



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

Cedric Perry
Bureau of Land Management
California Desert District Office
22835 Calle San Juan de Los Lagos
Moreno Valley, CA 92553-9046

Subject: Draft Plan Amendment and Draft Environmental Impact Statement for the Proposed Ocotillo Wind Energy Facility, Imperial County, California

Dear Mr. Perry,

The U.S. Environmental Protection Agency has reviewed the Draft Plan Amendment to the California Desert Conservation Area Plan and the Draft Environmental Impact Statement for the Ocotillo Wind Energy Facility (OWEF) Imperial County, California. Our comments are provided pursuant to the National Environmental Policy Act, Council on Environmental Quality regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act.

EPA supports increasing the development of renewable energy resources, as recommended in the National Energy Policy Act of 2005, in an expeditious and well planned manner. Using renewable energy resources such as wind power can help the nation meet its energy requirements while reducing greenhouse gas emissions. We encourage BLM to apply its land management and regulatory authorities in a manner that will promote a long-term sustainable balance between available energy supplies, energy demand, and protection of ecosystems and human health.

Pattern Energy through Ocotillo Express LLC (the applicant) has filed an application for a right-of-way authorization with the BLM to construct, operate, maintain, and decommission a wind energy facility that would generate up to 465-MW of energy and be located on approximately 12,436-acres of BLM land. The proposed Project includes wind turbine generators, a substation, an operations and maintenance facility, transmission lines, temporary construction lay down areas, four met towers and one observation tower. In addition, twenty six acres of private land would be developed and 487 acres of private and public land outside the project boundaries would be utilized for road access and collection lines.

On January 28, 2011, EPA provided formal scoping comments for the proposed Project. We identified several issues, including potential impacts to water resources, biological resources, habitat, and air quality, as well as the cumulative impacts to these resources.

We commend the applicant for redesigning the project to reduce impacts to waters and other resources; however, EPA has concerns regarding BLM's preferred alternative, which would generate energy in excess of the Applicant's Power Purchase Agreement with San Diego Gas and Electric, and have the greatest environmental impacts of all the alternatives considered. Based on our review of the subject

DEIS, we have rated the project and the document as *Environmental Concerns – Insufficient Information* (EC-2). Please see the enclosed “Summary of Rating Definitions.” An “EC” signifies that EPA’s review of the DEIS has identified environmental impacts that should be avoided in order to provide adequate protection for the environment. A “2” rating signifies that the DEIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment. We believe that changes to the preferred alternative, such as a reduction in the number of turbines and/or modifications in the placement of turbines, could further reduce impacts while still meeting the purpose and need for the project. We also believe that Alternative 3 is the environmentally preferable alternative and should be given further consideration.

The enclosed detailed comments provide specific recommendations regarding analyses and documentation to assist in assessing potential significant impacts from the proposed Project. EPA appreciates BLM’s coordination to date and the opportunity to provide input on the OWEF project. If you have any questions, please contact me at (415) 972-3521, or contact Anne Ardillo, the lead reviewer for this project. Anne can be reached at (415) 947-4257 or ardillo.anne@epamail.epa.gov.

Sincerely,

/s/

Kathleen Martyn Goforth, Manager
Environmental Review Office (CED-2)

Enclosures: EPA Summary of Rating Definitions
EPA Detailed Comments

cc: Imperial County
Barona Band of Diegueno Indians
Campo Kumeyaay Nation
Cocopah Indian Tribe
Ewiiapaayp Band of Kumeyaay Indians
Jamul Indian Village
Kwaaymii Laguna Band of Indians
La Posta Band of Kumeyaay Indians
Manzanita Band of Kumeyaay Indians
Mesa Grande Band of Mission Indians
Quechan Indian Tribe
San Pasqual Band of Diegueno Indians
Santa Ysabel Band of Diegueno Indians
Sycuan Band of Kumeyaay Nation
Torres Martinez Desert Cahuilla Indians
Viejas Band of Kumeyaay Indians

Preferred Alternative

The DEIS states that the BLM has identified the preferred alternative as Alternative 1, the proposed action, which would install 155 Wind Turbine Generators (WTGS) (from 1.6-3.0-MW) on both the northern site and southern site in two phases, producing up to 465 MW of energy. The applicant has signed a Power Purchase Agreement with San Diego Gas and Electric for 315 MW. Alternative 1 would generate an additional 150-MW of energy for which there is no Power Purchase Agreement. The DEIS does not explain the rationale for selecting Alternative 1 as the preferred alternative.

Alternative 2 would install 137 WTGs (2.5MW), generating 315 MW of energy, satisfying the Power Purchase Agreement. Imperial County, the CEQA lead agency, has identified Alternative 3, the installation of 105 WTGs (3.0 MW), also generating 315 MW of energy, as the environmentally superior alternative. Both Alternatives would install fewer turbines than would Alternative 1 and would, therefore, result in less environmental disturbance. The DEIS has identified several resource areas that would experience reduced impacts under Alternative 2 and Alternative 3, including aquatic resources, natural habitats, cultural and paleontological resources, and air quality. Alternatives 2 and 3 would also have less visual impacts, and would require less water for construction (p. 2-26). Based on the information provided in the DEIS, EPA believes that Alternative 3 is the environmentally preferable alternative.

Recommendations:

The FEIS should explain BLM's rationale for choosing Alternative 1 as the preferred alternative, and discuss how the applicant would sell the additional 150 MW of energy that would be produced under that alternative.

Modify turbine placement and/or the number of turbines under Alternative 1 to further reduce impacts to waters and human receptors, e.g., by avoiding placement in washes and on private land. Figure 4.17-3 indicates that at least 3 turbines would be placed in washes of up to 7 feet in width and that one turbine would be placed on private land.

Alternatively, consider selection of either Alternative 2 or Alternative 3.

Water Resources

Clean Water Act (CWA) Section 404 Jurisdictional Determination

The DEIS states that a formal jurisdictional delineation identified areas under the jurisdiction of both the U.S. Army Corps of Engineers (ACOE) and the California Department of Fish and Game (CDFG) throughout the study area. ACOE jurisdictional non-wetland Waters of the U.S. total 239.46 acres, with no ACOE jurisdictional wetlands occurring. The DEIS indicates that the applicant made design changes to the proposed Project to minimize impacts to jurisdictional areas. The redesign resulted in a decrease of temporary and permanent impacts to the jurisdictional areas from 239.46 acres to 5.57 acres for Alternative 1, 5.31 acres for Alternative 2, and 3.61 acres for Alternative 3.

According to the DEIS, it is anticipated that the project would need to obtain an Individual Permit from the ACOE in accordance with Section 404 of the Clean Water Act. The Applicant submitted applications to the ACOE and RWQCB in May 2011(p.4.17-7).

If an individual Section 404 permit is required, EPA will review the proposed Project for compliance with the Federal Guidelines for Specification of Disposal Sites for Dredged or Fill Materials (40 CFR 230), promulgated pursuant to Section 404(b)(1) of the CWA (Guidelines). Pursuant to the Guidelines, any permitted discharge into waters must be the Least Environmentally Damaging Practicable Alternative (LEDPA) available to achieve the project purpose. No discharge can be permitted if it will cause or contribute to significant degradation of waters.

Based on the information provided in the DEIS, it appears Alternative 3 may be the least environmentally damaging practicable alternative. Three-MW turbines are currently being utilized as a wind energy source nationally, therefore, as required by the 404(b)(1) Guidelines, the applicant must demonstrate the use of these turbines is not technically feasible in order to eliminate this alternative from further consideration.

Recommendations:

EPA recommends that the FEIS include the findings of the ACOEs' verified jurisdictional delineation.

Include, in the FEIS, compensatory mitigation measures for potential unavoidable impacts to waters, as appropriate, pursuant to the Compensatory Mitigation for the Loss of Aquatic Resources Final Rule, 33CFR 325 and 332, April 10, 2008.

Include, in the FEIS and ROD, the Jurisdictional Mitigation Plan.

The FEIS should identify the LEDPA, if applicable, and describe how the proposed Project would comply with the 404(b)(1) Guidelines. The location of ephemeral waters, emergent wetlands, and other sensitive habitat and species should be considered during development of the LEDPA.

Natural Washes

Surface water features in the proposed OWEF area are ephemeral drainages (p. 3.20-5). Several named, dry desert washes cut through the proposed OWEF site and run generally from west to east: Palm Canyon Wash cuts through the center of Site 1; Myer Creek Wash cuts through the southern portion of Site 1; a portion of Coyote Wash cuts through the northwest portion of Site 2; and several additional unnamed washes cut through proposed OWEF site (p. 3.18-2).

EPA is concerned with the scope of indirect and direct impacts to natural washes and site hydrology. According to Figure 4.17-3, there are a number of proposed turbines that will be placed in ACOE and CDFG jurisdictional waters with widths of less than 8 feet. The DEIS provides minimal information on the direct and indirect impacts to these resources as a result of

the proposed Project and fails to consider the up- and downstream reach and extent of these aquatic features or their importance in this landscape.

Natural washes perform a diversity of hydrologic, biochemical, and geochemical functions that directly affect the integrity and functional condition of higher-order waters downstream. Healthy ephemeral waters with characteristic plant communities control rates of sediment deposition and dissipate the energy associated with flood flows. Ephemeral washes also provide habitat for breeding, shelter, foraging, and movement of wildlife. Many plant populations are dependent on these aquatic ecosystems and adapted to their unique conditions. The potential damage that could result from disturbance of flat-bottomed washes includes alterations to the hydrological functions that natural channels provide in arid ecosystems, such as adequate capacity for flood control, energy dissipation, and sediment movement; as well as impacts to valuable habitat for desert species.

Recommendations:

The FEIS should assess to impacts to function and acreage of all aquatic resources as a result of the proposed Project.

Avoid placement of turbines and other structures in washes.

Floodplain hazards

Executive Order 11988 Floodplain Management requires federal agencies to avoid, to the extent possible, the long and short-term adverse impacts associated with the occupancy and modification of floodplains. Per the Flood Insurance Rate Map (FIRM), 06025C1975C IMPERIAL CO UNINC & INC AREAS 09/26/2008, portions of the project are in a Zone A flood zone. The FIRM #06025C1976C, Panel 1976 of 2300 (FEMA, 2008) indicates that there is a Flood Hazard Area surrounding Myer Creek and Coyote Wash. Figure 3.20-2 (FEMA-Designated Flood Hazard Areas) shows that several Flood Hazard Areas run in an east-west direction through Site 1, and a small portion of Flood Hazard Area runs in a north-south direction through part of Site 2 (p. 3.20-4). According to the DEIS, Palm Canyon Wash and Lava Flow Wash, as well as various smaller washes, run through the proposed Project site, and signs of previous flooding events indicate that the potential for flash flooding exists during major storm events.

Recommendations:

The FEIS should discuss any impacts that the proposed Project may have on the potential for flooding, as well as the impacts of potential flooding on the proposed Project.

The FEIS should provide a detailed description of the current FEMA floodplain.

The results of consultation with FEMA, if appropriate, should be included in the FEIS.

Groundwater

The DEIS indicates that the OWEF site lies on top of the Ocotillo-Coyote Wells sole source aquifer (SSA), which is in long-term overdraft condition. The applicant states that it will not use water from this aquifer, but, instead, proposes to purchase all of the water needed for

construction of the turbine foundations, road maintenance, and dust suppression from a private well. The private well draws its water from the Campo-Cottonwood SSA (Pine Valley, CA), which is not presumed to be in a state of overdraft.

Under provisions Section 1424(e) of the Safe Drinking Water Act, EPA is responsible for reviewing and commenting on projects that receive federal funding and are located in recharge areas that have received a Sole Source Aquifer Designation. On August 30, 2011, EPA received an EPA SSA questionnaire, project description, and project maps from Pattern Energy for review of the OWEF project under the Sole Source Aquifer program. Based on the DEIS and documents received, EPA has determined that the proposed Project will not adversely affect the Ocotillo-Coyote Wells sole source aquifer and, in general, as indicated in the DEIS, so long as BMPs and mitigation measures are properly implemented and adhered to, all adverse impacts to water resources would be avoided or substantially reduced.

Recommendations:

The FEIS should confirm the availability of an adequate water supply for construction and operations of the proposed Project and fully evaluate the environmental impacts associated with the ultimately proposed supply of water.

The DEIS includes, as mitigation measures, the development of a Groundwater Monitoring and Reporting Plan, a Drought Management Plan, a Water Supply and Contingency Plan, and a Water Conservation Education Program. These plans and program should be included in the FEIS and ROD.

Clarify in the FEIS, whether the Groundwater Monitoring and Reporting Plan (Mitigation Measure Water-3) is for the Ocotillo- Coyote Wells SSA, Campo-Cottonwood SSA, or both.

Regarding the septic system and leach field, the DEIS indicates that it will be pumped regularly and waste will be trucked offsite. It is unclear if this is just the tank sludge or sanitary waste. Since this statement is somewhat ambiguous, there should be clearer description included in the FEIS with regard to how sanitary waste will be managed.

Desert Pavement

The DEIS states that extensive patches of desert pavement exist on the proposed OWEF site, and acknowledges that the pavement protects the land beneath it from wind and water erosion, forming geologically stable areas (p. 3.4-3). Desert pavement is a distinctive feature widespread across arid lands. It plays a fundamental role in the long-term evolution of the land surfaces it covers and takes thousands of years to form. Damage to desert pavement could result in acceleration of erosion.

Recommendations:

Develop a plan for identification and avoidance or protection of sensitive desert pavement.

Avoid or minimize grading for new access roads or work areas in areas covered by desert pavement.

Consider protecting desert pavement surfaces from damage or disturbance from construction vehicles by use of temporary mats on the surface.

Biological Resources- Endangered Species and Other Species of Concern

EPA is concerned about potential impacts to sensitive wildlife species, since the proposed OWEF area supports resident and migratory birds, mammals, reptiles, and their supporting habitats, including golden eagles, burrowing owls, peninsular bighorn sheep, flat-tailed horned lizards, American badgers, and bat species.

Recommendation:

Describe, in the FEIS and ROD, all biological resources mitigation commitments and how they will be funded and implemented.

Migratory Birds and Bats

The DEIS states that, of the raptor species detected in the OWEF area, red-tailed hawks, turkey vultures, American kestrels and prairie falcons had the highest encounter rates. Based solely on the encounter rates, these species would have the highest risk of collision. In addition, other raptor species such as burrowing owls were detected in the project area. The DEIS does not address nocturnal avian migration and whether surveys were conducted. The DEIS indicated that the applicant is working with FWS in developing an Avian and Bat Protection Plan which will deal with mitigation requirements and adaptive techniques to minimize impacts to avian and bat species

Recommendations:

Include a copy of the Avian and Bat Protection Plan in the FEIS and ROD. The Plan should describe how mortalities of red-tailed hawks and other avian species will be assessed and evaluated for compliance with the Migratory Bird Treaty Act.

Conduct nocturnal avian surveys to account for avian species that migrate at night and incorporate the results in risk assessment, siting, mitigation and avoidance measures.

Elaborate on the proposed Advanced Biological Operations Command and Control Center. Factors to consider include:

- Discuss its limitations, including how weather will affect its performance;
- Include contingency plans in the event of technical or mechanical failure;
- Include results from other projects that have used this approach;
- The DEIS states that the ABOCC will be operational for 3 years with a possible 2 year extension. The DEIS should discuss how eagles will be dealt with after this time expires;

- Discuss whether there will be a curtailment of the operating turbines when other raptors species such as red-tailed hawks fly in the OWEF site;
- The DEIS states that the command center will be used for both avian and bighorn sheep monitoring. Describe the different methods and protocols for bighorn sheep monitoring and how this will affect avian monitoring.

Bats

According to the U.S. Geological Survey (USGS), bat fatalities have been documented at nearly every wind facility in North America where adequate surveys for bats have been conducted, and several of these sites are estimated to cause the deaths of thousands of bats per year. The DEIS indicates that five bat species were identified in the proposed OWEF site. Most bat activity was located along the western edge and along the perimeter of the proposed OWEF site. The DEIS concludes that bat use of the OWEF area is relatively low, due to the lack of standing water, prey availability and roosting habitats.

The DEIS states that very little mining has been done around the proposed OWEF site that would result in the kind of abandoned mines that support bat populations. However, as noted in the DEIS, Sugarloaf Mine and a sand and gravel surface mine (the Ocotillo Plant) are located on the project site, and numerous open and closed mines are within two miles of the proposed wind turbines (p. 3.6-3). The DEIS does not explain why these mines are not appropriate roosting sites for the known bat species recorded in the area.

The DEIS acknowledges that bats are known to fly distances of more than 25 miles from a roost site, but concludes that they typically do so in search of abundant foraging opportunities or water resources, and both of these are generally lacking within the proposed OWEF site (p. 23-18). However, as stated in the DEIS, detention/retention basins shall be installed to reduce local increases in runoff, and drainage from impervious surfaces shall be directed to a common drainage basin (p.4.19-58). We are concerned that these basins may provide a water source for bats attracting them to the OWEF site.

Recommendations:

The FEIS should explain why the mines located on or near the proposed OWEF site are not suitable roosting sites for bats found in the area.

The FEIS should describe avoidance measures to deter bats from roosting in the additional man-made structures.

Incorporate design features for proposed detention basins (e.g. pond netting, fencing) and commit to regular inspection and maintenance to ensure proper protection of bats, birds, and wildlife.

California Condor

The California condor (*Gymnogyps californianus*) is a federally- and State-listed endangered species, as well as a State Fully Protected species. The condor is not known to commonly occur in Imperial County, and the proposed Ocotillo Wind Energy Facility site is not within the current range of this species (p. 3.23-14); however, this species has the potential to fly over the proposed

Project site. The San Diego Zoo Institute for Conservation Research has re-introduced a California condor population in the Sierra San Pedro Martir Mountains in Baja, approximately 150 miles southwest of the proposed Project. The goal is to establish 20 breeding pairs in hopes that the Baja population will, in time, link to the central California populations.

Condors range widely in their foraging flights and can fly more than 150 miles in a single day, provided there are strong and consistent winds. The type of wind conditions that favor condor flight may be present in the vicinity of the OWEF area. In addition, the DEIS states that the Sunrise Powerlink transmission line and towers will transverse the project area, which may provide perching opportunities and ample structures for roosting.

Although, according to the DEIS, no California condors were observed during the raptor migration counts or any other survey conducted for the proposed Project, the potential exists and will increase as the species' population and range expand. Since Ocotillo Express LLC is requesting a minimum of 30-year ROW to construct and operate the OWEF, the FEIS should address this foreseeable presence and possible impacts.

Recommendations:

Include, in the FEIS, the results of any ESA consultation with the FWS regarding the California condor and demonstrate how the project will comply with the MBTA for this species.

Monitor the San Diego Zoo Institute's condor re-introduction efforts in Baja.

Include the condor in the Avian Protection Plan or develop a protection plan that is unique to the condor.

Address the potential for the transmission towers to provide attractive perching and roosting opportunities for the condor.

Golden Eagles

The DEIS states that, based on estimates from two years of on-site raptor migration counts and avian point counts, golden eagle (*Aquila chrysaetos*) use of the proposed OWEF site is relatively low, especially compared with other projects in California, but acknowledges that golden eagle count information for other projects in the vicinity was not available between 2009 and 2011 for comparison to the data collected for the OWEF project site (p. 4.21-6). Nesting surveys were conducted in 2010 in which 21 golden eagle nests were observed that accounted for five golden eagle territories within ten miles of the OWEF site, two of which were considered active territories in 2010. However, the DEIS fails to mention how close any of the nests were to the proposed OWEF turbine strings.

The DEIS indicated that the applicant is working with the FWS in developing an Eagle Conservation Plan which will deal with mitigation requirements and adaptive techniques to minimize impacts to golden eagles.

Recommendations:

The FEIS should:

Elaborate on risk assessment methods and how seasonal, prey, biotic variations and uncertainty of accurate golden eagle numbers and use were accounted for.

Include the nest distances from the OWEF area and specifically to proposed turbine strings.

Include the Eagle Conservation Plan in the FEIS and ROD.

Discuss the applicability of the recently finalized U.S. Fish and Wildlife Service (FWS) permit regulations (50 CFR Parts 13 and 22) to the proposed Project.¹ Elaborate on the process and likelihood of obtaining a permit via these regulations.

Cultural Resources and Coordination with Tribal Governments

Executive Order 13175, *Consultation and Coordination with Indian Tribal Governments* (November 6, 2000), was issued in order to establish regular and meaningful consultation and collaboration with tribal officials in the development of federal policies that have tribal implications, and to strengthen the United States government-to-government relationships with Indian tribes. The DEIS states that BLM's government-to-government consultation with Native American Tribes is ongoing, and the cultural resource surveys have not been completed. Several proposed utility-scale renewable energy projects in California are currently the subject of lawsuits pertaining to tribal cultural resources. We urge BLM to ensure that government-to-government consultations are being conducted in a manner that is meaningful to the Tribes that would be affected by the proposed Project.

Section 106 of the National Historic Preservation Act requires Federal agencies to consider the effects of their actions on cultural resources, following regulations at 36 CFR 800. Consultation for tribal cultural resources is required under NHPA Section 106, which requires a federal agency, upon determining that activities under its control could affect historic properties, to consult with the appropriate State Historic Preservation Officer/Tribal Historic Preservation Officer (SHPO/THPO). Under NEPA, any impacts to tribal, cultural, or other treaty resources, and possible measures to mitigate such impacts, must be discussed in the EIS.

Through the consultation process, some of the concerns expressed by the tribes include: the project site is a relatively pristine location with a high density of prehistoric resources that should be considered as a whole cultural landscape or district; potential effects on the archaeological and known cremation sites; and the potential for additional unknown cremation/burial sites, which may be located within the project area but are as yet undiscovered. In addition, tribes have indicated that certain geological features - including Coyote Mountain, which is outside the ROW but near the project site, and the Spoked Wheel Geoglyph within the ROW - hold

¹ See Eagle Permits, 50 CFR parts 13 and 22, issued Sept. 11, 2009. See internet address: <http://www.fws.gov/migratorybirds/CurrentBirdIssues/BaldEagle/Final%20Disturbance%20Rule%209%20Sept%202009.pdf>

significant value. The tribes have also expressed strong concerns to the BLM over the potential for indirect impacts from the project to cultural resources through the creation of additional access roads into the area that could be used by off-road enthusiasts (ES p. 17).

The applicant intends to develop a Cultural Resource Monitoring and Mitigation Plan prior to the start of construction.

Recommendations:

Discuss, in the FEIS, how these concerns raised by Tribes were addressed and resolved.

The FEIS should address Executive Order 13007, distinguish it from Section 106 of the NHPA, and discuss how the BLM will avoid adversely affecting the physical integrity, accessibility, or use of sacred sites.

Include the Cultural Resource Monitoring and Mitigation Plan and the results of the cultural resource surveys in the FEIS and ROD.

Cumulative Impacts Analysis

Cumulative impacts are defined in the Council on Environmental Quality's (CEQ) NEPA regulations as "the impact on the environment that results from the incremental impact of the action when added to the other past, present, and reasonable foreseeable future actions, regardless of what agency (Federal or non-Federal) or person undertakes such actions (40 CFR Part 1508.7)". The proposed Sunrise Powerlink (SRPL) 500 kV Transmission Line Project (SRPL) would transverse the proposed OWEF site from northeast to the southwest and may be in close proximity to the WTGs turbines, switchyard, and collector substation. The DEIS states that this project is under construction and will continue into 2012 and will not overlap with the construction of the OWEF. We note that the SRPL recently experienced a temporary delay. The potential for further delays give rise to the possibility that the construction phases of the two projects could overlap.

In addition, Figure 2.1-2 shows an existing transmission line, the Southwest Powerlink, paralleling the proposed SRPL, but its contribution to the cumulative impacts is not mentioned in the DEIS.

Recommendations:

The FEIS should expand on the SRPL's transmission capacity and whether it would utilize any components of the proposed Project (including transmission towers, access roads, etc). Given the proposed Sunrise Powerlink's close proximity to the proposed Project, and the potential for delay in the Powerlink's construction schedule, the FEIS should include a specific detailed cumulative impact analysis regarding the two projects. Topics such as increased transmission towers and lines, access roads, disturbance to vegetation and wildlife, increased fire risk and aquatic resource impacts should be included.

The FEIS should also discuss the existing Southwest Powerlink transmission line and its contribution to the cumulative impacts.

The FEIS should propose mitigation for all cumulative impacts, and clearly state the lead agency's mitigation responsibilities and the mitigation responsibilities of other entities.

Air Quality

According to the DEIS, one residence is located within the project boundary on the private lands leased by the applicant; this residence is not considered a sensitive receptor as the owner has accepted the construction and operation of the project as part of the agreement to lease lands to the applicant (Construction AR-4, pp. 4.2-6&7 4.2.3.2). While we acknowledge the agreement, EPA encourages BLM to disclose the potential impacts to the residence in the FEIS and to minimize those impacts.

Mitigation Measure AIR-2 states that off-road construction diesel engines not registered under California Air Resources Board's Statewide Portable Equipment Registration Program, which have a rating of 50 horsepower to 750 horsepower, shall meet, at a minimum, the Tier 3 California Emission Standards for Off-road Compression-Ignition Engines as specified in California Code of Regulations, Title 13, section 2423(b)(1) (p. 4.2-22 -). EPA recommends that a Tier 4 engine be used to minimize air quality impacts.

Completion of Surveys and Plans

The DEIS states that the Banded Gecko and Burrowing Owl surveys and several plans were not completed before publication. Some of these include: Habitat Restoration and Revegetation Plan, Cultural Resource Management Plan, Hazardous Materials Management Plan, Raven Control Plan, Integrated Weed Management Plan and Fire Safety Plan

Recommendations:

The results of surveys that are needed to complete the development of appropriate avoidance and mitigation measures to minimize impacts to various resources should be included in the FEIS.

The missing plans should be completed and included in the FEIS and ROD.