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SECTION 6.0 RESPONSES TO LATE COMMENTS

6.1 INTRODUCTION

The Draft Environmental Impact Report (Draft EIR) for the AV Solar Ranch One Project (Project) was circulated on June 16, 2010 for a formal 45-day public comment period ending on July 30, 2010. During that time, the County of Los Angeles Department of Regional Planning received a total of 14 individual comment letters on the Draft EIR as summarized in Table 4-1 of the Final EIR dated August 2010.

The County of Los Angeles Regional Planning Commission (RPC) held a public hearing on the Draft EIR on June 30, 2010. Public comments were received at the RPC hearing. Refer to Section 3.0 of the Final EIR (August 2010) for the June 30, 2010 RPC Hearing minutes and responses to oral comments received at the hearing.

The Final EIR (August 2010) addressed all written and oral comments received on the Draft EIR. A second RPC Hearing was held on September 15, 2010 at which time the Final EIR (August 2010) was certified by the RPC.

Following the close of the noticed Draft EIR public comment period (July 30, 2010) and after the August 2010 Final EIR was issued, four late comment letters were transmitted to the Los Angeles County Department of Regional Planning (LACDRP), as summarized in Table 6-1. These letters included a letter from the California Department of Transportation (Caltrans) dated September 14, 2010; a letter from Adams Broadwell Joseph & Cardozo, on behalf of the California Unions for Reliable Energy (CURE) dated September 14, 2010; and an email from Ms. Melody Mokres dated September 14, 2010. Additionally, on September 24, 2010, Northrop Grumman Corporation (NG) filed an Appeal to the RPC's certification of the Final EIR (August 2010) as well as the RPC's approval of Conditional Use Permit (CUP) No. 200900026 and Vesting Tentative Tract Map (VTTM) No. TR071035 for the Project. For purposes of this Final EIR Section 6.0, Responses to Late Comments, NG's Appeal and Rider is considered as a "late" comment letter along with the aforementioned three other late comment letters.

The Final EIR document (August 2010) consisted of the following five sections: 1.0 – Introduction; 2.0 – Revisions to the Draft EIR; 3.0 – Responses to Regional Planning Commission Hearing Comments; 4.0 – Comments and Responses to Written Comments; and 5.0 – Mitigation Monitoring and Reporting Program. This Final EIR Section 6.0 (November 2010), Responses to Late Comments, provides written responses to the late comment letters. The Project Final EIR consists of the following documents: 1) June 2010 Draft EIR; 2) June

2010 Technical Appendices to the Draft EIR; 3) August 2010 Final EIR; and 4) November 2010 Final EIR Section 6.0, Responses to Late Comments.

The late comment letter designations are presented in Table 6-1 and on each letter. The individual comments for each late comment letter are delineated and numbered in the letter margins for reference purposes. Written responses to each late comment letter are presented in Section 6.2, and the late comment letters are presented in Section 6.3.

**TABLE 6-1
SUMMARY OF LATE COMMENTS RECEIVED ON THE FINAL EIR
(AUGUST 2010) FOR THE AV SOLAR RANCH ONE PROJECT**

Date	Commenter/Affiliation	Late Comment Item ID	Number of Late Comments Identified
State Agencies			
9/14/10	Carl Shiigi/California Department of Transportation	CT-1	1
Organizations			
9/14/10	Elizabeth Klebaner/Adams Broadwell Joseph & Cardozo	EK-1	6
9/24/10	Northrop Grumman Corporation	NG-1	34
Individuals			
9/14/10	Melody Mokres	MM-1	3

6.2 WRITTEN RESPONSES TO LATE COMMENTS**6.2.1 California Department of Transportation (CT-1)****Response CT-1-1:**

This late comment letter was received by LACDRP on September 16, 2010, one day after the Los Angeles County Regional Planning Commission hearing was held on the Final EIR (August 2010) for the AV Solar Ranch One Project. The County acknowledges Caltrans previous studies and tentative, future plans for widening State Route (SR) 138. Refer to Response SA-2-2 in Section 4.2 (State Agencies) of the Final EIR (August 2010), which addresses the County's requirements for dedication of land by the Applicant on both sides of SR-138 to accommodate Caltrans' potential future widening of SR-138. The proposed Project design and County of Los Angeles required Project setbacks from SR-138 (generally 100 feet on each side of SR-138 centerline for a total width of 200 feet to accommodate potential future road widening) take Caltrans' possible future highway widening plans into consideration. The County and the Applicant understand that Caltrans' possible future widening of SR-138 will involve a total roadway/shoulder width of up to 164 feet (maximum) and could require minor Project modifications to accommodate Caltrans needs once they are defined with more certainty regarding the selected cross section width and location.

6.2.2 Adams Broadwell Joseph and Cardozo (EK-1)**Response EK-1-1:**

This comment states that Adams Broadwell Joseph & Cardozo's comments are on behalf of CURE and that they urge the RPC to not approve the Final EIR and to direct the LACDRP to revise and recirculate the Draft EIR. This comment does not state a specific concern or question regarding the adequacy of the analysis contained in the Final EIR (August 2010). Therefore, a response is not required pursuant to CEQA. However, the comment is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

Response EK-1-2:

The County disagrees with this comment and the contention that the Final EIR (August 2010) does not adequately respond to CURE's comments on the Draft EIR. Refer to the Written Responses to Comment Letter ORG-3 in the Final EIR (August 2010). This comment does not raise any new comments or specific points regarding the adequacy of the Final EIR (August 2010). The County also disagrees that significant new information was added to the Final EIR (August 2010) requiring recirculation of the EIR. Refer to Response EK-1-3 for

more information. However, the comment is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

Response EK-1-3:

This comment states that the Final EIR includes “significant new information” within the meaning of California Public Resources Code Section 21092.1 and CEQA Guidelines Section 15088.5, and that the County was therefore required to revise and recirculate the Draft EIR. The Final EIR does not present “significant new information,” thus there is no justification or need to recirculate the Draft EIR.

CEQA Guidelines Section 15088.5 requires recirculation of an EIR prior to certification of the Final EIR when “significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review.” “New information added to an EIR is not ‘significant’ unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the Project or a feasible way to mitigate or avoid such an effect.” (CEQA Guidelines § 15088.5.) CEQA Guidelines Section 15088.5 (a) contains an illustrative list of examples of “significant new information” requiring recirculation:

- (1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
- (2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.
- (3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it.
- (4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

In addition, CEQA Guidelines Section 15088.5(b) provides that “recirculation is not required where the new information added to the EIR merely clarifies and amplifies or makes insignificant modifications in an adequate EIR.”

Mitigation Measure 5.7-13 (Pre-construction Desert Tortoise Surveys) was added to the Draft EIR based on a recommendation from the U.S. Fish and Wildlife Service as a precautionary measure to avoid unlikely Project impacts to Desert tortoise as discussed in Responses ORG-3-62 and ORG-3B-7 in Section 4.4 of the Final EIR (August 2010). The Final EIR did not identify a new significant impact to the Desert Tortoise requiring recirculation. The Final EIR (August 2010) does not present new, unsupported analyses regarding baseline biological and air quality conditions at the Project site as contended in this comment. As discussed in

Response ORG-3-2 (and other Responses referenced therein) in the Final EIR (August 2010), the Draft EIR includes sufficient baseline information and analysis regarding the Project's potentially significant impacts to biological resources, air quality, water supply et al. Moreover, there is no significant new information requiring recirculation (See CEQA Guidelines Section 15088.5).

As discussed in Final EIR (August 2010) Response ORG-3-9, a WSA is not required for the Project and, accordingly, a WSA was neither prepared nor included in the Draft EIR. This is not substantial new information and recirculation is not required.

Response EK-1-4:

The County disagrees with this comment and the contention that the Draft EIR was inadequate and conclusory in nature. The County also disagrees with the contentions that the Final EIR (August 2010) does not present a stable and finite Project description or adequately analyze impacts to air quality, biological resources, visual resources, and water quality, or propose adequate mitigation. This comment does not state specific examples to support these general contentions which were all previously addressed in Written Responses to Comment Letter ORG-3 in the Final EIR (August 2010); therefore, specific responses are not required pursuant to CEQA. Refer to the following relevant responses to comments in the Final EIR (August 2010):

- Project Description (see Responses ORG-3-8 and ORG-3-19 through ORG-3-28)
- Air Quality (see Responses ORG-3-8, -14, -16, -19, -25, -27, -31, -32, -33,-55, -58, and -59)
- Biological Resources (see Responses ORG-3-12, -16, -29, -31, -34 through -39, -61, -63, and -76; and ORG-3B-3 through -10, -13, -17, -18, -19, -22 and -25)
- Visual (see Responses ORG-3-50, -51, -52, and -53)
- Water (see Responses ORG-3-9, -13, -15, -18, -40 through -48, -65, -66, -67, -69, -70, -71, and -78; and ORG-3A-6 and -10)

The comment is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration.

Response EK-1-5:

As discussed in Final EIR (August 2010) Response ORG-3-9, a WSA is not required for the Project and, accordingly, a WSA was neither prepared nor included in the Draft EIR. The Draft EIR presents a detailed analysis of groundwater resources and potential Project effects

in Section 5.14, Appendix J, and Appendix J2. The County disagrees with this comment and the contention that the EIR is deficient or invalid.

Response EK-1-6:

As discussed in Response EK-1-3, the County disagrees that the EIR must be recirculated for public review and comment in accordance with CEQA.

In accordance with Section 15121(a) of the CEQA Guidelines, the EIR is an informational document which informs public agency decisionmakers and the public generally of: 1) the significant environmental effect of the Project; 2) identify possible ways to minimize the significant effects; and 3) describe reasonable alternatives to the Project. The EIR was prepared in accordance with Section 15151 of the CEQA Guidelines, which states that:

An EIR should be prepared with a sufficient degree of analysis to provide decisionmakers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure.

The EIR includes sufficient information and analysis regarding the Project description and the Project’s potentially significant impacts to air quality, biological resources, visual resources, water supply, and other relevant resource topics. In addition, the EIR presents adequate mitigation.

6.2.3 Northrop Grumman Corporation (NG-1)

Response NG-1-1:

This comment is Northrop Grumman Corporation’s (NG) Appeal (dated September 24, 2010) to the Los Angeles County Regional Planning Commission’s (RPC) September 15, 2010 decision on the AV Solar Ranch One Project. The Appeal is acknowledged for the record and will be forwarded to the decision-making bodies for their review and consideration. Written responses to the Appeal Rider are presented beginning with Response NG-1-2.

Date	Commenter/Affiliation	Comment Item ID	Number of Comments Identified
Organizations (ORG)			
7/30/10	Kate Allen/Antelope Valley Group of Sierra Club	ORG-1	5
7/21/10	Elizabeth Klebaner/Adams Broadwell Joseph & Cardozo	ORG-2	1
7/30/10	Elizabeth Klebaner/Adams Broadwell Joseph & Cardozo	ORG-3	79
Individuals (I)			
6/21/10	Shizuko Hill	I-1	1
6/21/10	Ponciano Manalo	I-2	2
7/26/10	L. Dean Webb	I-3	7
7/30/10	Several Residents of Antelope Acres (Stout, Kerekes, Seybold, Fuentes)	I-4	6

The Final EIR included a response to every comment made on the Draft EIR during the public comment period. (See Final EIR Section 3.0 for responses to oral comments received during the Commission public hearing and Final EIR Section 4.0 for responses to comment letters received during the 45-day public comment period.) The responses evince a good faith and reasoned analysis and are supported by empirical, scientific, and explanatory information.

In conclusion, the Final EIR, including the responses to comments in the Final EIR, is based on good-faith, reasoned analysis and are considered to be adequate contrary to the contention in this comment.

Response NG-1-27:

This comment states that the CEQA Findings of Fact are not supported by substantial evidence. However, this comment does not provide any specific points to support this claim. CEQA requires that findings be supported by substantial evidence. (CEQA Guidelines § 15091.) The standard for adequacy of an EIR is “not for perfection but for adequacy, completeness, and a good faith effort at full disclosure.” (CEQA Guidelines § 15151.) Indeed, all that is needed is “**any** substantial evidence in the record to support the findings.” (*Smith v. County of Los Angeles* (1989) 211 Cal.App.3d 188, 198 [original emphasis] [citation omitted].) Substantial evidence means “enough relevant information and reasonable inferences . . . that a fair argument can be made to support a conclusion, even though other conclusions might also be reached.” (CEQA Guidelines § 15384 (a).) As discussed in the Draft EIR, the Final EIR, and Responses NG-1-1 through NG-1-26, there is substantial evidence in the record to support the findings.

Moreover, the commenter does not identify how the evidence before the County is insufficient to reach the conclusions set forth in the CEQA Findings of Fact. (*Environmental*