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California Energy Commission  
Docket Unit MS-4  
Docket no. 11-AFC-04  
1516 Ninth Street  
Sacramento, CA 95814-5512

[docket@energy.ca.gov](mailto:docket@energy.ca.gov)



Re: Comments on Preliminary Staff Assessment for the Proposed Rio Mesa Solar Electric Generating Facility Application for Certification (11-AFC-04).

Dear California Energy Commission:

These comments are submitted on behalf of CALifornians for Renewable Energy ("CARE") and La Cuna de Aztlan Sacred Sites Protection Circle Advisory Committee ("La Cuna") regarding the Preliminary Staff Assessment ("PSA") for the Rio Mesa Solar Electric Generating Facility Project ("the Project"). The comments supplement any other comments that may have been submitted by my clients or members of my clients. CARE and La Cuna share many of the concerns already submitted for your consideration by others. Concerns that have already been brought to the agency's attention will not necessarily be repeated here.

While the development of renewable energy is critical to our country's energy dependence efforts to reduce air pollutants including greenhouse gases, renewable energy projects, like any other project, should be done in a way that minimizes the impacts to the environment and cultural resources. The following comments are submitted with the goal of promoting the balance between developing renewable energy and the protection of environmental and cultural resources.

## **1. Air Quality**

The environmental study must include a discussion and analysis of significant cumulative impacts. 14 CAL CODE OF REGS §15130(a). The cumulative impact analysis may be based on a list of projects (considering the project together with existing and anticipated projects that produce related impacts) or a summary of projections (basing the analysis on a planning document that projects regional or areawide conditions). 14 CAL CODE OF REGS §15130(b)(1). However, the PSA does not address significant cumulative impacts the Project will have, taken with other projects in the region, on Air Quality.



For instance, the PSA on page 4.1-79 states that the Project would emit less greenhouse gasses than existing powerplants, but it does not state which power plants, how many there are in the region, how much greenhouse gasses they are emitting, and how much greenhouse gasses combined with the Project's greenhouse gasses, the powerplants in the area will be emitting in total. Seven solar energy projects have recently been approved by the California Energy Commission in Riverside County and Neighboring San Bernardino County alone. See <http://www.energy.ca.gov/siting/solar/>. And yet, the PSA makes no mention of these projects. Just because the Project will emit less greenhouse gasses than other powerplants in the area, does not mean the project will not have a significant *cumulative* impact on Air Quality. This Project needs to be considered along with other projects in the region in order to be in compliance with the California Environmental Quality Act ("CEQA").

## **2. Biological Resources**

The Project presents dire environmental consequences for biological wildlife both on and near the project site, including mammals, reptiles, amphibians, and birds. Many of the animals that will be impacted are state and federally endangered and threatened species, species of special concern, and other protected species. Thus, it is incumbent upon the California Energy Commission ("CEC") to ensure that the project accurately reflects all the environmental consequences, and accurately takes into account all applicable laws, policies, and plans in regards to biological resources so the public may be informed of the real large-scale impact on wildlife that this Project will undoubtedly have.

### Common Wildlife and Nesting Birds

The PSA admits on page 4.2-4 that the Project would adversely affect common wildlife and nesting birds "due to habitat loss and degradation, off-site disturbances such as noise, lighting, weed introductions, and altered off-site technology." However, adequate mitigation measures are not proposed and described for these animals; a mere listing of the title and in some cases, a one sentence description of staff conditions, does not adequately describe mitigation measures or how they will mitigate the adverse consequences on these animals to less than significant. The listing of the simple titles of conditions is insufficient under CEQA. So is the cursory conclusion stated on page 4.2-5 that "it is not feasible to mitigate this impact [on migrating birds] below a level of significance." Not only does this not comply with CEQA, but as written, may not comply with the Migratory Bird Treaty Act (16 U.S.C. Sections 703-711), which makes it unlawful to take or possess any migratory bird or their nests as listed under the Act. The PSA does not tell the reader if some of the listed birds will be taken, and if so, how to mitigate this consequence to comply with CEQA and the Act. It merely alludes that takings will occur by recommending certain conditions "to reduce project effects to common wildlife and nesting birds." This is inadequate. In addition, the reader is not given an accurate idea of what kind of impact

### Desert Tortoise

The Desert Tortoise is listed as threatened under both federal and states endangered species acts. Under these laws, it is illegal to take, harm, and kill the Desert Tortoise. However, it has been



found that the Project will “result in long-term degradation, an in many areas permanent elimination of 3,834 acres of occupied desert tortoise [necessitating the] translocation of all desert tortoises” from the project site. In addition, it has not been explained to the public how this illegal translocation of the desert tortoise will adversely effect the species, such as causing it to become easier prey to the Raven bird, or disrupting the nesting of the desert tortoise. The public has not been adequately informed of the real environmental impact the project will have on the desert tortoise and this needs to be addressed.

In addition, the PSA proposes to implement a desert tortoise compensation plan at a ratio of 1:1 compensation. However, this ratio should be higher considering the thousands of acres of tortoise habitat the project proposed to eradicate. Such a compensation measure may not replace the habitat at the same standard the habitat is being eradicated. California State University Polytechnic Pomona Professor Sidney Silliman suggests a compensation ratio of at least 5:1 for such habitat eradication. Thus, the DEIS should address concerns about quality of replacement habitat for desert tortoises.

#### Bald and Golden Eagle

As somewhat acknowledged by the PSA on page 4.2-6, the bald and golden eagle are protected by the Bald and Golden Eagle Protection Act, the Migratory Bird Treaty Act, and are fully protected under the California Fish and Game Code. The Golden Eagle is a Bureau of Land Management sensitive species. Also, the bald eagle is still listed as a state endangered species.

The project states that it would “present long-term operation phase hazards to bald and golden eagles” and has “the potential to take on ore more bald or golden eagles over the life of the project.” The mitigation measures of conditions 1-5 do not describe how the taking might be avoided, nor do they explain whether such measures will bring the Project in compliance with state and federal laws. This needs to be addressed before the project can move forward.

Lastly, the PSA cursorily states that the Project would have significant cumulative effects on golden eagles, but fails to propose any mitigation measures that would prevent it. It also fails to state entirely whether the bald eagle might suffer cumulative effects when there are seven other similar proposed projects in Riverside and San Bernardino Counties alone. See <http://www.energy.ca.gov/siting/solar/>.

#### Elf Owl and Gila Woodpecker

The Elf Owl and Gila Woodpecker are listed as endangered species under the California Endangered Species Act (“CESA”). The according to the PSA both species have been observed on the Project’s site, and the Project may cause takings of the Gila Woodpecker of Elf Owl by collision with the Project’s helostats or other structures and facilities. However, CESA only allows a taking of endangered species for otherwise lawful projects. The PSA does not demonstrate that the Project is otherwise lawful; and thus, takings of these endangered species is not be permitted. This issue needs to be addressed before the project can move forward.



In addition, the mitigation measures as proposed are inadequate. The PSA states that it is uncertain whether offsets of impacts would be feasible, and no other similar mitigation measures are identified or proposed.

### Burrowing Owl

As the PSA describes on page 4.2-7 to 4.2-8, the construction and the operation of the Project “would cause long-term degradation, and in many areas permanent elimination of 3,834 acres of seasonally occupied burrowing owl habitat, and adverse indirect impacts such as weed introductions to surrounding vegetation and habitat....mortality to any burrowing owls to avoid construction equipment, where they may be crushed or entombed.”

The Burrowing Owl is a Bureau of Land Management sensitive species and a California Species of Special Concern. However, the PSA does not adequately identify and describe the mitigation measures the project will take in order to avoid such consequences to the Burrowing Owl listed above. In addition, the PSA makes no mention of the cumulative impacts that will occur to the Burrowing Owl. This analysis is inadequate under CEQA and needs to be addressed before the project can move forward.

### Special Status Birds of Prey

The PSA states in a cursory sentence on page 4.2-8 that “distribution line retrofitting” would not mitigate the taking of smaller special status raptors, but does not propose or describe any other mitigation measures, and decides, without explanation, that such an impact would be significant and unavoidable. This consequence needs to be explained and mitigated before the project can move forward. In addition, the PSA does not explain the cumulative effect on these species. This is not adequate review under CEQA.

### Special Status Desert Shrubland Passerine Birds

The PSA states on page 4.2-9 that operation of the facility may cause a taking of several special-status upland perching bird species, but it does not identify which species might be taken, and it does not propose any mitigation measures for this impact, and makes no mention of the cumulative impact to such special-status birds. This is not adequate review under CEQA.

### Migratory and Wintering Birds

The PSA states on page 4.2-9 that several migratory and wintering special status species, including but not limited to the Greater Sandhill Crane and Willow Flycatcher, might be taken by “collision with heliostats or other project facilities or burning in concentrated solar energy surrounding the central towers.” It then concludes, in a cursory way, that such an impact would be unavoidable.

Many of these birds are listed under the CESA. The Greater Sandhill Crane is listed as threatened under CESA, and is protected by the California Fish and Game Code; and thus, a taking of the bird will likely violate CESA, The Migratory Bird Act, and other laws. In addition, the



Willow Flycatcher is a state listed endangered species, not to mention that its taking may also violate the Migratory Bird Act. Mitigation measures to prevent or mitigate takings of these species are inadequate. In addition, the PSA does not analyze the cumulative impact on the birds. This needs to be addressed before the project can move forward.

#### Desert Kit Fox

The Desert Kit Fox is protected from any taking under the California Fish and Game Code; and yet, the project states that it could “crush or entomb” the species. However, adequate mitigation measures have not been proposed. The PSA states that it would require the project owner to implement some sort of management plan to avoid the taking “from excluding these animals from the project area prior to constructions.” This is inadequate for a myriad of reasons. Most notably, planning to have a plan is not a real description of a mitigation measure as required under CEQA. In addition, even if this plan were completed, excluding the Desert Kit Fox from the area would still be considered a taking under the California Fish and Game Code. Lastly, the PSA does not address the cumulative impacts that would occur to this animal. These issues need to be addressed before the project can move forward.

#### Colorado Valley Woodrat and Special Status Bats

The PSA does not state whether it is likely that adverse impacts to the Colorado Valley Woodrat could occur. Instead, on page 4.2-10 the PSA seems to engage in guesswork about potential mitigative measures that could “avoid or mitigate adverse impacts, should they occur.” In addition to the impacts not being stated for this project, cumulative impacts are not addressed as well.

In addition, the PSA concludes that the project’s impacts to special status bat habitat may be significant and avoidable, but it does not describe the mitigation measures needed to avoid this. It also does not look at the cumulative impacts that will occur to the bat species in the area.

#### Supplemental Information

In the cumulative section on page 4.2-11, the PSA explains that “staff is awaiting additional information from the applicant for inclusion in the FSA, including the results of the full year of bird and bat surveys conducted during 2012, the results of late-season botany surveys conducted in 2012, clarification of acreages of permanent and temporary disturbance by vegetation type, the Lake and Streambed Alteration Agreement (LSAA) Notification and Incidental Take Permit application to be submitted to CDFG, and the draft Facility Closure, Revegetation, and Reclamation Plan and Financial Security. Such information, and any other information not contained in the PSA-Parts A and B that the agency obtains after circulation, could constitute new information of substantial importance and a supplemental PSA would need to be prepared and circulated. See 14 CAL. CODE OF REGS. § 15162(a)(3).



### **3. Cultural Resources**

There are significant cultural resource impacts that have yet to be adequately analyzed. A copy of a letter from Alfredo Acosta Figureoa of La Cuna de Aztlan Sacred Sites Protection Circle to the Bureau of Land Management is attached, which addresses some of these issues.

### **4. Water Supply**

CEQA requires that the environmental document identify and describe the project's significant environmental effects, including direct, indirect, and long-term effects. Cal. Pub. Res. Code Section 2110(b)(1); 14 CAL. CODE OF REGS. § 15126.2(a). However, the PSA states on 4.9-2 that the project would use water from the Colorado River, but that “staff could not evaluate and quantify the potential effect the groundwater pumping would have on the volume of flow in the Colorado River...due to some issues with the computer model submitted by the applicant that raised some questions about the reliability of the model.” Thus, it remains unclear at this time how the Project will effect the Water Supply from the Colorado River, both singularly, and in the cumulative. The Colorado River is a precious resource for water in this region. The PSA must identify and describe what impact the Project would have on this precious commodity in the desert.

### **5. Traffic & Transportation**

The Project concedes that it will have a significant impact on traffic and transportation. However, the mitigation measures proposes are inadequate, both to minimize the impact on congestion and to minimize emissions from vehicles that will travel to and from the Project both during construction and operation. For instance, construction is designated between peak traffic and commuter rush hours of 5 a.m. to 7 p.m. This will likely results in road closures during these times. Road closures during these times will results in more congestion and will result in vehicles on the road for a longer amount of time while in congested traffic; and thus, emitting more fumes. Further mitigation measures should be considered, such as construction during non-peak hours to minimize the impact on traffic in the area.

Current mitigation measures, as stated, do not bring down the traffic impacts to a less than significant level under CEQA. The “Park and Ride” feature is not currently feasible as stated, which is why the lead agency has requested park and ride locations prior to the issuance of a Final Staff Assessment. Further, the reflective glare of the heliostats onto drivers is another impact that poses a significant problem but has yet to be addressed. These issues need to be addressed before a Final Staff Assessment can be approved.



## **6. Visual Resources**

The studies conclude that the project will have significant adverse impacts on visual resources, both alone and in the cumulative. Mitigation measures have not been proposed that would alleviate these adverse impacts to a level of less-than significant. In addition, the project is not in compliance with many Riverside County General Plan Land Use and Open Space Elements. Specifically, the Project does not comply with Land Use (“LU”) policy 6.4 which requires the retention and enhancement of open space areas; LU policy 8.1 which requires the permanent preservation of open space that contains important natural resources; LU policy 13.1 which requires that the county preserve and protect outstanding scenic vistas and scenic features for the enjoyment of the traveling public, and LU policy 24.8 which requires that industrial development be designed to consider their surroundings and visually enhance, and not degrade, the character of the surrounding area. In addition, the Project is not in compliance with Open Space policy 21.1 which requires the county to conserve the skylines, view corridors, and outstanding vistas. These issues need to be addressed before the Project can move forward.

## **7. Worker Safety & Fire Protection**

CEQA requires that mitigation measures be proposed and described to minimize significant impacts. PUB. RES. CODE § 21002.1(a). There is a very real potential of injuries from fire, hazardous materials, and accidents for workers at the Project site. However, the Project has not yet created a construction safety and health program or an operations safety and health program. In addition, the adverse impacts the facility could have on workers, local civilians, and fire and safety men have not been adequately addressed or mitigated.

For instance, in the Riverside County Fire Department’s letter to the CEC dated March 14, 2012, the fire department explains that the closest fire station is in Ripley, California, and is staffed by a mere 3-man crew, only one of which is a paramedic. While this may be sufficient for a small town such as Ripley, California, this is hardly sufficient man power to respond to a large scale fire which might occur at the project site during construction or operation where 150 employees will be on-site. In addition, the fire department letter details how the closest emergency room is 1 hour, and 50 minutes away, with the closest trauma center being 50 minutes away, and estimated air ambulance response time exceeds one hour. A severely injured, burned, or otherwise incapacitated worker could suffer further serious injury or death while waiting one hour for emergency response; and yet, no additional funds or mitigation measures, or even a fire plan, has been offered to mitigate this. These issues must be addressed before the project can move forward.



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Thank you for your consideration of these issues.

Sincerely,

BRIGGS LAW CORPORATION

Isabel O'Donnell



**Attachment 1**

# **La Cuna de Aztlan Sacred Sites Protection Circle**

**Alfredo A. Figueroa  
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**September 26, 2012**

**Mr. Cedric C. Perry  
Project Manager  
Bureau of Land Management  
California Desert Office  
22835 Calle San Juan de Los Lagos  
Moreno Valley, CA 92553-9046**

## **Letter of Opposition: Bureau of Land Management Proposed Rio Mesa Gen-Tie Project Public Scoping Meeting Comment**

**My name is Alfredo Acosta Figueroa and I am a native of the Colorado River. I was born and raised in Blythe, CA I am also the Founder/Elder Historian of La Cuna de Aztlan Sacred Sites Protection Circle as well as one of the Chemehuevi Tribal Monitors of the sacred sites.**

**La Cuna de Aztlan Sacred Sites Protection Circle is a Native American organization which mission is to protect and preserve sacred indigenous sites that are located along the Colorado River. In 2008, our organization received a Memorandum of Understanding from the Bureau of Land Management to be guardians of these sacred sites. The sites begin in Spirit Mountain (North of Laughlin, NV) and are centered in the Palo Verde/Parker Valleys, down to Yuma, Arizona (South). These sites include the world famous Blythe Giant Intaglios, Kokopilli, Cicimitl, El Tosco, and Bouse Fisherman Geoglyphs as well as over 300 other geoglyphs (Intaglios), thousands of petroglyphs, hundreds of pictographs and mountain images.**

The 5,750 acre BrightSource Rio Mesa Solar Project (located 15-miles southwest of Blythe, California) is proposed to be built at the base of the sacred Mule Mountains also known as "*Calli*" for the Uto-Aztec and "*Hamock-Avi*" for the Mojave/Hokan linguistic families. Calli means "*Earth/House*" in the Nahuatl language and its image is the 3<sup>rd</sup> glyph within the 20 day glyphs as shown on the Aztec Sun Stone Calendar. The origin of the word "*California*" derives from "*Calli-Fornax*" meaning "*The Hot House.*" In the Aztec cosmic tradition when a person dies their spirit first goes to "*Calli.*" There at Calli, "*The Great Spirit Cicimil*" takes the spirit to one of the four final resting places all based on how the person died and how they lived during their life.

In the beginning of the 19<sup>th</sup> century, the Mule Mountains were referred to as the Upside-down Mountains and for the Spanish speaking they were known as the "*Molcajate Mountains*" because of their 3-peaks which resemble an upside down molcajate (Mortar Bowl).

The Mule Mountains also represent the "*Giant Calafia*" (Also known as the Giant Amazon Women Warrior). When looking west from the Palo Verde Valley, her image is seen on the side of the Mule Mountain. The center of the government of Mexicali Baja, California, Mexico was named Calafia in her honor. Mexicali also derives from the word "Calli," "*Mexi=Mexica,*" "*Cali=House*" altogether Mexicali means "*The House of the Mexica.*" The Mexicali Valley is an extension of the Lower Colorado River Valleys.

Ron Van Fleet, a Mojave Elder descendent of the last Traditional Mojave Chief Peter Lambert, explains the oral history of the Mojave that was taught to him during his childhood at the Fort Mojave Reservation. Van Fleet explains that the Creator Mastumho, with his magic wand, stirred the contents of a three-legged pot, or "*Molcajete bowl*" and he threw the contents behind him, thus creating the Milky Way, the entire universe, water, and air. When he was finished, he placed the empty pot upside down on earth, with the three legs up, which created the three peaks of, "*Hamock Avi*" which represent the Mule Mountains (15-miles southwest of Blythe, California). The Mojave oral creation story of Hamock-Avi is similar to the Aztec creation story.

The Bureau of Land Management's investigation has designated the Mule Mountains as an Area of Critical Environmental Concern (ACEC) and is included in their maps because this area has an abundance of geoglyphs, petroglyphs, cremation/burial sites, major trails and many other indigenous ritual artifacts.

In 1975, San Diego Gas & Electric proposed to construct the Sun Desert Nuclear Power Plant that planned to be built within the same area as the proposed Rio Mesa Solar project site. After 5-years of protest by members of the Riverside County, Colorado River Tribes and our group stopped the construction of this nuclear power plant. Also, the SDG&E had bought the John Norton 10,000 acre ranch that was to provide water and run the nuclear power plant. This was during California Governor Jerry Brown's first-term. Governor

**Brown was able to establish the California Atomic Energy Commission which schedule meetings in Blythe, California. These meetings informed the general public of the pros and cons of the construction of the nuclear power plant that in 1979 became the first nuclear power plant to be stopped in the United States.**

**Again in 2001, the Pacific Gas & Electric proposed to construct a natural gas power line called the North Baja Pipeline. This gas line was going to traverse through the base of the Mule Mountains which would eventually destroy some of the sacred sites that were within the area. In June 2001, under the leadership of La Cuna de Aztlan Sacred Sites Protection Circle, Native Americans from the Colorado River, Chumash, the EDAW Inc., representatives of the Bureau of Land Management (El Centro, California & Yuma, Arizona office), archeological and anthropological consultants toured the area. After seeing the significance and the sacredness of the area, the Pacific Gas & Electric circumvented the sacred sites and placed the natural gas line over traversed routes.**

**In appreciation to our concern and knowledge of the area on February 22, 2005 Dr. James H. Cleland from the EDAW Inc. sent the following recommendation to our organization:**

***“I would like to take this opportunity to wish you well in your future endeavors (1) to educate the public about the importance of cultural heritage and (2) to work within the context of environmental and historic preservation programs to protect these unique and non-renewable resources from unnecessary damage.”***

**During the past 40-years there has been respect for our native culture, but now with the construction of solar power plants within our ancestral land our sacred sites are being threaten. The construction of the Rio Mesa solar energy project near Blythe, California would place hundreds of thousands of reflective mirrors or heliostats which reflect heat from the sun onto a central boiler tower, turning water to steam that runs a power plant, which generates electricity. Along with the mirrors there will be two mammoth towers that will stand as high as a 75-story buildings that could easily been seen from Interstate-10.**

**The Rio Mesa Solar Project will be constructed on open lands at the base of the Mule Mountains in the Lower Colorado River Valley (approximately 4-miles from the Colorado River), on the bluffs overlooking the floodplain, wetland, and the rich Palo Verde Valley agricultural habitats.**

**Based on Governmental Interagency Recommendations dated December 16, 2011 the United States Fish and Wildlife Service (USFWS) reveals the following analysis: This area is an important migratory route for numerous species as well as breeding and wintering stopover destination. This area has been designated as a Globally Important Bird Area (see California Audubon <http://ca.audubon.org/iba/>). In addition, four National Wildlife**

Refuges (NWRs) have been established along the Lower Colorado River Valleys. These NWRs (Havasu, Bill Williams, Cibola and Imperial) were established to restore and protect historic habitat and wintering grounds for migratory birds and other wildlife.

According to available information from Cibola NWR, (located approximately 5-miles southeast of the Rio Mesa Solar project site) at least 288 bird species, including numerous species of migratory passerine species (songbirds), upland species (quail, roadrunners, mourning and white-winged doves, waders/shorebirds and waterfowl (greater sandhill cranes, Canada and snow geese, ibis, egrets, herons, ducks), and raptors (buteos, accipiter's, falcons, eagles, vulture)

(See <http://www.npwrc.usgs.gov/resource/birds/chekbird/r2/cibola.htm>). This habitat is very important for migratory birds and is further highlighted by the use of the area by birds designated by the USFWS as Birds of Conservation Concern and by the California Department of Fish and Game as Species of Special Concern.

Given the area's importance for maintaining health and breeding fitness of migratory and resident birds, the USFWS and California Department of Fish and Game (CDFG) are concerned that avifauna protected by the Migratory Bird Treaty Act (MBTA), migrating Swainson's hawks (State listed as threatened under the California Endangered Species Act), and eagles protected by the MBTA, the Bald and Golden Eagle Protection Act and designated as fully protected under Section 3511 of the Fish and Game Code may be impacted by the construction and operation of the proposed Rio Mesa Solar project.

Special status species at risk also include the state-listed Gila Woodpecker (occurs on site) and elf owl (suitable habitat is on the site); bald eagle and golden eagle (both protected by federal Bald and Golden Eagle Protection Act and fully protected under Fish and Game Code); burrowing owls, and several additional State-designated bird and bat Species of Special Concern and BLM designated Sensitive Species. In addition, there are also eagle's nests along the Bradshaw Trail.

Migratory birds and Special status species will be injured or killed due to collision with the two 75-story power towers and thousands of associated heliostats or may be burned as a result of flying through the thousand degree heat beams (generated from the heliostats) or via attempted perching on the power towers. All these facts are well known based on a solar power company report from Barstow, California.

In addition to harming wildlife, the proximity of the agricultural fields of the Palo Verde Valley to the Rio Mesa Solar site will be greatly affected by the immense heat generated by the thousands of heliostats. Thus, it will create change in the atmosphere, affecting the agriculture industry.

In a recent article regarding the Jenko Solar Project in China, the Chinese are setting an example in protesting against the solar panel projects in their country because they have not only contaminated their water but also the climate change has ruined their agriculture

industry. Apparently not even China is benefitting from these thousands of solar panel projects. The Jenko Solar Project is an excellent example of why we do not need these projects near agricultural land much less near the Colorado River which its water reserve in Lake Mead is barely 1/3 of its capacity.

We wholeheartedly support Joan Taylor, Chair of the Sierra Club's Desert Energy Committee comments that sees the Rio Mesa Solar projects two 75-story towers as a potential threat to all species. As Taylor explains, *"Bottom line, you don't put something that's a potential bird killer near a National Wildlife Refuge."*

Besides the Mule Mountain being designated as an ACEC, they have now found fragments of mammoth fossils at the proposed Rio Mesa site. The fragments are part of a major discovery of hundreds of pre-historic fossils. According to the front page article of the Desert Sun dated Sunday September 9, 2012 by K. Kaufmann, *"The prehistoric soil where the fossils were found covers one-third of the proposed 3,305 acre site. The more than 740 fossils discover at the site to date range from the ivory fragments and teeth of now-extinct prehistoric horses to hundreds of desert tortoise fossil, including rare eggshell fragments carbon-dated at up to 13,700 years old."* Unknown is how deep the ancient fossils maybe.

Despite all these findings, BrightSource spokeswoman Kristin Hunter said, *"We do not believe that the fossils will have an impact on the project moving forward as scheduled."*

The finding of mammoth fossils at other sites such as the Tule Springs located north of Las Vegas, Nevada has lead Senator Harry Reid (D-NV) to introduce into the United States Senate the Las Vegas Valley Public Lands and Tule Springs Fossil Beds National Monument Act of 2012. According to the Desert Report Magazine from the Sierra Club of September 2012, reporter Steve Rowland explains that *"This bill will create a 23,000 acre (35 square mile) national monument on the northern margin of Las Vegas Valley. Why should this land be protected and managed as a national monument? There are three compelling reason: (1) paleontological and paleo-climate research, (2) education and public outreach and (3) economic stimulation through ecotourism."* As we can see, there are many differences between these historical findings because in Las Vegas, Nevada the government is trying to protect these findings, yet here in the Palo Verde Valley, they are threatened to be destroyed.

The government fast-track stimulus money programs have been a complete failure as demonstrated by the Solyndar Company disaster, the Solar Trust of America (Blythe Solar project) bankruptcy and other companies which are also filing bankruptcy. According to Desert Sun reporter K. Kaufmann, the Rio Mesa project received a \$1.6 billion guarantee from the Department of Energy despite the fact that the construction of the project is uncertain due to the company's failure to generate sufficient financing.

Alluding to these frauds, the Sacramento Bee posted an article on Monday April 2, 2012 which revealed that the Solar Trust of America's (Blythe Solar Power) Chapter 11 filings on Monday listed assets between \$1 million and \$10 million, and liability between \$10 million and \$50 million. Interior Secretary Ken Salazar and California Gov. Jerry Brown were on hand last June when Solar Trust broke ground on a 1,000-megawatt project in California. The project was touted as the world's largest solar power plant and a keystone of the Obama administration's efforts to promote solar energy.

The groundbreaking event of June 17, 2011 was a complete facade because two months prior the company had already bulldozed a 150ft- wide 5-mile long transmission line roadway. This roadway destroyed the "Sun Geoglyph" (10ft in circumference) & "True North Geoglyph" (5ft-wide by 50ft-long). These geoglyphs were part of the Twin Kokopilli/Cicimitl group and they are 2 ½ miles north of the Black Frontage Road where the so-called groundbreaking event took place.

The southern California blackout of September 10, 2011 proves that the government should build these solar power projects in urban areas because this is where the majority of energy is needed. As we now experience, one man's mistake paralyzed 6 million people's lives. As we know, the long distance transmission lines can be easily sabotaged. According to the Press Enterprise article of September 11, 2011 *"The nation's transmission lines remain all too vulnerable to cascading failure."*

Jared Blumenthal, Regional Administrator of the EPA's Pacific Southwest Region, states: *"Opportunities to install renewable energy systems on vacant properties can be found in every community, tapping sun and wind power at brownfield sites, rooftops, parking lots, and abandoned land could provide untapped gigawatts of clean energy."*

The California Energy Commissions investigations of the Cultural Resources of southern California documented: Cultural Resources Docket 09-AFC-8, recorded on June 22, 2010, the summary of conclusions testimony of Elizabeth A. Bagwell Ph.D and Beverly Bastian reveals the following findings:

*"Staff finds that the GSEP construction impact, when combined with impact from past, present, and reasonably foreseeable projects, contribute in a small but significant way to the cumulatively considerable adverse impacts for cultural resources at both the local I-10 Corridor, regional levels. This analysis estimates that more than 800 sites within the I-10 Corridor and 17,000 sites within the Southern California Desert Region will potentially be destroyed. Mitigation can reduce the impact of this destruction, but not to less-than-significant level."*

**We are also opposing to the construction of solar panel projects because of their gross violation to the following indigenous, State, Federal and United Nation laws that support our demands and why these projects should not be constructed within sacred areas:**

- **Inter-Tribal Council of Arizona (20 Tribes): Resolution 0212, opposing the Department of Interior Fast-Track Polices of Renewable Energy Projects on Ancestral Homelands, June 29, 2012**
- **National Congress of American Indians (566 Tribes): Resolution #LTK-12-036, opposing the Department of Interior Fast-Track Polices of Renewable Energy Projects on Ancestral Homeland, June 17, 2012.**
- **Colorado River Indian Tribe Resolution and Letter to President Barack Obama: opposing the construction of Solar Power Projects within 50-miles from the CRIT Reservation boundary of February 27, 2012.**
- **United Nations Declaration on the Right of Indigenous People. Resolution adapted by the General Assembly during the 107<sup>th</sup> plenary meeting, September 13, 2007. (61/295) (Includes: Article 11 that stipulates Indigenous archeological rights.)**
- **Native American Sacred Places, March 6, 2003 (S.B. 18)**
- **Native American Sacred Lands Act, June 11, 2003 (H.R. 2419)**
- **The Sacred Land Protection Act, July 18, 2002 (H.R. 5155)**
- **The Native American Sacred Sites Protection Act, February 22, 2002 (S.B. 1828)**
- **Accommodations of Sacred Sites and Federal Land, Signed by President Bill Clinton on May 24, 1996 (Executive Order 13007)**
- **Native American Graves Protection & Repatriation Act of 1990**
- **Archeological Resource Protection Act of 1979**
- **American Indian Religious Freedom Act, August 11, 1978**
- **The Civil Right Act of 1968**
- **Antiquities Act of 1906**

**We do not oppose to solar panels, we feel that they should be placed in areas that have already been disturbed as well as placing them on roof-tops and in urban areas where energy is mostly need (warehouses, supermarkets, apartments complexes, abandoned air bases, and along the current electrical transmission lines). This will exclude the need for transmission lines which has now presented major terrorist threats like the blackout that occurred on September 8, 2011 in Mexico, Yuma, Imperial, San Diego and Riverside Counties.**

**Sincerely,**

*Alfredo Acosta Figueroa*

**Alfredo Acosta Figueroa  
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**Attached: Letters of Recommendations, Pictures of area & petroglyphs, geoglyphs/trails and newspaper articles.**



**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT  
COMMISSION OF THE STATE OF CALIFORNIA  
1516 NINTH STREET, SACRAMENTO, CA 95814  
1-800-822-6228 – WWW.ENERGY.CA.GOV**

**APPLICATION FOR CERTIFICATION FOR THE  
RIO MESA SOLAR ELECTRIC  
GENERATING FACILITY**

**DOCKET NO. 11-AFC-04  
PROOF OF SERVICE  
(Revised 11/2/12)**

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DECLARATION OF SERVICE

I, Tenbello Dowell declare that on Nov. 14, 2012, I served and filed a copy of the attached document Comment letter, dated Nov. 14, 2012. This document is accompanied by the most recent Proof of Service list, located on the web page for this project at: <http://www.energy.ca.gov/sitingcases/riomesa/index.html>.

The document has been sent to the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit or Chief Counsel, as appropriate, in the following manner:

*(Check all that Apply)*

For service to all other parties:

- Served electronically to all e-mail addresses on the Proof of Service list;
- Served by delivering on this date, either personally, or for mailing with the U.S. Postal Service with first-class postage thereon fully prepaid, to the name and address of the person served, for mailing that same day in the ordinary course of business; that the envelope was sealed and placed for collection and mailing on that date to those addresses marked "hard copy required" or where no e-mail address is provided.

**AND**

For filing with the Docket Unit at the Energy Commission:

- by sending electronic copies to the e-mail address below (preferred method); *OR*
- by depositing an original and 12 paper copies in the mail with the U.S. Postal Service with first class postage thereon fully prepaid, as follows:

**CALIFORNIA ENERGY COMMISSION - DOCKET UNIT**  
Attn: Docket No. 11-AFC-04  
1516 Ninth Street, MS-4  
Sacramento, CA 95814-5512  
[docket@energy.ca.gov](mailto:docket@energy.ca.gov)

*OR, if filing a Petition for Reconsideration of Decision or Order pursuant to Title 20, § 1720:*

- Served by delivering on this date one electronic copy by e-mail, and an original paper copy to the Chief Counsel at the following address, either personally, or for mailing with the U.S. Postal Service with first class postage thereon fully prepaid:

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Michael J. Levy, Chief Counsel  
1516 Ninth Street MS-14  
Sacramento, CA 95814  
[michael.levy@energy.ca.gov](mailto:michael.levy@energy.ca.gov)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.

