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GAVIN NEWSOM, Governor
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Governor's Office of Planning & Research

Dec 23 2021

December 22, 2021
Sent via email

STATE CLEARINGHOUSE

Sarah Mongano
California State Lands Commission
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CEQA.comments@slc.ca.gov

Subject: Stagecoach Solar Project, State Clearinghouse No. 2020100234
Draft Environmental Impact Report

Dear Ms. Mongano:

The California Department of Fish and Wildlife (CDFW) appreciates the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the Stagecoach Solar Project (Project), State Clearinghouse No. 2020100234. CDFW is responding to the DEIR as a Trustee Agency for fish and wildlife resources (California Fish and Game Code Sections 711.7 and 1802, and the California Environmental Quality Act (CEQA) Guidelines Section 15386), and as a Responsible Agency regarding any discretionary actions (CEQA Guidelines Section 15381), such as the issuance of a Lake or Streambed Alteration Agreement (California Fish and Game Code Sections 1600 et seq.) and/or a California Endangered Species Act (CESA) Permit for Incidental Take of Endangered, Threatened, and/or Candidate species (California Fish and Game Code Sections 2080 and 2080.1).

Project Location

The proposed project is located east of Interstate 15, south of Interstate 40, about 3 miles west of State Route 247, 15 miles south of the City of Barstow, and 12 miles northwest of the unincorporated community of Lucerne Valley in San Bernardino County. The project area boundary encompasses five sections of undeveloped State land, as well as adjacent private land owned by Aurora Solar LLC, a subsidiary of Avangrid Renewables (Applicant). The project site is located within the Apple Valley Natural Community Conservation Planning (NCCP) and Multiple Species Habitat Conservation Plan (MSHCP) boundary areas attributed with the confluence of wildlife corridors, wildlife linkages, and high-quality desert tortoise habitat.

Conserving California's Wildlife Since 1870

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Project Description

The Project consists of construction of a 200-megawatt (MW) utility scale photovoltaic (PV) electrical generating system, battery energy storage system, and associated infrastructure. The lease area covers approximately 3,570 acres of which 1,975 acres will be used for the solar facility. The operating life of the project is expected to be 40 years. Various project components include construction of the electrical substation, an operations and maintenance building, underground electricity collection system, collection system linking the PV modules to the substation, battery storage facility, solar resource and meteorological measurement stations, new access roads, perimeter fencing, site security systems, septic tank system, and permanent groundwater wells. A new Southern California Edison (SCE) substation will be constructed as part of the project but will be owned and operated by SCE. A 9.1-mile-long 220 kV generation intertie (gen-tie) transmission line will connect the site to the proposed 7-acre SCE Calcite Substation. The proposed SCE Calcite Facilities would be located on and adjacent to an approximately 75-acre parcel that extends on the west and east sides of State Route 247.

COMMENTS AND RECOMMENDATIONS

CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and necessary habitat for biologically sustainable species populations (biological resources). The DEIR identified a high potential for occurrence of Mojave Desert tortoise, western Joshua tree, rosy boa, burrowing owl, golden eagle, seasonal raptors, special status birds, desert kit fox, and American badger on the project site. It also identified occurrence of Mohave ground squirrel and Bighorn sheep in and around the proposed project area. CDFW is offering comments and recommendations herein to assist the Lead Agency (California State Lands Commission) in adequately identifying, avoiding, and mitigating the project's significant or potentially significant impacts on biological resources.

California Endangered Species Act

CDFW is responsible for ensuring appropriate conservation of fish and wildlife resources including threatened, endangered, and/or candidate plant and animal species, pursuant to the California Endangered Species Act (CESA). A CESA Incidental Take Permit (ITP) is issued to conserve, protect, enhance, and restore State-listed CESA species and their habitats. CDFW recommends that a CESA ITP be obtained if the project has the potential to result in "take" (California Fish and Game Code Section 86 defines "take" as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill") of CESA-listed species. Take of any CESA-listed species is prohibited except as authorized by state law (Fish and Game Code, §§ 2080 & 2085). If the project, including the project construction or any project-related activity during the life of the project, results in take of CESA-listed species, CDFW recommends that the project proponent seek appropriate authorization prior to project implementation through

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an ITP. Desert tortoise, Mohave ground squirrel, and western Joshua tree are the CESA-listed species that have potential to occur within the project area, and presence needs to be determined by protocol surveys required by the Lead Agency.

Western Joshua Tree

Western Joshua tree (*Yucca brevifolia*) is a candidate for threatened species (see 2020 Cal. Reg. Notice Register, No. 41-Z, pp. 1349, October 9, 2020) under CESA. CDFW recommends that the DEIR should include risk analysis showing comparative evaluation of adverse impacts of design layouts on various species and their habitat quality and sustainability over time. Edge effects should be considered. The determination should be based on factors including an assessment of the importance of the habitat in the project area, the extent to which the covered activities will impact the habitat, and estimation of the acreage required to provide for adequate compensation. Avoidance of western Joshua tree and its associated habitat would be a preferred approach. When considering impacts that involve removal of western Joshua tree, including its potential seedbank, impacts to habitat adjacent to western Joshua tree and other suitable habitat should also be evaluated. CDFW recommends the assessment area cover all project areas that may be impacted and an additional 200-foot-wide area outside of the project impact area to assess the habitat quality parameters. High quality habitat adjacent to an impact area would generally factor into a quality determination for the impact area. CDFW recommends that assessment of impacts and associated mitigation should evaluate the number and size of western Joshua trees impacted, and the overall quality and extent of habitat that may support western Joshua tree. Generally, areas with greater density, range of size classes, and recruitment of western Joshua tree, along with larger, intact, and connected habitat areas represent high habitat quality areas. The assessment should consider edge effects that may exist from project design. Areas with larger edge effect and narrow corridors should be considered as having greater indirect impacts on adjacent areas. Impacts include removal of western Joshua tree and its seedbank, and loss of occupied and suitable habitat. Removal of western Joshua tree to “salvage” or relocate elsewhere should be considered an impact at the removal site. Relocation of western Joshua tree is disfavored as relocation is likely to impact habitat at a relocation site and affect other fish and wildlife resources, potentially including special-status species, and a relocation site may not have all required habitat elements for successful reproduction on site, potentially limiting the biological effectiveness of such as measure.

CDFW recommends the amount of compensatory mitigation is related to the extent and type of impacts to the species and the quality of the habitat being affected for the biological resources that may be potentially impacted. CDFW does not view relocation as adequate mitigation for impacts to western Joshua tree and its habitat. Compensatory mitigation ratios from 1:1 to 5:1 of impacted acres is typical. Higher mitigation ratios are often used for impacts that most affect the species, such as impacts to high quality, connected, other important habitat areas, and impacts to areas with a greater distribution and presence of the species. CDFW recommends the

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mitigation site is occupied and is of equivalent or higher value for western Joshua tree than the impact site. For compensatory mitigation, CDFW recommends permanent protection through a conservation easement, development of a long-term management plan, and funding sufficient to implement management plan tasks in perpetuity should be completed before starting project ground-disturbing activities.

Mohave Ground Squirrel

Project activities have the potential to take Mohave ground squirrel (*Otospermophilus beecheyi*), a CESA-listed species. Protocol surveys are needed during the appropriate time of year to determine Mohave ground squirrel presence, and the specific avoidance, minimization, and mitigation measures are required. If the project, including the project construction or any project-related activity during the life of the project, results in take of CESA-listed species, CDFW recommends that the project proponent seeks appropriate authorization prior to project implementation through an ITP. CDFW recommends inclusion of the following measure in the environmental document: A CDFW-approved qualified biologist shall conduct pre-construction surveys following the Mohave Ground Squirrel Survey Guidelines (CDFG, 2010) or most recent version. The pre-construction surveys shall cover the project Area and a 50-foot buffer zone. Should Mohave ground squirrel presence be confirmed during the survey, the project Proponent shall obtain an ITP for Mohave ground squirrel prior to the start of project activities. CDFW shall be notified if Mohave ground squirrel presence is confirmed during the pre-construction survey. If a Mohave ground squirrel is observed during project activities, and the project Proponent does not have an ITP, all work shall immediately stop, and the observation shall be immediately reported to CDFW.

Bighorn Sheep

Bighorn sheep (*Ovis canadensis*) is a fully protected species in California. They occur in the San Geronio Mountains to the south of the Project site and in the Newberry and Ord Mountains to the northeast/east of the Project site. Surveys also showed bighorn sheep movement between the Newberry and Ord Mountains, and the Bullion Mountains to the east of the Project site. Bighorn sheep use a variety of desert terrain types, such as valley floors and less steep and rugged areas to travel between ranges. Location of the Project may indirectly impact movement of Bighorn sheep as a part of dispersal among subpopulations. It is the project proponent's responsibility to completely avoid fully protected species. Bighorn sheep require wide spatial freedom and show obvious seasonal movements and a need for habitat connectivity between populations. Bighorn sheep and any other fully protected species (Fish and Game Code § 3511) that have the potential to occur within or adjacent to the project area may not be taken or possessed at any time. Conservation measures need to be precisely designed to completely avoid all fully protected species. CDFW recommends that the DEIR fully analyze potential adverse impacts to this and all other fully protected species due to habitat modification, loss of foraging habitat, and interruption of migratory and breeding behaviors.

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Desert Tortoise

Project activities have the potential to take desert tortoise (*Gopherus agassizii*), a CESA-listed species as threatened and a candidate for endangered species. Project survey results from 2017 and 2020 identified 6 live desert tortoises on the project site. In addition, 50 potential burrows were identified within the biological survey area. MM BIO-1g states that desert tortoise will be mitigated at a 1:1 ratio for each acre of permanent and temporary impacts. CDFW believes the compensatory mitigation may not be adequate based on the presence of live desert tortoises on the project and the high number of burrows and sign adjacent to the site. CDFW recommends a higher ratio that will fully mitigate the impacts and takes into account the quality of the habitat impacted, the loss of home range, loss of foraging, and impact to connectivity. CDFW appreciates the inclusion of avoidance and mitigation measures to prevent potentially significant impacts to desert tortoise during construction within the DEIR in addition to obtaining an incidental take permit prior to starting construction.

As noted in the DEIR temporary and permanent desert tortoise fencing will be placed around the solar facilities. Authorized biologists and biological monitors shall conduct clearance surveys prior to initiating project activities in accordance with the survey methodology described in U.S. Fish and Wildlife Service Desert Tortoise (Mojave Population) Field Manual. The survey shall utilize perpendicular survey routes and 100-percent visual coverage of the project area. All clearance surveys need to be conducted during the active season for desert tortoise. MM BIO-3b states the applicant shall prepare a wildlife relocation plan for all special-status species including desert tortoise. CDFW shall require a separate plan for desert tortoise (desert tortoise translocation plan) to be prepared and submitted for review and approval prior to placing desert tortoise fencing and clearance surveys.

Connectivity

CEQA stipulates addressing whether the project will 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. Construction of the Stagecoach Facilities would take approximately 18 months, and the operating life of the project is expected to be 40 years. CDFW recommends spatial and temporal analyses of the project's impacts on movement corridors and habitat linkages to species impacted by the project based on latest habitat and connectivity data particularly in the context of desert tortoise recovery effort in the Lucerne Valley area. The upper Lucerne Valley is a vast expanse of intact tortoise habitat that is contiguous with the Ord-Rodman conservation area. A majority of the project footprint lays within primary tortoise reserve, and the transmission line and substation are situated in a tortoise conservation area linkage. The proposed project site including the transmission lines and the SCE Calcite substation abut the Granite Mountain wildlife linkage area of critical environmental concern. The area is critical for bighorn sheep, golden eagles, desert tortoise and prairie falcons.

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Nesting and Migratory Birds

It is the project proponent's responsibility to comply with all applicable laws related to nesting birds and birds of prey. Migratory non-game native bird species are protected by international treaty under the federal Migratory Bird Treaty Act (MBTA) of 1918, as amended (16 U.S.C. 703 *et seq.*). In addition, sections 3503, 3503.5, and 3513 of the Fish and Game Code (FGC) also afford protective measures as follows: Section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by FGC or any regulation made pursuant thereto; Section 3503.5 states that it is unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by FGC or any regulation adopted pursuant thereto; and Section 3513 states that it is unlawful to take or possess any migratory nongame bird as designated in the MBTA or any part of such migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the MBTA.

CDFW recommends that the applicant prepare a Nesting Bird Plan (NBP) and Bird and Bat Conservation Strategy (BBCS) that will identify potential hazards to birds and bats during construction and O&M and specify measures to recognize, minimize, and avoid these hazards, including nesting bird surveys and monitoring, avoidance of nesting season, and documentation of bird and bat mortality during O&M. Together these measures would minimize adverse impacts to native birds. Project-specific avoidance and minimization measures may include, but not be limited to: project phasing and timing, monitoring of project-related noise (where applicable), sound walls, and buffers, where appropriate. The measures should also include specific avoidance and minimization measures that will be implemented should a nest be located within the project site.

Burrowing Owl

Project related activities have potential to take burrowing owl individuals and their nests and may result in loss of burrowing owl habitat. Burrowing owls are dependent on burrows at all times of the year for survival and/or reproduction, evicting them from nesting, roosting, and satellite burrows may lead to indirect impacts or take. Loss of access to burrows will likely result in varying levels of increased stress on burrowing owls and could depress reproduction, increase predation, increase energetic costs, and introduce risks posed by having to find and compete for available burrows.

Occupied burrows, potential burrows, and live burrowing owl were located within the project site and along the gen-tie line. MM BIO-3b states the applicant shall prepare a wildlife relocation plan for all special-status species including burrowing owls. CDFW recommends a separate plan (burrowing owl mitigation and monitoring plan) be prepared to address all avoidance and minimization measures for direct and indirect impacts to burrowing owls. The measures need to include specificity on who will

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perform the burrowing owl survey, what type of survey will be performed, and what actions will be taken should burrowing owl presence be confirmed during the survey. If active burrowing owl burrows are located within any work area and impact cannot be avoided, passive relocation may take place outside the nesting season (1 February to 31 August).

Lake and Streambed Alteration

Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following: Substantially divert or obstruct the natural flow of any river, stream or lake; Substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or Deposit debris, waste or other materials that could pass into any river, stream or lake. Please note that "any river, stream or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a body of water. The DEIR needs to report all types of non-riparian dryland streams as well as riparian channels subject to Fish and Game Code 1602. Upon receipt of a complete notification, CDFW will make the determination on what is jurisdictional. CDFW may suggest ways to modify your project that would eliminate or reduce harmful impacts to fish and wildlife resources. To facilitate issuance of an LSA Agreement, if necessary, the DEIR should fully identify the potential impacts to the lake, stream, or riparian resources, and provide adequate avoidance, mitigation, and monitoring and reporting commitments.

Environmental Data

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database, which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during project surveys to the California Natural Diversity Database.

Filing Fees

Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CDFW appreciates this opportunity to comment on your project. Questions regarding this letter should be addressed to Dr. Shankar Sharma, Senior Environmental Scientist Specialist of Renewable Energy at Shankar.Sharma@wildlife.ca.gov or (909) 228-3692.

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Sincerely,

DocuSigned by:
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