Project and Related Development, the Amount of Dust and Valley Fever Spores That They Would Emit and the Extent to Which Human Health Would Be Compromised by Such Emissions.

According to the Notice, the Application and the EJ Outreach Letter, construction and operation of the Proposed Project, Generation Transmission Line and Calcite Substation would involve extensive grading, scraping, grubbing, trenching and other soil disturbance, including that which would be entailed in (according to the Preliminary Plan for the Proposed Project) installing storm-water control basins. The Proposed Project site consists of several steeply-sloping planes that intersect to form an alluvial valley. Because solar utility-scale facilities require fairly flat sites, soil disturbance on a grand scale would be required to establish the Proposed Project.

Construction and operation of the Cumulative Projects would entail even more soil disturbance.

A. The EIR Must Quantify the Volume of Soil and Vegetation That Would Be Disturbed.

The Notice gives a faint idea of the scale of soil disturbance that would be occasioned by the Proposed Project, Generation Transmission Line and Calcite Substation:

“Construction of the PV [photovoltaic] systems would involve clearing and grubbing [with “heavy equipment”] of existing vegetation, installing support racks, placing of modules and inverter units, trenching and installation of the underground collection system [which, according to the Notice, would link “the PV modules to the onsite substation”], and construction of internal service roads. Construction activities for the associated Project facilities would include: clearing and grading; construction of drainage components; foundation construction; development of staging areas and site access roads; and construction of the electrical substation, energy storage facility, O&M building, and transmission facilities. Security fencing would be installed around the perimeter of the Project infrastructure.”

The Application acknowledges (on p. 6 of its Attachment E) that:

(1) “The use of access roads within the project would result in the generation of dust. Vehicles and equipment used during construction and operations would generate

dust during earth moving activities (construction) and, given the prevalence of unimproved dirt roads in the project area, regular travel from paved roads to project access roads by maintenance personnel would also generate dust;” and

(2) “The MDAQMD [the Mojave Desert Air Quality Management District] is in non-attainment under the NAAQS for ozone and PM 10 and the CAAQS from PM 2.5. While a PM 10 attainment plan was developed by MDAQMD in 1995 to achieve the PM 10 NAAQS, a plan was not developed for PM 2.5.”

The EIR must quantify with precision the volume of soil that would be graded, scraped and otherwise disturbed in the course of construction and operations of such facilities (as well as with respect to the Related Development), the number of acres of land that would be disturbed and the amount and types of vegetation that would be destroyed in the process.

The EIR cannot satisfy its CEQA mandate by offering lukewarm, patently inadequate mitigation/dust control measures that blandly promise to achieve compliance with air quality rules by limiting emissions. The Application vaguely proposes “regular watering or other [MDAQMD Rule 403] dust preventative measures” (Application, Attachment E, p. 6). But, given that the Proposed Project, Generation Transmission Line and Calcite Substation contemplate development in an arid, wind-swept environment on a massive, regionally-transformative scale, following a similar approach in the EIR would cause it to fall far short of CEQA standards.¹¹

B. After Determining the Amount of Soil Disturbance and Vegetation Destruction That Would Ensur, the EIR Must Quantify the Volume of Dust and Spores That Would Be Emitted and Determine the Likely Range of Such Emissions.

Grading, scraping, grubbing and trenching operations on the scale being proposed would destroy “desert pavement,” cryptobiotic soil crusts and soil-anchoring vegetation in an arid, wind-swept desert environment – within the Mojave Desert Air Quality Management District (the “MDAQMD”) – which is already in non-attainment for PM-10 particulate matter (<http://www.mdaqmd.ca.gov/index.aspx?page=21>). Cryptobiotic soil crusts are an essential ecological component in desert lands; they are made up of below-the-surface communities of tiny, delicate plants, fungi and associated organisms that hold soils together that would otherwise produce fugitive dust. In other words, they are the “glue” that holds surface particles together against erosion, provide “safe sites” for seed germination, trap and slowly release soil moisture, and provide CO2 uptake photosynthesis. The presence of these biologically essential, yet easily

¹¹ The Proposed Project and related development are also located on over-drafted groundwater basins. The more water they propose to use in a losing battle with dust, the more this development would pose a significant and unavoidable impact to the water resources depended on by High Desert communities. This issue is addressed below in Section 9 of this letter.

disturbed soil crusts is one of the reasons that, as noted in the DRECP, desert lands are notorious for being easily scarred and slow to heal.

The EIR must describe and map the on-site cryptobiotic soil crusts in each proposed project site, and quantify the amount of soil crusts that would be destroyed and the degree to which this would cause the graded sites to lose their capacity to stabilize soils and trap soil moisture and cause increased dust and spore releases, among other things. The EIR also needs to map and describe desert pavements occurring on the proposed project sites, and they must also be evaluated for impacts. Like cryptobiotic soils, desert pavements stabilize the soil surface, prevent airborne dust, and are easily destroyed by construction. Quantitative acreage of naturally occurring desert pavement needs to be identified in the EIR.

Disturbance of desert soil inevitably stirs up the microscopic spores that cause Valley Fever, spores that can travel on the wind as far as 75 miles.¹² The EIR must quantify the amount of spores that would be released through construction and operation of the Proposed Project and Related Development. And the EIR must determine, based on that quantification (and an assessment of wind carry) how far and in what directions the spores would spread. In assessing environmental impact in terms of Valley Fever causation and dissemination, the EIR should be cognizant of what happened in the Western Antelope Valley, where soil disturbance resulting from large-scale renewable energy development, and from construction of SCE's grid line and power station infrastructure, is suspected of causing an outbreak of Valley Fever in that region.

In assessing Valley Fever, the EIR cannot rely solely on studies of spore dissemination in natural desert settings because construction and operation of the Proposed Project and Related Development would create an artificial environment that would be much more conducive to the reproduction and spread of Valley Fever spores. They thrive on alternating periods of extreme wetness (typically, winter rains) and extreme dryness (summer heat). Water that would be used to temporarily suppress dust during the construction and operation of the Proposed Project and Related Development, and to periodically wash solar panels, would cause Valley Fever spores to propagate more often and in greater volumes than they would in a natural setting.

The need to quantify and assess the spread of dust and spores is particularly important given that the Proposed and Related Development would be located in an area of high wind erosion potential, according to the "Soil sensitivity factors for the DRECP" map and the "Confidence levels for sensitive soil factor maps for the DRECP." Because the contemplated construction would disturb many thousands of acres of desert soil and eliminate ranks of vegetation (and root systems) that would otherwise anchor soil with a high aeolian dust potential (PM 10 and PM 2.5), it would lead to the release of large and unhealthy volumes of dust and Valley Fever spores into the local environment and surrounding communities, which include the

¹² The town of Lucerne Valley is very close by, and there are homes in the vicinity of the Proposed Project and its components.

Lucerne Valley Elementary and Middle/High School.¹³

Without undertaking the analyses described above, the EIR will not have a valid basis for making an independent assessment of the volume of dust and spores that construction and operation of the Proposed Project and Related Development would release over time, or as to how far they would be spread. But, in order to do this, the EIR will need a valid baseline for such emissions for North Lucerne Valley. Unfortunately, the MDAQMD, which covers 20,000 square miles of desert terrain in the County and in Riverside County, cannot provide such a baseline, because the MDAQMD does not have any air quality monitoring stations there (the monitoring stations are located in Trona, Lancaster, Victorville, Phelan, Lucerne Valley (in the San Bernardino Mountains, near the Mitsubishi cement plant), and Twentynine Palms). In accord with a directive from the MDAQMD, County planners would nevertheless – unless the

¹³ Utility-scale solar projects in the High Desert have proven to be bad neighbors, and none of them have lived up to their developers' promises.

The Soltec PV project in Newberry Springs has received a lot of negative attention. The developer reportedly promised that it would not scrape vast tracts of land, that the project would have minimal impact on vegetation and wildlife, and that mitigation measures (such as soils stabilization) would be implemented. None of this came to pass, and it has also become apparent that an unduly low estimate was presented, during the application phase, of the amount of water the project would consume.

The Agincourt and Lone Valley Solar projects in Lucerne Valley (on Camp Rock Rd.) – now known as “Lone Valley Solar” -- have been spewing dust, despite applying much more water than the developers projected.

Joshua Tree has not fared any better with three nearby utility-scale solar projects: Cascade Solar, SEPV8 Solar (Lear Avenue) and Indian Trail Solar. Once vegetation was removed to construct them, soils became unstable and dust and sand began blowing. Dust storms are now a regular feature during high wind events. Prescribed mitigation measures -- like watering exposed soil and ceasing construction if the winds exceed a certain level -- have proven completely ineffectual, if implemented at all.

Antelope Valley Solar Ranch, located in Lancaster, near Route 138, was built by First Solar, which seems to be the contractor of choice for many solar photovoltaic projects. The AVAQMD cited First Solar for violations of air quality standards on at least two separate occasions. The AVAQMD was quoted as saying that there was “a myriad of things [First Solar] could have done that we didn't think they were doing to prevent the violations.”

These examples demonstrate that approving a utility-scale project based on even the most stringent-appearing criteria – such as a developer's pledge to use "best available practices" to achieve "mitigation" after the project is built – simply does not work. This underscores just how important it is that the EIR undertake a truly independent analysis on the subject.

EIR were to acquire more data (as is suggested below) – use the Victorville station’s dust emission readings and meteorological data, in order to estimate the Proposed Project’s dust emissions, even though the conditions at the Victorville station differ night and day from those present in North Lucerne Valley in terms of soils and wind speeds and directions.¹⁴

Because emissions readings from the Victorville station do not provide a valid long-term baseline for North Lucerne Valley, the only way that the EIR could have made a valid and independent assessment would be to commission its own *long-term*, on-site air quality/dust monitoring at (and adjacent to) the sites for the Proposed Project and Related Development, and readings must be taken during a representative array of wind speeds/directions and meteorological conditions. Otherwise, the EIR’s findings on dust emissions would amount to little more than poorly-educated guesswork.

In conclusion, the EIR must conduct an analysis of windblown dust and soil erosion that incorporates and investigates each of the points stated above, with respect to the Proposed Project *and* the Related Development (which would disturb thousands of more acres of soil in the adjacent desert valley area).

C. After Determining the Volume of Dust and Spores That the Proposed Project and Related Development Would Emit, and the Extent of the Region in Which They Would Likely Spread, the EIR Must Assess the Resulting Effects on Human Health.

Unless the EIR takes this final step – after completing and incorporating the assessments described above -- its analysis will be incomplete, and provide no guidance whatsoever as to the degree to which the Proposed Project and Related Development would endanger human life and health.¹⁵

¹⁴ The Victorville station, which is located on asphalt and is 300 feet from a road that has an average annual daily traffic count of 1,000 vehicles, monitors a 0.3 to 3.5 square mile area with a relatively uniform land use. Hence it is no surprise that the station’s monitoring records show zero (0.0) days above the 24-hour federal and state PM10 standards.

The technical information in this letter regarding the District’s monitoring program is drawn from a meticulously researched March 22, 2017 article in the *Desert Report* (which is a publication of the Sierra Club), entitled “The Perfect (Dust) Storm – Fugitive Dust and the Morongo Basin Community of Desert Heights.” Its author, naturalist Pat Flanagan, is a board member of the Morongo Basin Conservation Association.

¹⁵ In terms of soils issues, the EIR must also consider the fact that Lucerne Valley is a known area of subsidence (<https://ca.water.usgs.gov/mojave/mojave-subsidence-2004-2009.html>).

Adjacent communities are entitled to real analysis and full disclosure on this subject, as is the County, given that residents' health would be directly threatened. Plain-wrap mitigation measures (such as limit construction hours, curtail construction during high wind events, put up dust screens and throw lots of water around whenever dust plumes rise, etc.) would fail to produce a proper EIR.

5. The EIR Must Independently Assess the Extent to Which the Proposed Project and Related Development Would Have Substantial Adverse Effects on Visual Aesthetics.

According to the "Stagecoach Solar Preliminary Project Design (Project No. 26303), dated April 7, 2020 (prepared by Westwood Professional Services, Inc.) (the "Preliminary Plan"), the Proposed Project would include many thousands of ground-mounted 18-foot high solar panels covering at least 3,000 acres, stations, an on-site collector substation, a Generation Transmission Line connecting the project to the proposed Calcite Substation, a network of access roads and 8-foot high, high-voltage, chain-link security fences (topped with another foot of barbed wire on top).

The Proposed Project would flank scenic Hwy. 247 and would seriously disrupt the view of the visually striking alluvial valley between the Granite Mountains, Stoddard Ridge and the Ord Mountains (i.e., the Proposed Project site), especially the picturesque and dramatic views enjoyed by motorists on Hwy. 247 (which is a County-designated scenic highway). This broad up-sloping valley, set off as it is by a curtain of jagged mountains, represents a significant geological feature in its own right.

On top of that, the Generation Transmission Line, which the Notice says will be nine miles long, would follow – and at some points cross over – scenic Hwy. 247, fundamentally and forever altering the desert landscape in a way that destroys its natural desert character and open space feel, as would the Calcite Substation.

The Application itself acknowledges:

(1) (on p. 2 of its Attachment E) that "components of the proposed solar farm could obscure existing resources visible from the highway and detract from existing scenic views. Therefore the change in views from motorists passing along SR-247 will need to be further evaluated in the environmental documentation prepared by the CSLC;" and

(2) (on p. 2 of its Attachment E) that "the proposed solar farm would introduce new vertical elements into the landscape that would alter the existing natural character of the project area. The alteration to community character resulting from development of the State lease lands with solar energy generation uses will need to be further evaluated in the environmental documentation prepared by the CSLC."

The Cumulative Projects – including the ones under application for the Lucerne Valley – would be even more visually intrusive. The Ord Mountain Project and Calcite Substation, for

example, would all but occlude the narrow valley running between the Granite and Ord Mountains by flanking the east and west sides of Hwy. 247. The other Cumulative Projects would lie within the playa of an enormous ephemeral lake – Lucerne Dry Lake -- which is a recognized, occasionally-flooded Lacustrine wetland. As such, it most certainly qualifies as a geologically significant feature and scenic point of interest, without even considering the fact that it is flanked by a dramatic mountain landscape.

In short, the EIR must acknowledge, and discuss the fact, that the massive Proposed Project and Related Development would, by industrializing a beautiful, essentially undeveloped natural desert landscape, degrade scenic vistas and completely spoil the existing visual character and quality of the project sites and their surroundings. The EIR cannot whitewash these significant and unavoidable impacts by proposing that new buildings and transmission towers be painted in desert hues and the new development be obscured by fencing.

Nor can the EIR center its aesthetics analysis on the notion that, because there are dispersed rural residences, transmission lines and roads in the area that would be affected by the Proposed Project and Related Development, this disqualifies it from having visual appeal worthy of CEQA consideration and protection. That the area shows limited effects of the hand of man does not warrant the conclusion that it is no longer undisturbed natural area. It is in fact almost entirely a scenic natural open space setting, i.e., a very pleasing and essentially undeveloped natural desert landscape.

The EIR cannot analyze loss of viewshed in terms of whether the Proposed Project and Related Development would block views of the surrounding mountains, as if the valley areas and Lucerne Dry Lake region – merely because of its relative flatness, typical dryness and absence of forests – is unworthy of consideration.

The EIR must provide “Elevation” diagrams or other depictions of what the massive structures comprising the Proposed Project and Related Development would actually look like from a variety of vantage points, and photo simulations as to what the solar fields might look like at a distance will not suffice. Without such diagrams, no visual assessment could be considered complete and informative.

Moreover, the EIR must commission and incorporate a topographical viewshed analysis that depicts the extent to which the Proposed Project would be visible throughout the region, as well as the number of homes and residents that would be within the affected viewshed.

The EIR must assess the impacts that the Proposed Project and Related Development would have on motorists’ views from Highway 247. A major effort is underway to promote tourism in Lucerne Valley, the main thrust of which is an ongoing campaign to have Highway 247 designated as part of the State Scenic Highway System.¹⁶ Highway 247 is the major traffic

¹⁶ The County has already designated Hwy. 247 as a scenic highway, which, as per General Plan Policy OS 5.3, means that it is a “roadway that has scenic and aesthetic qualities that over time have been found to add beauty to the County” and that this designation “applies all applicable policies to development on these routes . . .”

artery through Lucerne Valley, connecting the 15 Freeway at Barstow with Highway 18 (which extends southeasterly to the San Bernardino Mountain resorts); Hwy. 247 is also the major roadway to and from points east, such as Johnson Valley, Joshua Tree National Park, Landers and Morongo Basin. Designation of (and promotion of) Hwy. 247 as a State Scenic Highway would certainly draw more motorists and be a great boon to the local economy. The protection against industrialization that such a designation would extend to adjacent desert lands would also draw investment in and expansion of Lucerne Valley's tourist economy. Potential industrialization has long cast a depressing shadow over its economic development.

But eligibility for official inclusion in the State Scenic Highway System depends on the state's determination "based on the amount of natural landscape visible by motorists, the scenic quality of the landscape, and the extent to which development intrudes upon the motorist's enjoyment of the view." An influx of vast new solar fields and transmission infrastructure would create visual blight that would detract from, if not derail, that effort (which is now in its final phase¹⁷), as would the Generation Transmission Line. As noted above in Section 3, it would follow (and be visible from) Hwy. 247 for much of its length. The Calcite Substation, and related transmission, would also be very close to and visible from Hwy. 247, which would further detract from the area's appeal.

Heavy equipment and water trucks used during the construction and operation of the Proposed Project, Generation Transmission Line and Calcite substation would also likely cause major damage to state and County roads in Lucerne Valley (County roads are not built to support that kind of weight). As it stands now, governmental budgets are barely sufficient to keep those roads in repair to support local residential use. The Proposed Project and its progeny would also, by generating traffic through the commercial portion of Lucerne Valley, create a traffic safety issue given that there is only one four-way stop (with a short turning radius) in that locale. Any loss or substantial interruption of a major vehicular artery serving Lucerne Valley would directly impinge on the local economy, and result in a grave environmental injustice to the community.

In short, the EIR must take serious consideration of the fact that the Proposed Project and Related Development would conflict with: (1) the County's scenic route designation for Highway 247; and (2) the state's declaration that the entire length of Highway 247 is part of the State Scenic Highway System and is eligible for official inclusion therein (and that Highway 247 is currently under consideration for designation as an official State Scenic Highway), which was the result of the state's determination that, "based on the amount of natural landscape visible by motorists, the scenic quality of the landscape, and the extent to which development intrudes upon

¹⁷ A committee of local residents (drawn from the communities served by Hwy. 247), acting under the auspices of the County, is now in the process of refining, as per the state's comments, the extensive and meticulous documentation it has submitted in support of the scenic highway application.

the motorist’s enjoyment of the view,” the region has high scenic value.¹⁸

6. The EIR Must Include a Complete and Comprehensive Assessment as to the Extent to which the Proposed Project and Related Development Would Conflict with the Planning Goals and Policies Enunciated by San Bernardino County.

According to California Code of Regulations Section 15125(d), an “EIR shall discuss any inconsistencies between the proposed project and applicable general plans, specific plans and regional plans.” More specifically, according to Item X(b) of Pa. G to the CEQA Guidelines, EIRs must address the following question: “[does the proposed project] conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?”

Policy 4.10 of the County’s Renewable Energy and Conservation Element (“RECE”) bans new utility-scale renewable energy projects in community plan areas and areas zoned Rural Living. The sites for the Proposed Project and Generation Transmission Line are located in the Lucerne Valley Community Plan area. This is also the case for the sites targeted by the Cumulative Projects.

But Policy 4.10 is hardly the only policy or plan that the proposed development conflicts with. The Proposed Project and Related Development would also be incompatible with the County’s “Solar Ordinance,”¹⁹ as well as policies and plans described below. The EIR must give serious consideration to each of these conflicts. None of these policies, plans and ordinances can be readily circumvented by obtaining discretionary land use entitlements.

A. The RECE.

The EIR must consider the extent to which the Proposed Project and Related Development would conflict with the RECE, given that one of the RECE’s guiding principles

¹⁸ According to Item X(b) of Pa. G to the CEQA Guidelines, EIRs must address the following question: “[does the proposed project] conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project . . .”

¹⁹ The County’s Solar Ordinance requires, among other things, that “[i]n order to approve a commercial solar generation facility, the Planning Commission shall . . . determine that the location of the proposed commercial generation facility is appropriate in relation to the desirability and future development of communities, neighborhoods, and rural residential uses, and shall not lead to loss of the scenic desert qualities that are key to maintaining a vibrant desert tourist economy by [making required findings and considering, among other things, ‘the location of other commercial solar energy generation facilities that have been constructed, approved or applied for in the vicinity . . .’]” (Amended Solar Ordinance 4213 (2014) 84.29.035).

includes keeping utility-oriented projects separate from, and sufficiently buffered from, existing communities to avoid adverse impacts on community development and quality of life. As noted above, the EIR must also consider the extent of the conflict between the Proposed Project and Policy 4.10.

Moreover, the EIR will have to address the conflict between the industrial development being proposed and the policies and goals – the “core values” -- reflected in the RECE, especially given that they embody a hard-won, set-in-concrete consensus between the County’s populace and its governing bodies, one that was forged over many arduous years of public meetings – in the Countywide SPARC, REVEAL and Community Plan processes -- regarding how the County’s planning vision should be cast.²⁰ This is confirmed in the discussion appended to subsection (d) of CEQA Regs. 15125, which states, in relevant part – while referring to regional plans developed “as a way of dealing with large-scale environmental problems” -- that “[w]here individual projects would run counter *to the efforts identified as desirable or approved by agencies in the regional plans*, the Lead Agency should address the inconsistency between the project plans and the regional plans.” (Emphasis added.)

The policies and goals embodied in the RECE are discussed below.

The RECE clearly evinces an intention by the County to foster community-oriented solar and to all but ban further utility-scale solar projects. In so doing, the RECE cites the many virtues of community-oriented solar: it promotes energy independence, reduction of the need for new transmission, the sustaining of sensitive natural resources and habitats and local economic growth. In that regard, the RECE promotes as a primary “core value” the need to maintain a “high quality of life for residents of the County,” as well as the need to bar renewable energy projects that “substantially conflict with surrounding land uses, especially existing communities or residential areas where residents object to the visual character of RE projects.” The County clearly recognized that approval of even one utility-scale solar facility can be the catalyst for rapidly transforming a desert region into a *de facto* industrial energy generation zone.

Reflecting the County's strong bent against utility-scale generation, the RECE sets out strict siting criteria for such facilities; in fact, they are so strict --- when it comes to areas like Lucerne Valley – that they *de facto* banish utility-scale projects from them. RE Policy 5.2 of the RECE, as well as RE Policy 5.4.2, strongly encourage utility-scale generation on the five areas identified in the County’s Resolution (which is discussed below). RE Policy 5.4 makes it clear that utility-scale development elsewhere will be required to meet a higher standard of evaluation

²⁰ To show just how far we have come in reaching this consensus, one need only look at the County’s February 24, 2015 Renewable Energy and Conservation Element Framework: Purpose, Values and Standards, which commenced with the ominous assertion that the State’s renewable (RPS) energy mandates have “major implications for [the County] and its people.” The Framework’s basic thrust was that, in order to comply with those mandates, vast areas of the County would -- subject to some ameliorating siting standards – would have to be sacrificed to utility-scale development. By way of contrast, the RECE calls for confining them to five specified fairly remote areas (this point will be discussed below).

for appropriate site selection, and that a “two-step application process” will be required in order to evaluate site selection early in the process. The EIR must take cognizance of the fact that, if the Proposed Project application were run through that two-stage process, it would never pass the first stage in view of the RECE’s stringent site selection criteria (of course, it would be precluded by Policy 4.10 anyway).

The lands in the vicinity of the Proposed Project site host a dispersed, yet well-established desert rural community, as well as scientifically-recognized wildlife corridors that are also acknowledged by our federal and state governments. Among other things, as noted above, the area is considered core golden eagle habitat for the western Mojave Desert. It is a natural desert setting inhabited by, among other things, climax vegetation which provides habitat, foraging and connectivity for a host of threatened species.

The siting of the approximately 3,000-acre Proposed Project would compromise the County’s above-referenced “core values.” If utility-scale renewable energy projects are allowed to invade a rich and living desert biome like the one at hand²¹, a welter of renewable energy projects could be ushered in that end up being inimical to the letter and spirit of the goals and policies stated in the RECE. And piecemeal, inconsistent renewable energy development could ultimately defeat the central purpose behind formulating the RECE, which is to create and implement a comprehensive planning vision for renewable energy development that serves the needs of all businesses and residents of this County.

The EIR must include an assessment of the degree to which the Proposed Project (along with the Generation Transmission Line and Calcite Substation) would conflict with the policies and goals stated in the RECE. Fundamental to a meaningful conflict analysis will be the following over-arching principle in the County’s land use regime: in view of the harm that industrial operations (like the Proposed Project, Generation Transmission Line and Calcite substation) visit on the visual integrity, economy, social ecology and environmental health of rural residents, they do not make good neighbors.

B. The Countywide Plan.

The EIR must assess the conflict between the Proposed Project and Related Development and the County’s recently-adopted Countywide Plan.

Goals and policies found in Lucerne Valley’s now-rescinded Community Plan (the “Community Plan”) -- which provided protection against industrial development that would

²¹ RE Policy 5.2 also contains a catch-all category for “other sites proven by a detailed suitability analysis to reflect the significantly disturbed nature or conditions” of the specific land types enumerated in RE Policy 5.2, i.e., waste disposal sites, mining sites, airports, etc. But, as indicated above, the lands comprising the Proposed Project site do not begin to resemble heavily degraded lands of the type listed, so the EIR would have to explain why the Proposed Project would qualify under the catch-all category (or acknowledge that it would not).

destroy the rural character of the community -- have been moved to the “Policy Plan” portion of County’s recently-enacted Countywide Plan (see the County’s published Matrix in that regard).

In that regard, the Policy Plan states (in its p. 8) that:

“In particular, Policy LU-4.5 directs the County to ensure that new development is consistent with the physical and historical character and identity of an unincorporated community planning area. This policy also directs the County to ensure consistency with the values and aspirations as defined by each community in their Community Action Guides.²² To further assist the County in determining the consistency of new development with a community’s character, Table LU-3 identifies key characteristics and features that new development should reinforce and/or not detract from in order to maintain and protect the identity and character of the community planning areas.”

Table LU-3 of the Policy Plan identifies the following “Key Characteristics and Features” of rural desert communities (which includes Lucerne Valley):

- “A rural lifestyle characterized by the predominance of large lots, limited commercial development, and the prevalence of the desert landscape and natural resources.
- Abundant views of open spaces, natural features, and dark skies.
- Scenic, natural, and/or recreational features that serve as the foundation of the community’s local economy and attract tourists.
- Small businesses that serve local residents and visitors, compatible with the natural environment and surrounding uses.
- Mining of mineral resources with minimal negative impacts on local residents.”

In that same vein, Goal LU-4 of the Policy Plan calls for land use decisions that enhance the “preservation and enhancement of unique community identities and their relationship with

²² The Lucerne Valley Community Action Guide (“CAG”) makes clear that “Lucerne Valley is a high desert community that strongly values the natural beauty of the surrounding desert/mountain landscape. Fiercely independent and protective of its rural character, the community strives to promote responsible and sustainable growth while safeguarding both the desert lifestyle and the environment.” This is also reflected in the CAG’s “Community Focus Statement A: Maintain the rural character of the community” and in its “Community Focus Statement B: Promote responsible and sustainable development consistent with Lucerne Valley’s rural character.”

In light of Policy LU-4.5’s invocation of the CAG, the EIR must also address the incompatibility between its statement of goals and aspirations and industrializing Lucerne Valley through utility-scale solar and infrastructure development.

the natural environment.”

Industrializing Lucerne Valley, through approval of the Proposed Project and Related Development, would clearly re-purpose the entire region and run contrary to the Policy Plan’s pronouncements on retaining the rural lifestyle, scenic views and open space enjoyed by residents of the County’s desert communities.

The Policy Plan includes other policy/goal statements indicating that utility-scale solar and related infrastructure projects are incompatible with Lucerne Valley. They include, among others:

1. Policy NR-3.3, which requires the County to “sustainably manage and conserve land within or adjacent to locally-, state-, or federally-designated open space or resource conservation areas [the Proposed Project and Related Development sites are located immediately adjacent to the Granite Mountain and Ord Mountain ACECs and within the boundaries of the MSHCP];”

2. Goal NR-4, which calls for preservation of “[s]cenic resources that highlight the natural environment and reinforce the identity of local communities and the county;”

3. Policy NR-4.1 (“Preservation of scenic resources”), which states that “[w]e consider the location and scale of development to preserve regionally significant scenic vistas and natural features, including prominent hillsides, ridgelines, dominant landforms, and reservoirs;”

4. Goal NR-5 (“Biological Resources”) calls for “[a]n interconnected landscape of open spaces and habitat areas that promotes biodiversity and healthy ecosystems, both for their intrinsic value and for the value placed on them by residents and visitors;”

5. Policy NR-5.1 (“Coordinated habitat planning”) provides that “[w]e participate in landscape-scale habitat conservation planning and coordinate with existing or proposed habitat conservation and natural resource management plans for private and public lands to increase certainty for both the conservation of species, habitats, wildlife corridors, and other important biological resources and functions; and for land development and infrastructure permitting;”

6. Policy NR-5.7 (“Development review, entitlement, and mitigation”), which provides that “[w]e comply with state and federal regulations regarding protected species of animals and vegetation through the development review, entitlement, and environmental clearance processes comply with existing law regarding species protection;” and

7. Policy LU-4.7, which calls for minimizing “light pollution and glare to preserve views of the night sky, particularly in the Mountain and Desert regions where dark skies are fundamentally connected to community identities and local economies.”

The EIR must consider the extent to which the Proposed Project and Related Development would conflict with the above-cited portions of the Policy Plan, especially given that such development would represent an abrupt and pronounced departure from the rural desert character of the surrounding area and would advance the industrialization of the desert, all of

which would encourage further consumption of irreplaceable, community-defining natural open space and scarce resources like water.²³ The EIR must also address the conflict between the proposed development and the County Development Code, including (but not limited to) the following: Section 82.19.40 of the County Development Code (development criteria within scenic areas); Section 84.29.035 (required findings for approval of commercial solar facilities) and Section 84.29.040.

C. The Supervisors' February 17, 2016 Resolution and DRECP Position Paper.

The EIR must consider the conflict between the Proposed Project (and its progeny) and the land use policies and goals stated in:

(1) the February 17, 2016 Resolution of the County's Board of Supervisors (the "Resolution"), which designated five sites -- which are seriously degraded, away from Lucerne Valley and other population centers, and relatively close to existing transmission -- as the only places that utility-scale should go, subject to the project's otherwise satisfying the County's criteria; and

(2) the "County of San Bernardino Position Paper on the Draft Desert Renewable Energy Conservation Plan," dated February 3, 2015 (the "Position Paper"), in which the County stated that the communities of Lucerne Valley, Newberry Springs, Stoddard Valley, Johnson Valley and Apple Valley are not appropriate for Development Focus Areas ("DFAs"), which are places in which the DRECP would allow utility-scale renewable energy projects to be established.

In order to comply with Section 15125(d) of CEQA, the EIR must specifically address the inconsistency between each of the above-referenced preservation-oriented land use policies and goals and the Proposed Project and Related Development. In order to pass muster under the CEQA -- and in view of the fact that the proposed 3,000-acre utility-scale solar project (and pendant Calcite Substation) would industrialize a large portion of Lucerne Valley -- it is especially crucial that this analysis be forthright, in-depth and meaningful.

(1) The Resolution.

In the Resolution -- which is entitled "Establishing the County's Position" -- the County's Board of Supervisors designated five sites (as referred to in the RECE's Policy 5.4.2) -- which are seriously degraded, away from population centers, and relatively close to existing transmission -- as the places that utility-scale should go, subject to the projects otherwise satisfying the County's criteria. The Resolution was adopted by a unanimous vote. Neither the Proposed Project, nor the Related Development, would be located in or near any of the five designated sites that have been deemed appropriate for solar energy development. On top of that, the Proposed Project, and the other proposed Lucerne Valley utility-scale projects, would

²³ Water usage issues will be discussed further *infra*.

need ancillary facilities, i.e., the Generation Transmission Line and the Calcite Substation, in order to be viable.

In selecting those areas most amenable to utility-scale projects, the Board of Supervisors gave attention to such important factors as close access to transmission, no adjacent human communities and the prevalence of severely degraded biomes. The Supervisors quickly eliminated Lucerne Valley and the other North Slope communities (of the San Bernardino Mountains) because of high conflicts with these factors. The Supervisors were further guided by these two sets of maps:

(1) a map included in Kristeen Penrod's above-mentioned (SC Wildlands) "California Desert Connectivity Project" (Penrod et al. 2012); and

(2) DRECP Databasin maps showing: (a) the DRECP's DFAs, Variance Lands and General Public Lands (Unallocated Lands) overlaid on the Desert Tortoise TCA Habitat Linkages; (b) the ACECs (Areas of Critical Ecological Concern) and NLCS (National Landscape Conservation System) areas under the DRECP where utility-scale would be prohibited; (c) Overdraft Groundwater Basins in the County; (d) Conservation Values; (e) Special Recreation Management Areas/Extensive Recreation Management Areas; and (f) existing transmission.

Those maps – and the fact that Lucerne Valley, Apple Valley, Johnson Valley and Morongo Basin, among others, host well-established towns and dispersed desert rural communities that would be negatively impacted by industrial-scale renewables (among many other considerations, utility-scale facilities like the Proposed Project draw from already overdrafted groundwater basins) – compelled the conclusion, through a simple process of elimination, that the County's north and eastern slope valley areas must be kept off-limits to such large-scale development; they also confirm that there are highly degraded, transmission-adjacent, former and current industrial, mine and brownfield sites further north -- near Trona, Hinckley, North of Kramer Junction, El Mirage and Amboy -- where such development could be permitted, i.e., the five sites designated in the Resolution (which are referenced in RECE Policy 5.4.2).²⁴

The County's above-referenced valley areas, including Lucerne Valley, have a very unique and precious, yet extremely fragile, attribute that provides a high quality of life for their residents (and that makes them such appealing places to visit and, hence, such a boon to the tourist industry): they host well-established, dispersed desert rural population clusters that thrive amid functioning desert sub-ecosystems, which, in turn, are part of the largest intact biome in the western states, i.e., the Mojave Desert. If this harmonious convergence of human and natural communities were to be allowed to disappear, it would be gone forever. So the County stepped

²⁴ The five sites also have the virtue of being located: (1) over ample groundwater supplies (moreover, the groundwater underlying the Trona, Hinckley and Amboy sites is non-potable, and can only be put to industrial uses); (2) outside of any military flight corridors; (3) on land that has a flat enough gradient to host utility-scale solar development; and (4) away from communities affected by utility-scale development.

in to protect this irreplaceable community resource through the Resolution, as well as by way of its Position Paper and RECE (as was discussed above).

The EIR must address in depth the obvious and unavoidable conflicts between the Proposed Project and the County's planning preferences and priorities, as expressed in the Resolution.

(2) **The Position Paper.**

The Resolution was not the first time that the County has articulated its foremost values and priorities in terms of siting large-scale renewable projects. In the “County of San Bernardino Position Paper on the Draft Desert Renewable Energy Conservation Plan,” dated February 3, 2015, the County stated that the communities of Lucerne Valley, Newberry Springs, Stoddard Valley, Johnson Valley and Apple Valley were not appropriate for DFAs, which are places in which the DRECP would allow utility-scale renewable energy projects to be established.

In issuing its Position Paper, the County was clearly seeking to protect the human and natural communities of its east and north slope valley regions by putting them off limits to industrial-scale development, which directly conflicts with the desire of the project proponent to develop an enormous 3,000-acre utility-scale facility in the heart of Lucerne Valley. In order to comply with CEQA, the EIR must analyze this conflict.

D. The EIR Must Address the Manner in Which the Proposed Project, Generation Transmission Line and Calcite Substation Would Conflict with the MSHCP Being Jointly Developed by the County and the Town of Apple Valley.

The Proposed Project would be located right in the midst of the Multiple Species Habitat Conservation Plan and Natural Community Conservation Plan (the “MSHCP”) that is being jointly developed by the County and the Town of Apple Valley (the “Town”), and it would be, at the very least, closely flanked by the Generation Transmission Line and Calcite Substation. The MSHCP covers the Granite Mountains, which are within the Town’s designated sphere of influence, and extends over the western portion of the Lucerne Valley community plan area. This conservation plan balances the communities’ recreational and economic needs with landscape-scale conservation needs, climate change and protection of species diversity. The plan is designed to accomplish this by maintaining connections with multi-generational wildlife linkages extending across the Mojave Desert.

The MSHCP is a highly-evolved conservation plan, and the County and the Town are

committed to launching and implementing it.²⁵ The MSHCP, and their design overlays -- the overlays are based on published species connectivity studies developed at the landscape level by recognized wildlife biologists, as well as from local, boots-on-the-ground surveys -- were designed to link up with and complement adjacent, vital wildlife corridors and habitats (for, among other animals, bighorn sheep, the golden eagle and desert tortoise) which run through the Proposed Project site. The Proposed Project and Related Development would, by completely occluding these linkages and habitats, impinge on, and conflict with, the habitat design embodied in the MSHCP.

The EIR must address the direct and irreconcilable conflict between the policies and purpose of the MSHCP and the industrialization that would be wrought by the Proposed Project and Related Development, which would entirely unravel the MSHCP's carefully calibrated species conservation design, destroy critical natural habitat and drive endangered species out of the region.

E. The California Protected Areas Database (CPAD).²⁶

The California Protected Areas Database (CPAD) designates as protected open space sizeable parcels of BLM "Open Access" land in and around the Proposed Project site. The referenced BLM land could not be preserved as protected as open space and for open access purposes if it were to be occupied or flanked by industrial energy generation/storage and transmission facilities, and crisscrossed with collector lines and access roads.

The CPAD database and map show that there are parcels of BLM "Open Access" land in or near the sites of the Proposed Project and Related Development which would be compromised by such development.

²⁵ Policy NR-5.1 ("Coordinated habitat planning"), of the County's Policy Plan -- which is the general plan portion of the County's recently adopted Countywide Plan -- provides that "[w]e participate in landscape-scale habitat conservation planning and coordinate with existing *or proposed habitat conservation and natural resource management plans* for private and public lands to increase certainty for both the conservation of species, habitats, wildlife corridors, and other important biological resources and functions; and for land development and infrastructure permitting." (Emphasis added.)

Policy NR-5.1 makes it clear that the County is not willing to make land use decisions that step on the toes of habitat conservation plans, even those -- like the MSHCP -- that are in the works and yet to be formally adopted.

²⁶ CPAD is, according to the state's official website, a "GIS dataset depicting lands that are owned in fee and protected for open space purposes by over 1,000 public agencies or non-profit organizations. CPAD depicts the wide diversity of parks and open spaces in California, ranging from our largest National Forests and Parks to neighborhood pocket parks."

The EIR must carefully consider the direct conflict between the open space designation accorded by CPAD and the intensive re-purposing of the entire area that would be occasioned by the Proposed Project and Related Development.

7. The EIR Must Thoroughly Consider “Significant and Unavoidable Impacts.”

Section 15126.2(b) of the CEQA Guidelines requires that an EIR discuss significant impacts associated with the project that cannot be avoided, even with the implementation of feasible mitigation measures.

The EIR must acknowledge that the Proposed Project and Related Development would industrialize, i.e., fundamentally and inevitably destroy, the playa, valleys and open space area making up Lucerne Valley. The wholesale industrialization of an entire region of fragile desert would certainly unleash a cascade of significant and unavoidable impacts across the board on, among other things, air quality/health, biological resources, soils and the viability of local groundwater basins.

The EIR must also provide a thorough and cogent discussion as to how or whether – several decades in the future – the developer would be willing and able to commit the enormous resources needed to restore the region. Even more fundamentally, the EIR must thoroughly consider whether, as a matter of biological science, the region could ever be restored to its undeveloped natural desert state, especially given the massive amount of industrial infrastructure that would be installed in creating the project. The EIR must consider whether this fragile and unimaginably complex eco-region could ever be re-built from its biological base upward, and whether critical wildlife corridors could ever be restored after the existing flora and fauna had suffered local species collapse.

In short, the EIR cannot avoid discussing the reality that all this would be practically, financially and scientifically impossible, and that future generations would be committed by the Proposed Project and Related Development to continuing use of Lucerne Valley as an industrial zone.

8. The EIR Cannot “Tier Off” the DRECP.

The EIR cannot simply “tier off” the BLM-only DRECP, as though much of the environmental analysis required for the Proposed Project has already been performed and is widely-accepted and endorsed. According to Figure 2 (DRECP LUPA Major Land Allocation) and Figure 10 (DRECP LUPA Renewable Energy Designations) of the DRECP Record of Decision (September 2016) – which depicts the final extent of the Development Focus Areas (“DFAs”) declared by the DRECP – the Proposed Project site is not within the boundaries of any recognized DFA.

Even if it was, “tiering” off the DRECP would not be appropriate. The sudden, last-minute decision by the REAT agencies to sever everything but BLM land from the DRECP –

after many years of touting the all-inclusive scope of the DRECP – reflected a sharp reaction by the California state REAT agencies to objections and criticisms from local governments, and from numerous scientific and community groups, who questioned the legitimacy of such a large-scale, zoomed-out approach to environmental and land use questions, the long-term impact of which would be felt at the local level. The draft DRECP triggered thousands of critical comments, many of them focused on the lack of “boots on the ground” analysis, and the failure to bring in an understanding of how entire ecological systems function, including (but not limited to) sensitive wildlife corridors. Further, San Bernardino County on more than one occasion formally expressed its concern to the REAT agencies that DRECP was disregarding the County’s guiding land use principles and preferences as they related to balancing developmental and environmental values.

The DRECP applies only to BLM-administered lands, while the Proposed Project is located on state and unincorporated county land. Hence the DRECP cannot be characterized in the EIR as a “major guiding document” when it comes to considering whether or not utility-scale development is to be permitted on unincorporated county land, and the DRECP holds no sway as to the CSLC’s obligations under CEQA.

In short, to the extent that the County elects to “tier off,” i.e., piggyback on, any of the DRECP’s findings, conclusions or implications in formulating the EIR, the EIR will be non-compliant with CEQA.

9. The EIR Must Thoroughly Examine the Amount of Water Required for the Construction, Operation and Maintenance (including Ongoing Dust Suppression) of the Proposed Project and Related Development, as Well as the Impact Such Widespread and Intense Industrial Activities Would Have on Development on the County’s Finite and Already-Threatened Groundwater Resources.

The Proposed Project and Related Development (as currently proposed) would be located on an over-drafted groundwater basin – the Este Sub-basin -- according to the “Overdraft Groundwater Basins, DRECP” map, and directly in the middle of the groundwater sub-basin referred to on Figure 5 as the “North Valley Subwatershed” of the Lucerne Lake Watershed Area (this sub-basin was geo-processed from a digital elevation model), a copy of which is attached to the EJ Letter, which is appended to this letter. The Proposed Project and Related Development would compromise the underlying groundwater reservoir by drawing immense volumes of water for its construction and operation.

The Proposed Project and Related Development would also reduce groundwater recharge through removal of vegetation, alteration of the land through grading and covering the land with impervious surfaces, all of which would alter the relationships between rainfall, runoff, infiltration and transpiration. In other words, with native vegetation scraped off the immense project sites, there would be nothing to retain the rainwater flowing down from the surrounding mountains towards the center of the North Valley Subwatershed, so, instead of percolating into the aquifer, it would flow out of the north valley area.

The Application discloses that the Proposed Project alone would require large volumes of water: water consumption during the construction phase alone is estimated at approximately 1,200 acre-feet (AF) for dust suppression and earthwork over an approximately 18-month period.

The Application also specifies that the Proposed Project's permanent employees would perform in-place panel washings every 6 to 8 weeks using a tanker truck, and smaller "satellite" panel washing trucks (each panel washing truck would carry water treatment equipment and truck-mounted panel washing booms or module cleaning robotics). On-site water storage tanks may be installed to facilitate washing and to support fire suppression. The "operations & management" building for the project would include a groundwater well to provide potable water. There would also be septic tanks and a leech-field.

The Application estimates that on-site operations would use up to approximately 46 acre feet *per year* rounded up to include the potential for domestic use.²⁷ The Application provides no estimate as to the volume of water needed to prevent fugitive dust, particulate matter and spores from blowing off the 3,000-acre site during the life of the Proposed Project, and the developer has not specified whether it would make any efforts in that direction. Of course, no amount of water would, after the arid, wind-prone site is denuded and disturbed through construction, operation and maintenance, be sufficient to prevent fugitive matter from being wind-borne across the region.²⁸

In short, as alarmingly high as the Application's water use estimate is, it most likely

²⁷ As stated below in this letter, PV panels washed six times per year would consume .15 acre feet per year per megawatt of generation, which would mean that washing the panels for the Proposed Project's 200 MWs would consume at least 30 AFY.

²⁸ To put things in perspective, 1,000 acre-feet of water is enough to fill four Rose Bowls to the brim. So, over a 40-year lifespan, the Proposed Project – using the estimates found in the Application -- would use enough water *to fill at least twelve Rose Bowls* (1,200 acre feet + 1,840 acre feet (40 years x 46 acre feet per year) = 3,040 acre-feet), assuming that that amount of water could actually be drawn from local groundwater supplies.

underestimates actual usage.²⁹ And the Application does not provide any estimate of the volume of water needed for the construction and operation of any of the other elements of the Related Development. Further, the Application does not provide any estimate of the amount of groundwater consumed or groundwater recharge that would be lost in the Este Sub-Basin (and in other affected sub-basins) through construction of the Proposed Project and Related Development. The EIR will need to thoroughly, accurately and *independently* make such assessments. In doing so, the EIR cannot rely solely, or even primarily, on water usage or recharge reduction estimates provided by developers or by the large-scale solar industry.

Where would the huge volume of water needed come from? According to the Application (p. 30), it would be pumped out of Lucerne Valley's threatened aquifer or trucked onsite from a local water supplier. But neither of those methods would provide a viable water source for the Proposed Project.³⁰ The Application does not say what proportion of this water would be drawn on-site vs. obtained from local water companies, nor does it specify how many

²⁹ Solar developers typically provide unrealistically low water usage estimates. At the onset of the Agincourt and Marathon solar projects (now known as Lone Valley Solar) in Lucerne Valley, the proponents agreed to purchase from the Mojave Water Agency 10 acre feet of water; instead, according to our information, they wound up using more than 50 acre feet (10 acre feet came directly from the Morongo Basin pipeline, and the other 40 acre feet were purchased from a local farmer). And these projects spewed tons of dust. The same thing has occurred with respect to the Soitec PV project in Newberry Springs.

The Desert Sunlight Solar PV facility in Riverside County was approved based on the promise of its proponents to limit themselves to 1,400 acre feet of groundwater during construction. But, after they broke ground, they said they would need 1,500 acre feet of water (which they later increased by another 50 acre feet). The developers took all of that water from an aquifer that has not gotten any re-charge in hundreds of years, according to a U.S. Geological Service survey.

Antelope Valley Solar Ranch, located in Lancaster, near Route 138, was built by First Solar, which seems to be the contractor of choice for many solar photovoltaic projects. The AVAQMD cited First Solar for violations of air quality standards on at least two separate occasions. The AVAQMD was quoted as saying that there was "a myriad of things [First Solar] could have done that we didn't think they were doing to prevent the violations."

³⁰ Under the 1995 Mojave Basin Area Adjudication (the "MBA Adjudication") (www.mojavewater.org/judgment_summary.html), no inter-basin water transfers are permitted to the Este Subarea, so water could not lawfully be trucked in from outside Lucerne Valley. That would leave the project proponent with two untenable choices: (1) it could seek water from the State Water Project through the Morongo Basin Pipeline, but it is highly unlikely that it would be allocated any appreciable amount of water from that source; or (2) pump groundwater from the over-drafted Este Subarea and pay a "makeup obligation" to the Mojave Water Agency to recharge it, but no recharge site currently exists.

groundwater wells would need to be established (p. E-9).³¹ But either way, Lucerne Valley would lose if the developer ignored the above-cited restrictions: either Lucerne Valley's sub-basin would be drawn down by on-site groundwater wells or pollution/particulate-spewing water trucks would course up and down Highways 18 and 247 (the nearest water company is 10 miles away from the project site) bringing water from over-drafted groundwater reservoirs under adjacent communities that are interconnected with the Este Sub-basin, i.e., a water company drawing from a well in Apple Valley – under which the already over-drafted Alto Subarea groundwater basin is located -- would ultimately be reducing groundwater re-charge throughout the region, including Lucerne Valley.

Depleting Lucerne Valley's groundwater supply could also incentivize the court in the MBA Adjudication to force local water users to ramp down the amount of groundwater they are entitled to pump -- their "Free Production Allowance (FPA)" – which would have a direct environmental justice impact on a disadvantaged community like Lucerne Valley and impair its economic future.

Utility-scale developers typically dismiss concerns about groundwater usage by noting that their project sites have been accorded adjudicated "production rights." But such rights, under the MBA Adjudication, do not represent a scientific estimate of the amount of groundwater that can actually be drawn from a given sub-basin without irrevocably depleting it. Adjudicated water rights establish only the amount of water that an individual can *legally* draw from a local aquifer, such as the Este Sub-basin. It does not mean that the water will actually be there (or that water of sufficient quality will be there), nor does it guarantee that, should the property owners bound to the judgment draw the amounts allotted to them, there would be enough to go around.

Water is an irreplaceable resource that is Lucerne Valley's lifeblood, and it is subject to prolonged drought. It is also jeopardized by 20,000 MWs in total, according to the draft DRECP (with a portion of that on BLM lands as per the final BLM LUPA) of new utility-scale renewable energy that the DRECP plans for the California desert. Such data as we have on the subject –

³¹ The Soda Mt. solar project (it was denied approval by the County Supervisors) – which would have consumed *less* acreage (Soda Mt. would have used 1,767 acres to generate 287 MW vs. 3,000 acres for 200 MWs for the Proposed Project) than the Proposed Project – would have required up to five groundwater production wells and three groundwater monitoring wells.

Incidentally, according to the Application, "[t]here are eleven primary local water suppliers for the Lucerne Valley . . . ," with the nearest water purveyor located approximately 10 miles south of the Proposed Project site.

which comes chiefly from the DRECP itself – must be considered.³²

While the draft DRECP did not conduct a meaningful analysis of groundwater baseline data, it nevertheless made valuable observations about the tenuous state of the desert’s groundwater basins. For instance, the draft DRECP acknowledged that its “Development Focus Areas” (“DFAs”) would be located primarily on already over-drafted groundwater basins from which the enormous volumes of water needed -- for the construction, maintenance and operations of large-scale generation facilities -- would have to be drawn. In that regard, it conceded (at IV.6-24) that “[d]evelopment would occur in 35 groundwater basins,” that 14 of them are stressed or in “overdraft or stressed,” that “[m]ost (97%) of the developed area is within four ecoregion subareas [the High Desert areas of Los Angeles and San Bernardino Counties and the Imperial Valley]” -- which are the most populated areas of the California desert³³ -- and that “increased groundwater use in these sensitive basins can adversely affect water supplies and exacerbate impacts associated with overdraft conditions and declining groundwater levels.”

The draft DRECP also stated that the total estimated water use for the new projects it sought to foster would be 91,000 acre-feet per year (IV.6-24), and that the “[r]enewable energy facilities permitted under the DRECP could influence the quantity and timing of groundwater recharge because construction would include grading the land surface, removing vegetation, altering the conveyance and control of runoff and floods, or covering the land with impervious surfaces that alter the relationships between rainfall, runoff, infiltration and transpiration [IV.25-45].” Solar energy – which was the renewable technology preferred in the DRECP -- “would result in the largest amount of grading so it would have the largest impact on groundwater recharge among the renewable technologies permitted under the DRECP [IV.25-45].”

³² Statements made by the State Water Resources Control Board (the “SWRCB”), in its comment letter regarding the DRECP, suggested that there would be prolonged drought, and that has been borne out since. The SWRCB comment letter states that the preponderance of groundwater in the Basins and Ranges hydrologic province is thousands of years old (i.e., it takes thousands of years for groundwater to travel from the point of recharge to the point of discharge). According to the SWRCB comment letter, our aquifers represent a closed system where 66% of the groundwater is between 100 and 33,000 years old with the only “young” recharge coming from the mountains [p. 18]. On a related note, the SWRCB states that, “[i]n most areas of the desert, deeper, older groundwater is saline. Excessive pumping will likely cause migration of saline water into fresh water aquifers [p. 11].”

³³ When the draft DRECP’s map of the Preferred Alternative DFAs (which, along with transmission corridors, was to entail approximately 177,000 acres of “ground disturbance” (IV.7-215)) is superimposed on top of the DRECP’s Overdraft Groundwater Basins map, one sees that (with small exceptions) all of the High Desert DFAs – from the Antelope Valley east to the Johnson Valley -- were located within the boundaries of already over-drafted groundwater basins. Indeed, the DRECP conceded: “[u]nder the Preferred Alternative, development in BLM lands can affect groundwater in 12 basins characterized as either in overdraft or stressed” [Section IV.6 of the DRECP].

According to the vastly understated language of the draft DRECP, the “use of groundwater for renewable facilities permitted under the DRECP would combine with [other uses of groundwater] . . . to result in a cumulative lowering of groundwater levels affecting basin water supplies and groundwater [IV.25-46].”

The draft DRECP also took note (IV.25-45) of the “[p]opulation growth and anticipated development summarized in Section IV.25.2.2” -- including “future residential development that would also use a large amount of groundwater continuously [IV.25-46]” and that would result from anticipated renewable energy and other projects -- as further contributing to the drawdown of desert groundwater basins.

Even more ominously, the draft DRECP noted that the proposed renewable energy projects would result in “compression [of groundwater basins that would reduce] the volume of sediment beds and lower land surface elevations, which can damage existing structures, roads, and pipelines; reverse flow in sanitary sewer systems and water delivery canals; alter the magnitude and extent of flooding along creeks and lakes. *This compression of clay beds [that make up groundwater basins] also represents a permanent reduction in storage capacity*” [IV.25-47]. (Emphasis added.) The proposed renewable energy plants and transmission facilities “could also cause water-level declines in the same groundwater basins and contribute to the migration of the saline areas of groundwater basins” [IV.25-47].

In terms of construction usage, the 550 MW Desert Sunlight 250 project (on 4,400 acres of land) – and the 1,550 acre feet of water allocated to its construction – can be used as a metric. Forty projects of that size would produce just over the DRECP’s targeted 20,000 MWs in renewable energy. Assuming that those forty projects would use a similar amount of water during their construction, construction of 20,000 MW of new renewable energy projects would consume 620,000 acre feet, which equates with approximately 20 billion gallons of water.

In their maintenance and operations, the utility-scale solar projects in the Lucerne Valley DFA would, according to data from the draft DRECP, consume almost 1,000 acre-feet of water **per year**, which is enough water to fill four Rose Bowls to the brim. On a DRECP-wide basis, if all 20,000 MW of generation were to come from the least water-intensive generation method – which is solar PV (as opposed to solar thermal, which requires much more water in cleaning, as well as a great deal of additional water for cooling operations) – and the PV panels were washed only six times per year, the cleaning of the panels alone would consume .15 acre feet per year per megawatt of generation, which would amount to a total water expenditure of approximately 3,000 acre feet per year (20,000 times .15 = 3,000).

Projects on BLM land will be drawing from the same groundwater basins that the rest of the County relies on – in effect, public and private “straws” will all be drawing from the same figurative milkshake. Nevertheless, the draft DRECP includes no study of the impact on the desert’s aquifers of siting 20,000 MWs of new generation facilities, nor did the draft DRECP include any real baseline data concerning the health or sustainability of those basins under current demands, or factor in the effects of an ongoing drought of historic proportions.

Other such “straws” come from the plethora of illegal marijuana grows that have been popping up all over Lucerne Valley for some time, as well as elsewhere in the County. They illicitly consume large volumes of water, and have been springing up faster than law enforcement can close them down. According to aerial photos of the region, there are approximately 250 illegal marijuana grows in Lucerne Valley alone. Using an average of .33 acres per grow and estimating that each of them uses three acre feet of water per year, the illegal marijuana grows consume a total of approximately 247 acre feet per year of Lucerne Valley water. There are another 160 acres of “hoop houses” in Lucerne Valley in which marijuana is illegally grown indoors. At three acre feet per year per each hoop house, they consume a total estimated 480 acre feet of water. So the combined illegal grows consume an estimated 727 acre feet per year, which would allow a legitimate farmer to grow 120 acres of alfalfa. None of the owners of the illegal grows are part of the MWA’s adjudication, and their water usage is not accounted for as part of its water allocation program.

There is currently no method of determining the cumulative effects that the Proposed Project and Related Development would have on our inter-connected aquifer systems. Meanwhile, there is a proliferation of large-scale, water-thirsty projects, like the Cadiz Valley Water Conservation and Storage Project, the Eagle Mountain Pumped Storage Hydroelectric Project (1,300 MW) and potential efforts to remediate the Salton Sea that would stress already fragile water reserves.

The only way to truly determine the extent to which the Proposed Project and Related Development would rob Lucerne Valley of its precious groundwater supplies would be to undertake: (1) a comprehensive assessment as to how the siting of the proposed renewable energy generation and substation would – in combination with other factors, including the cumulative impacts of a plethora of utility-scale and transmission projects that will be developed on public land under the BLM LUPA -- affect relevant groundwater basins, i.e., to what degree would their sustainability be threatened; and (2) a baseline study as to the current status of each affected aquifer – how much potable and non-potable water is each such groundwater basin currently holding? Are the groundwater basins sustainable in view of the demands currently being made on them (including the demands that would be made on them by the Proposed Project and Related Development, and in view of their recharge rates (as these recharge rates are reduced by widespread industrial development)), or are these basins approaching collapse, i.e., what are their tipping points?

Even at that, such an analysis would provide a very limited, snapshot-in-time prognostication that may not accurately portray our groundwater basins’ future sustainability. At the meeting of the BLM’s Desert Advisory Committee held on September 27, 2014, in Pahrump, Nevada, Peter Godfrey, a BLM water specialist who was one of the authors of the groundwater portions of the draft DRECP, stated that, in order to assess our aquifers’ future sustainability, a long-term time horizon of as much as 30 years is required, which is longer than the projected lifespan of the Proposed Project and substation. In other words, we won’t really know whether

these projects have compromised our groundwater basins until after they have passed the point of no return.³⁴

Moreover, because environmental justice concerns are involved, performing an abstract projection as to the amount of water usage for the Projected Project and Related Development would not suffice. An analysis would also have to be performed comparing how this draw-down would affect a disadvantaged community like Lucerne Valley versus how it would affect more advantaged areas of the state.

The groundwater lying below Lucerne Valley belongs to its residents, and it is their only water source for all practical purposes. Meanwhile, the ongoing drought continues to pose a dire threat. As a result, the community faces the unfortunate reality that there may be continuing “ramp-downs” under the MBA Adjudication of the amounts of water that residents can draw from the Este Sub-Basin. In view of this, the lack of definitive studies, and the fact that Lucerne Valley’s groundwater basins are already under threat due to overuse in drought-ridden times, it should be assumed that extensive groundwater pumping for the Proposed Project and its progeny would render them unable to meet the needs of Lucerne Valley’s residents and businesses.

Given these factors, and the CEQA mandates, the EIR must critically and adequately address the groundwater issue in the manner specified above, and incorporate a comprehensive and cumulative study of the impacts on groundwater reserves that renewable energy projects, like the Proposed Project and the Related Development, would have, with an emphasis on establishing the crucial “trigger points” at which groundwater pumping would render specific affected groundwater basins unable to meet the needs of the County’s residents and businesses. Only then can the EIR engage in a rigorous and honest comparison of alternatives to the project as proposed.

10. The EIR Must Thoroughly Examine the Impacts on Surface Waters That the Proposed Project and Related Development Would Have By Reducing and Re-Directing Natural Surface Water Flows.

The Proposed Project and Related Development – with the network of storm-water control basins called for by the Preliminary Plan -- will impact a large number of washes and

³⁴ The desire to safeguard groundwater supplies from being depleted over the long haul by large-scale development underlies SB 610 and SB 221. They require long-term supply availability projections for certain types of major development projects listed in Water Code Section 10912(a); they include residential development of more than 500 dwelling units, large shopping centers, office buildings, hotels and plants, as well as projects that “would demand an amount of water equivalent to or greater than the amount of water required by a 500 dwelling unit project.” The EIR must address the question of whether the water usage of the Proposed Project and Related Development would exceed the quoted standard and, if so, provide long-term supply availability projections.

ephemeral streams, especially in the relatively pristine, mountain-ringed alluvial valley targeted by the Proposed Project.³⁵ These areas provide important habitat values that will be impacted by the massive amount of re-grading proposed. Moreover, the loss of natural surface water flows and the re-direction of surface waters will likely have significant impacts. The impacts on soils from the proposed project will need to be adequately addressed in the DEIS/R.

Ephemeral and intermittent streams make up over 81% of surface waters in the arid and semi-arid southwest (Arizona, New Mexico, Nevada, Utah, Colorado and California). These streams provide a variety of ecosystem services including landscape hydrologic connections, stream energy dissipation during high-water flows to reduce erosion and improve water quality, surface and subsurface water storage and exchange, ground-water recharge and discharge, sediment transport, and storage. They are vital in terms of deposition to aid in floodplain maintenance and development (Lucerne Valley Dry Lake is nearby), nutrient storage and cycling, wildlife habitat and migration corridors, support for vegetation communities to help stabilize stream banks and provide wildlife services, and water supply and water-quality filtering (http://www.epa.gov/esd/land-sci/pdf/EPHEMERAL_STREAMS_REPORT_Final_508-K).

Therefore, the EIR needs to evaluate the impact of the Proposed Project and Related Development on the ephemeral and intermittent streams and the ecosystem processes that they provide both on and off of the proposed project sites.

11. The EIR Must Include an In-Depth Study of the Effects that the Proposed Project and Cumulative Development Would Have on Lucerne Valley Communities.

There is an established rural desert community consisting of at least 40 homes within approximately five miles of the Proposed Project, plus St. Joseph's Monastery. There is a cluster of at least 54 homes within a half-mile of the boundaries of one of the Cumulative Projects – the Ord Mountain Solar Project – with at least 33 of them being occupied by their owners (or, as is the case with Rivers Edge Ranch, under active operation), which includes homes to the west of Peterman Hill.

The Proposed Project, Generation Transmission Line and Calcite Substation sites would be located in a narrow valley running southeasterly -- between the Granite Mountains and the Ord Mountains ACECs – from the foot of Stoddard Ridge to Lucerne Valley Dry Lake. Most of the land in this region is pristine desert habitat. The portion of it that has been farmed is in an advanced stage of recovery, is part of a functioning natural habitat and cannot be readily distinguished from those portions which are pristine natural desert. There has been no large-scale agriculture there for approximately a decade.

³⁵ In response to the EJ Outreach letter, a coalition of High Desert residents sent a letter to the CSLC, dated April 30, 2020, a copy of which is appended hereto as Attachment 1. The hydrology of the Proposed Project site is appended to the EJ Letter as Figure 5.

That the homes in the local community are dispersed – this is a common and often defining characteristic of rural living, particularly in the desert – does not disqualify the community from receiving protection against rampant industrialization. One need only look at the County’s above-cited land use goals and policies for confirmation of that proposition: they are directed toward protection and preservation of the rural lifestyles of the County’s desert residents. Is there any doubt that, had the community consisted of million-dollar homes with well-manicured lawns, the Proposed Project and Related Development would have been disallowed some time ago?

The County has, in accord with those goals and policies, protected small desert communities from utility-scale development. On May 5, 2015, the Board of Supervisors granted an appeal revoking a CUP for a proposed commercial photovoltaic solar project in Landers – called Bowman Solar – in part because it would have been incompatible with the dispersed rural residences that dot the surrounding region, *notwithstanding that there were only “seven single-family residences . . . located within 1,000 feet of the proposed project parcel”* according to the Initial Study for that project (emphasis added.). Such concerns also played a part in the County Planning Commission’s denial, on November 6, 2014, of a CUP for the proposed Desert View photovoltaic solar project in western Lucerne Valley.

The basic premises for the EIR’s analysis must be that these homes form a community in the fullest sense of the word. In fact, the EIR must adopt an expansive definition of what a community is given that the effects of wind-blown fugitive dust and spores generated by the Proposed Project and Related Development would greatly impact residents living at some distance from them.

12. The EIR Must Analyze a Broad Array of Environmental Justice³⁶ Impacts that the Proposed Project and Related Development Would Have on the Surrounding Community.

The Notice incorrectly contends that the EIR need not “examine whether the Project would have the potential to disproportionately affect the area(s) of high minority population(s) and low-income communities,” or “the Project’s consistency with the CSLC environmental justice policy.” Consideration of environmental justice (“EJ”) concerns is required by CEQA (as will be discussed below) and by the tenets of the CLSC’s own strongly-worded Environmental Justice Policy, which is based on the “principle that past environmental injustices will not define California’s future,” and that “all communities equitably [must] share in the environmental benefits and burdens resulting from its decisions.”³⁷

³⁶ Environmental justice is defined by the Environmental Protection Agency as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.”

³⁷ Further, the CSLC’s website states that its mission is to preserve “irreplaceable natural habitats for wildlife, vegetation, and biological communities.”

While the Notice states that the EIR will address EJ concerns, notwithstanding the view that the CSLC is not required to do so, this grudging approach suggests that the EIR might give EJ a perfunctory treatment. That would be contrary to applicable law.

EJ concerns are accorded an immense amount of focus and weight in this state, and *all* social, economic and physical impacts that the Proposed Project and Related Development would impose on the surrounding community must be analyzed as part of the EIR. Under CEQA, impacts to the environment are not limited to the natural environment, but also include “substantial adverse effects on human beings, either directly or indirectly.” CEQA Guidelines, Section 15065(d).

Along those same lines, the official website for the California Office of Attorney General (oag.ca.gov) states, in an attachment to its “CEQA and General Planning” section – entitled “Environmental Justice at the Local and Regional Level Legal Background” (the “EJ Guidelines”) – that:

“Human beings are an integral part of the ‘environment.’ An agency is required to find that a “project may have a ‘significant effect on the environment’ if, among other things, “[t]he environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly[.]” (Pub. Res. Code, § 21083, subd. (b)(3); see also CEQA Guidelines, § 15126.2 [noting that a project may cause a significant effect by bringing people to hazards].”

The EJ Guidelines also state that: (1) a “local lead agency [is required] to determine whether pollution from a proposed project will have significant effects on any nearby communities, when considered together with any pollution burdens those communities already are bearing, or may bear from probable future projects;” and (2) “economic and social effects may be relevant in determining significance under CEQA in two ways . . . First, as the CEQA Guidelines note, social or economic impacts may lead to physical changes to the environment that are significant . . . Second, the economic and social effects of a physical change to the environment may be considered in determining whether that physical change is significant [citations to legal authorities were omitted for purposes of brevity].” See also Section 15131(b), which states that “[e]conomic or social effects of a proposed project may be used to determine the significance of physical changes caused by the project.”

An EIR is fatally defective if it accords greater weight to a nearby community of million-dollar homes than it does to less affluent communities like Lucerne Valley. Lucerne Valley is, in fact, a Disadvantaged Community (2012-16 American Survey/Census) Census Designated Place (CDP), with a median income which is roughly half of the state’s median income. The EIR with respect to the Proposed Project must give serious consideration to the Proposed Project’s likely effects on the people who would be living in its proximity.

A coalition of High Desert organizations and residents submitted a letter to the CSLC, dated April 30, 2020 – the EJ Letter -- which addresses EJ concerns arising with respect to the Proposed Project and Related Development. The EJ Letter, a copy of which is attached to this

letter as Attachment 1, is incorporated into the instant letter, and it engages in a thorough treatment of the many EJ concerns that must be addressed by the EIR.

To summarize, the EJ Letter points out that:

A. The Community Would Not Reap Any Benefits from the Proposed Project and Related Development.

Local residents would be called upon to make a huge sacrifice in the name of large-scale energy generation and transmission: they would have to give up their desert rural lifestyles, direct access to nature and unimpeded natural views, as well as the value of their homes. But they would get nothing in the bargain. All of the power generated would be exported to the grid for use outside the County, and all profits would go to the developer, which is a multi-national company.³⁸

B. The Community Would Directly Suffer All of the Substantial Downsides Generated by the Proposed Project and Related Development.

Residents would be subjected to noise, dust and constant intrusion from a major construction project that would require hundreds of workers and platoons of heavy equipment over an extended period of time. And dust plumes would inevitably be unleashed during the operational life of the projects as the prevailing winds sweep over denuded desert soil, while new high tension lines crackle and hum loudly overhead. As the immense appeal of the community is destroyed in the process, the value of the homes in it would plummet, all of which will likely result in some or all of the homes being abandoned. If so, the area would sink into blight and become a derelict community. Instead of the current, vibrant human community that exists side-by-side with thriving natural communities, there would be thousands of solar panels left silently pivoting in the degraded landscape; and

³⁸ California has long had such a glut of renewable energy that, for eight days in January and nine in February of 2017, the state had to pay Arizona to take all the surplus, even as natural gas power plants – eight such plants are being refurbished – continued to generate, according to a June 22, 2017 *Los Angeles Times* article, entitled “California has invested heavily in solar power. Now there’s so much that other states are sometimes paid to take it.” It also reports that curtailments of solar and wind power production for the first quarter of 2017 were more than double the same period in the previous year, and the surge in solar power could push the number even higher in the future. Because of this surplus, existing power plants run, on average, at slightly less than one-third of capacity. And some plants are being closed decades earlier than planned. But the overbuilding of new plants and transmission continues apace because – according to industry insiders cited in the article – such construction receives a “lopsided incentive”: “utilities can build in the construction costs into the amount that the utility can charge electricity users – no matter how much or how little is used.” In other words, such charges include a guaranteed rate of return, i.e., profit, for the utilities.

C. The Proposed Project, Generation Transmission Line and Calcite Substation Would Usher a Proliferation of Additional Utility-Scale Projects into the Vicinity – the Cumulative Projects -- Imposing Additional III Effects on Community Members.

This is already beginning to happen, despite the fact that the Proposed Project, Generation Transmission Line and Calcite Substation have not been approved. As noted above, there are at least three additional utility-scale Cumulative Projects being proposed for the immediate vicinity of the community. This proliferation of utility-scale projects would put the community at the epicenter of thousands of dust (and Valley Fever spore) -spewing industrialized acres, thereby making its residents the focus of an undue and highly disproportionate amount of health-compromising fugitive particulates and other pollutants.³⁹

Each of these EJ considerations must be addressed in the EIR.

D. Approval of the Proposed Project and Related Development Would Violate the Tenets of the EJ Policy By Causing Lucerne Valley to Suffer a Disproportionate Environmental and Social Impact, While Providing It With No Benefits.

The EJ Policy starts with the following declaration: the CSLC “commits to the principle that past environmental injustices will not define California’s future and supports the ideal that all communities equitably share in the environmental benefits and burdens resulting from its decisions. The environmental justice goals below are bold and transformative because that is what California needs.”

The CSLC has, with this “bold and transformative” approach, made it its mission to reverse that historical trajectory, and to see to it that “all communities equitably share in the environmental benefits and burdens.” Pursuant to that policy, all communities across our state must equitably share the burdens associated with ramping up California’s renewable energy capacity, and the state’s SB 100 goals (which include reaching 100% zero-carbon energy resources by the end of 2045) and AB 32 goals (which include reducing greenhouse gas emissions 80% below 1990 levels by 2050) cannot be achieved on the backs of the state’s rural populations. As observed by the EJ Background Report (p. 2-10), “geographic inequities” result “where the burdens of undesirable land uses or costs are concentrated in certain neighborhoods

³⁹ The EJ Guidelines cite Gov. Code, § 65040.12, subd. (e), which states that “[f]airness in this context means that the benefits of a healthy environment should be available to everyone, and the burdens of pollution should not be focused on sensitive populations or on communities that already are experiencing its adverse effects.”

and the benefits are received elsewhere.”⁴⁰

And the CSLC cannot fund our state’s teacher’s retirement fund on the backs of the state’s rural communities either. (The CSLC’s July 25, 2017 comment letter regarding the RECE acknowledged that the CSLC wanted to use the Proposed Project in part to “benefit the California State Teacher’s Retirement Fund.”) This would impose yet another “geographic inequity” on Lucerne Valley.

Geographic inequities are considered to involve far more than the physical impacts of pollution. According to the EJ Background Report (p. 1-1), “the field of environmental justice has expanded beyond its original focus of reducing the disproportionate burden of pollution among certain populations. Environmental justice now includes broader social equity . . .” Environmental Justice “is considered an equity issue. It is an integral component of equity, but social equity also encompasses a larger framework such as access to jobs and economic opportunity . . . [s]ocial equity is applied across the age range and various disciplines and has many other nuances . . . Equity can be used as the larger framework for ensuring opportunities for all in the community,” according to the Office of Planning and Research-issued “2017 General Plan Guidelines.”⁴¹

⁴⁰ Likewise, Gov. Code, § 65040.12, subd. (e), states that “[f]airness in this context means that the benefits of a healthy environment should be available to everyone, and the burdens of pollution should not be focused on sensitive populations or on communities that already are experiencing its adverse effects.”

⁴¹ According to the CEQA Guidelines, Section 15604(e), economic or social impacts that are related to physical impacts must be addressed:

“[e]conomic or social changes may be used, however, to determine that a physical change shall be regarded as a significant effect on the environment. Where a physical change is caused by economic or social effects of a project, the physical change may be regarded as a significant effect in the same manner any other physical change resulting from the project.”

Under CEQA, impacts to the environment include “substantial adverse effects on human beings, either directly or indirectly.” CEQA Guidelines, Section 15065(d). Along those same lines, the official website for the California Office of Attorney General (oag.ca.gov) states, in an attachment to its “CEQA and General Planning” section – entitled “Environmental Justice at the Local and Regional Level Legal Background” – that: “Human beings are an integral part of the ‘environment.’” (Pub. Res. Code, § 21083, subd. (b)(3); see also CEQA Guidelines, § 15126.2 [noting that a project may cause a significant effect “by bringing people to hazards].

E. That Lucerne Valley Has an Older, Less Affluent Population (And Is Already Experiencing the Effects of Pollution) Brings It Within the Ambit of the CSLC’s EJ Policy and CEQA’s Analogous Policies.

As noted above, the EJ Policy (p. 2) encompasses “populations that are disproportionately burdened by or less able to prevent, respond, and recover from adverse environmental impacts.” Lucerne Valley already experiences pollution generated by industries that produce benefits accruing almost entirely outside the County.

According to the County’s EJ Background Report’s Table 3-4b (p. 3-13), Lucerne Valley “has significant air quality issues. The region does not meet federal standards for ozone and respirable particulate matter (PM10) or state standards for ozone and respirable fine particulate matter.” “Several census tracts in [there are four of them there] have pollution burden scores measured in the upper quartile [p. 3-12].”

Lucerne Valley, as per the EJ Background Report, qualifies under SB 1000 as an “Economic Justice Focus Area,” based on the following specific finding, among others (p. 3-11 and 12):

“All census tracts in Lucerne Valley rank in the 3rd or 4th quartiles, with a high portion of lower income households. Concerns in Lucerne Valley include higher rates of asthma due to ozone (2 tracts), airborne allergens carried by seasonal winds, and other local pollution sources . . . Three tracts in Lucerne Valley have poverty and unemployment rates scored in the upper quartile [p. 3-12].”

We have only partially excerpted the EJ Letter in this letter. Again, we would urge that the drafters of the EIR to carefully consult the EJ Letter when formulating its treatment of EJ considerations.

13. The EIR’s Analysis Must Take Proper Account of the Difficulty of Restoring Natural Desert Terrain and Habitat.

The Proposed Project and Related Development cannot be justified by the proposition that, after their operational lives are over, each of the various project sites can be restored to their former natural state, because the desert is an ecosystem well-known to be poorly responsive to restoration efforts after significant habitat disturbance.

Nevertheless, the Notice represents that:

“[i]f, at the end of the CSLC lease [for the Proposed Project] and/or contract term to sell energy to the utility buyer, no contract extension is available or no other buyer of the energy emerges, the solar plant would be decommissioned and dismantled. After

removal of all construction-related on-site improvements, remediation and restoration of the area would be performed on the site to its pre-construction condition.”⁴²

All the developer is really proposing here is that, if the Proposed Project fails to generate enough profits, all above-ground, man-made structures would be removed and the site would be left, in effect, “broom clean.” That is abandonment – taking your marbles and going home – not restoration.

In order to effect true restoration, the developer(s) would – as a first step -- need to reverse all of the grading and trenching used to construct the various projects. In the case of the Proposed Project, this would mean restoring the original terrain contours, pitch and contours of an immense and geologically complex alluvial valley – after removing subsurface features like the storm-water control basins called for by the Preliminary Plan -- and putting back the original web of channels making up the region’s delicate hydrological systems. This would require extensive, delicate and high-precision grading, the importation of huge volumes of compatible desert soil (and obtaining it would inflict severe habitat damage on still other desert sites), great volumes of water (and obtaining it would inflict further damage elsewhere). Managing this unprecedented endeavor would far exceed the skill sets of even the most sophisticated contractors and scientists.

Even if that first step were to be accomplished, teams of environmental scientists would need to collaborate on reinstating and managing the site’s biological processes from the ground floor up (actually from the sub-soil up) – right down to the microbiological level -- while creating the precise conditions needed to successfully reintroduce the site’s original vegetation, from its microphyll plant life and sub-soil fungi to its above-the-surface climax species, which is creosote bush scrub according to the SC Wildlands 11/10/20 Letter. The prospects for recreating the original, living cryptobiotic soil crusts would be nil for all practical purposes.

The SC Wildlands 11/10/20 Letter states that:

“[o]f significance, there are several clusters of ancient creosote rings along washes on the proposed site. As Tim Thomas, former President of the Mojave Chapter of California Native Plant Society said, ‘Lots of rings indicate old, 3-4,000-year-old, intact habitat.’ As such, it would be impossible to restore habitat ‘on the site to its pre-construction condition.’”

Making restoration efforts all the more infeasible would be climate change. According to the draft DRECP, current climate change predictions identify the deserts of North America as being particularly hard hit. The report states: “Climate projections agree that temperatures will

⁴² It is noteworthy that, in the above-quoted language, the Proposed Project’s developer evinces an intention to abandon its leasehold on the project site – prior to the end of the lease term -- if the developer loses its power purchase agreement, or cannot obtain an extension of it. Should that occur, the developer would certainly decline to sink further capital into a defunct project by pursuing thorough, complicated and expensive habitat remediation efforts.

increase in the southern California deserts by more than 2° C...” Draft DRECP, App. P, page 13. That these increases in already very high temperatures will put tremendous stress on numerous species goes without saying. When the loss of water from extended drought is added to the mix, there ceases to be any basis to suggest that the additional stress on the desert from developments like the Proposed Project and Related Development can be “mitigated” away through restoration some years hence.

Also, it would be particularly hard to protect against OHV use after construction; and it is almost impossible to protect against increased fires and human disturbance as a result of increased access. Yet these phenomena – increased OHV use after construction, more fires and more human disturbance because of increased access – are inevitable consequences of the Proposed Project and Related Development.

Finally, it is extremely doubtful that any of the developers of the Proposed Project and Related Development will still be around decades into the future. To the extent that any of them are still on the scene, they would have no incentive to restore the sites in question or the capital or know-how needed to accomplish that.

The concept of restoration has no validity in a serious environmental study without meticulous examination of the points referenced above.

14. The EIR Must Contain a CEQA-Mandated Consideration of Project Alternatives.

Section 15126.6(a) of the CEQA Guidelines requires that an EIR describe a range of reasonable alternatives to the project, or a range of reasonable alternatives to the location of the project, that could feasibly attain the basic objectives of the project. An EIR does not need to consider every conceivable alternative project, but it does have to consider a range of potentially feasible alternatives that will facilitate informed decision-making and public participation.

According to CEQA Guidelines Section 15126.6(a), the discussion of alternatives must include several different issues. The discussion of alternatives must focus on alternatives to the project, or to the project location, which will avoid or substantially reduce any significant effects of the project, even if the alternatives would be costlier or hinder to some degree the attainment of the project objectives.

The “No Project” alternative must also be evaluated under CEQA rules, particularly given that, as noted above in this letter, any serious EIR will have a lengthy list of “Mandatory Findings of Significance.” A “No Project” alternative would have the further benefit of promoting the policies behind Executive Order N-82-20, which requires the state to preserve at least thirty percent of its public lands and waters, with a specific emphasis on establishing and implementing carbon sequestration in natural vegetation and soils.

In fact, a land swap between the CSLC and the BLM would make a “No Project” approach by far the most appropriate and appealing alternative, one that would produce a “win-

win” for all parties concerned. Such a swap would work as follows: the CSLC would exchange the land comprising the Proposed Project site for BLM land in one of the five areas of disturbed land designated by Policy 5.4.2 of the County’s RECE, and in the County’s Resolution, as being available for utility-scale renewable energy development. This swap would enable the CSLC to generate renewable energy leasing revenue from an already environmentally disturbed location that is far away from established communities, without trammeling on Executive Order N-82-20. One of those five County-designated areas, which is near Trona, deserves especially thorough consideration and analysis in the EIR as an alternate site for the Proposed Project.

If the EIR were to reject the “No Project” alternative on the ground that it would be infeasible because it would not meet the basic project objective -- which is to build the Proposed Project (on the currently designated site) in order to help meet renewable energy/GHG-reduction mandates and generate revenue for the teachers’ retirement fund -- then the EIR would not provide an adequate, CEQA-mandated discussion of project alternatives. This would also be the case in the event that the EIR advocates “build alternatives” that are only cosmetically different from the development proposal currently in hand.

The “No Project” analysis must also include a discussion of the existing conditions and what would reasonably be expected to occur in the foreseeable future if the Proposed Project and Related Development were not approved, such as the preservation of the human and natural communities in the vicinity of the project site in compliance with Executive Order N-82-20.

In short, in order to comply with such requirements, the EIR would have to consider and report that there are so many “substantial and avoidable” impacts associated with the proposed solar farms, transmission line and substation – in terms of visual aesthetics, biological resources, groundwater, health, air quality, EJ and cumulative growth-inducing effects, among others – that building the Proposed Project would be ill-advised.

15. The EIR Must Incorporate a Thorough Search for Native American Artifacts, Campsites and Burial Grounds in the General Area of the Proposed Project and Related Development.

The EIR must make its own inquiry into whether or to what extent that “tribal cultural resources” – artifacts that could be highly significant in terms of preserving tribal heritage and history – might be present on some or all of the sites which are targeted for renewable energy and infrastructure development.

The Proposed Project’s Preliminary Plan indicates that tribal cultural resources are indeed present, by showing a “Cultural Exclusion Area.” But the EIR must confirm this and conduct its own independent analysis as to the full extent of the area that must be put off-limits to industrial development, especially given the developer’s strong profit motive to maximize developable acreage.

This is highly important because the contemplated construction activities would inevitably destroy highly fragile and irreplaceable traces of tribal cultures which may be situated within or near the footprint of the project sites. The presence of artifacts and campsites in or

near them would add real urgency to the need to preserve the area intact for further research, which is typically a painstaking process.

As an integral part of the EIR, a team of qualified paleontologists must be commissioned to thoroughly examine the general project areas in order to determine the extent to which it bears the mark of ancient tribal cultures and to assess the extent to which any large-scale industrial development there would be appropriate. In addition, the developer must work closely with tribal authorities to explore, identify and preserve sites and artifacts.

The results and implications of such a study and such inquiries must be meaningfully weighed in the EIR.

16. Conclusion.

We welcome the opportunity to comment on the scope of the EIR for the Proposed Project, Generation Transmission Line and Calcite Substation, and look forward to continuing participation.

We reserve the right to make other and further comments regarding scoping in subsequent correspondence and at any other public scoping meetings concerning the referenced development and/or the EIR.

Very truly yours,

Community Associations, Organizations and Individuals:

LUCERNE VALLEY ECONOMIC
DEVELOPMENT ASSOCIATION

HOMESTEAD VALLEY COMMUNITY
COUNCIL

Chuck Bell, President

Jim Harvey, President

LUCERNE VALLEY
MARKET/HARDWARE

CHURCH OF OUR LORD AND SAVIOR
(LUCERNE VALLEY)

Linda Gommel, Chief Executive Officer

Bill Lembright, President

YUCCA MESA IMPROVEMENT
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JOHNSON VALLEY IMPROVEMENT
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Betty Munson, President

SAN BERNARDINO VALLEY
AUDUBON SOCIETY

Drew Feldman, Conservation Director

MORONGO BASIN CONSERVATION
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BASIN AND RANGE WATCH

Kevin Emmerich, Co-Founder

EXPERT APPLIANCE SERVICE

Bill Peterson and Alyn Peterson, Proprietors
(and residents of Lucerne Valley)

THE ROCK CORRAL RANCH

Nicole Hallam and Gregg Hallam, Proprietors
(and residents of Johnson Valley)

LUCERNE VALLEY REALTY

Martha Lynn, Owner

JUBILEE MUTUAL WATER COMPANY,
INC. (Lucerne Valley)

Raymond M. Gagne, Jr., General Manager

CENTER WATER COMPANY, INC.

Raymond M. Gagne, Jr., Consultant

Brian Hammer (homeowner in Lucerne Valley)

Sue Hammer (homeowner in Lucerne Valley)

Neil Nadler (homeowner in Lucerne Valley)

Randy Polumbo (resident of Lucerne Valley)

Kathryn Anema (resident of Lucerne Valley)

Raymond M. Gagne, Jr. (resident of Lucerne Valley)

Sheri Bush (resident of Lucerne Valley)

Lorraine M. Cross (property owner/resident of Lucerne Valley)

Richard Selby (resident of Lucerne Valley)

Roger Peterson (resident of Lucerne Valley)

Renee Lynn (resident of Lucerne Valley)

Dennis Morrison (resident of Lucerne Valley)

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Paula Deel (resident of Newberry Springs)
Paul Deel (resident of Newberry Springs)
Robert Shaw (resident of Newberry Springs)
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