



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Central Region  
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[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



Governor's Office of Planning & Research

July 8, 2021

**July 12 2021**

## STATE CLEARINGHOUSE

Terrance Smalls  
Kern County Planning and Natural Resources Department  
2700 "M" Street, Suite 100  
Bakersfield, California 93301  
smallst@kerncounty.com

**Subject: Rosamond South Solar Project by Golden Fields Solar IV, LLC  
Notice of Preparation (NOP)  
State Clearinghouse No. 2021060079**

Dear Mr. Smalls:

The California Department of Fish and Wildlife (CDFW) received a Notice of Preparation from the Kern County Planning and Natural Resources Department for the above-referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under Fish and Game Code. While the comment period may have ended, CDFW would appreciate if you will still consider our comments.

### CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (*Id.*, § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

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<sup>1</sup> CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

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CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code will be required.

**Nesting Birds:** CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include, sections 3503 (regarding unlawful take, possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

## **PROJECT DESCRIPTION SUMMARY**

**Proponent:** Golden Fields Solar IV, LLC

**Objective:** To develop a photovoltaic solar facility and associated infrastructure necessary to generate up to 154 megawatt-alternating current (MW-AC) of renewable energy, including up to 200 megawatts of energy storage, on approximately 1,292 acres of privately-owned land. The project site consists of 4 sites (Sites 1 through 4) located on 64 parcels. The project would be supported by a 230-kilovolt (kV) gen-tie overhead and/or underground electrical transmission line(s) originating from one or more on-site substations and terminating at either the Teddy Substation or the Southern California Edison's Whirlwind Substation. The project's permanent facilities would include, but are not limited to, service roads, a power collection system, inverter stations, transformer systems, transmission lines, electrical switchyards, project substations, energy (battery) storage system, and operations and maintenance facilities.

**Location:** The Project site is located in the Mojave Desert within unincorporated Kern County, bounded by Rosamond Boulevard to the north, 90<sup>th</sup> Street West to the east, West Avenue A to the south and 170<sup>th</sup> Street West to the West.

**Timeframe:** N/A

## **COMMENTS AND RECOMMENDATIONS**

CDFW offers the following comments and recommendations to assist the Kern County Planning and Natural Resources Department in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and

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wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document.

CDFW is concerned regarding potential impacts to special-status species including, but not limited to, the State and Federally threatened desert tortoise (*Gopherus agassizii*), and the State threatened Swainson's Hawk (*Buteo swainsonii*), the State candidate threatened western Joshua tree (*Yucca brevifolia*), and the State species of special concern burrowing owl (*Athene cunicularia*), and American badger (*Taxidea taxus*). In order to adequately assess any potential impact to biological resources, focused biological surveys should be conducted by a qualified wildlife biologist during the appropriate survey period(s) in order to determine whether any special-status species may be present within the Project area. Properly conducted biological surveys, and the information assembled from them, are essential to identify any mitigation, minimization, and avoidance measures and/or the need for additional or protocol-level surveys, and to identify any Project-related impacts under CESA and other species of concern. These resources may need to be evaluated and addressed prior to any approvals that would allow ground-disturbing activities or land use changes.

## **I. Environmental Setting and Related Impact**

**Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or the United States Fish and Wildlife Service (USFWS)?**

### **COMMENT 1: Desert Tortoise**

**Issue:** The Project sites are within the range of desert tortoise, and the NOP states the dominant habitat types present within the Project area are annual grassland, desert scrub, alkali desert scrub, barren, urban, and deciduous orchard. Desert tortoise are most common in desert scrub, desert wash, and Joshua tree habitats (CDFW, 2018). Based on aerial imagery, these specific habitat types are present at all four Project sites. Therefore, desert tortoise have the potential to occur in the Project area and within the Project sites.

**Specific impact:** Potentially significant impacts that may result from Project-related activities include loss of foraging habitat, habitat degradation and fragmentation, burrow destruction, and direct mortality.

**Evidence impact is potentially significant:** Human impacts to desert tortoise include habitat conversion to agriculture and urban lands, degradation of habitat by off-highway vehicles (OHV), intentional killing of tortoises, and killing by cars and OHV (Doak, Kareiva, Kleptka, 1994). Habitat conversion to agriculture results in the loss of habitat and may lead to an increase in the predator raven population, drawdown of water table, introduction of pesticides and other toxic chemicals, and

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the potential introduction of invasive plants (Boarman, 2002). Project activities may result in the loss of potential desert tortoise habitat through conversion, may increase habitat fragmentation, and expand urbanization into the area.

**Recommended Potentially Feasible Mitigation Measure(s)**

To evaluate potential Project-related impacts to desert tortoise, CDFW recommends conducting the following evaluation of the Project site and including the following measures in the EIR.

**Recommended Mitigation Measure 1: Desert Tortoise Surveys**

CDFW advises surveys for desert tortoise be conducted by a qualified wildlife biologist who understands the pre-project survey protocol as outlined in “Preparing for any action that may occur within the range of the desert tortoise (*Gopherus agassizii*)” (USFWS, 2010) and has previous experience surveying for desert tortoise. Survey results are advised to be submitted to both CDFW and the USFWS. Please note desert tortoise surveys are valid for one year and should be conducted within a year of the start of Project implementation. If conducting surveys is not feasible, the applicant can assume presence and acquire a State Incidental Take Permit (ITP) pursuant Fish and Game Code section 2081 subdivision (b) prior to initiating any vegetation- or ground-disturbing activities as described in Recommended Mitigation Measure 2.

**Recommended Mitigation Measure 2: Desert Tortoise Take Authorization**

If desert tortoise are found within the Project area during surveys or construction activities, consultation with CDFW is advised to discuss how to implement the Project and avoid take; or if avoidance is not feasible, to acquire a State ITP prior to any vegetation- or ground-disturbing activities. Any take of desert tortoise without take authorization would be a violation of Fish and Game Code section 2080.

**COMMENT 2: Swainson’s Hawk (SWHA)**

**Issue:** Based on aerial photography, the proposed Project area includes both potential nesting and foraging habitat, and SWHA have the potential to nest and forage near or on the Project site. and agricultural fields that may serve as foraging sites. SWHA have been documented to use western Joshua trees, ornamental trees, and lone trees along roadsides within the Antelope Valley and its vicinity (CDFW 2016), and the Project sites appear to be in proximity to large, mature trees that may serve as potential nest sites.

In addition to the agricultural fields near the Project area, the annual grasslands and scrub habitat types on the Project sites may provide potential foraging habitat.

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**Specific impacts:** Without appropriate avoidance and minimization measures for SWHA, potential significant impacts that may result from Project activities include: nest abandonment, loss of nest trees, loss of foraging habitat that would reduce nesting success (loss or reduced health or vigor of eggs or young), and direct mortality. Any take of SWHA without appropriate incidental take authorization would be a violation of Fish and Game Code.

**Evidence impact is potentially significant:** Approval of the Project will lead to ground-disturbing activities that will involve noise, groundwork, and movement of workers that could affect nests and has the potential to result in nest abandonment, significantly impacting local nesting SWHA.

**Recommended Potentially Feasible Mitigation Measure(s)**

Because suitable nesting and foraging habitat for SWHA is present within and near the Project area, CDFW recommends conducting the following evaluation of the Project site, and to include the following measures specific to SWHA in the EIR, and that these measures be made conditions of approval for the Project.

**Recommended Mitigation Measure 3: SWHA Surveys**

To evaluate potential impacts, CDFW recommends that a qualified wildlife biologist conduct surveys for nesting SWHA following the survey methods described in the Swainson's Hawk Survey Protocols, Impact Avoidance, and Minimization Measures for Renewable Energy Projects in the Antelope Valley of Los Angeles and Kern Counties, California (CEC and CDFG 2010) prior to project implementation. In addition to identifying potential SWHA nests, this survey will identify which individual Project sites have the potential to impact SWHA nests and inform their consideration as SWHA foraging habitat.

**Recommended Mitigation Measure 4: No-disturbance Buffer**

CDFW recommends that a qualified biologist determine if potential SWHA nesting habitat occurs within 0.5 mile of an individual Project site. If ground-disturbing activities are to take place during the normal bird breeding season (March 1 through September 15), CDFW recommends that additional pre-activity surveys for active nests be conducted by a qualified biologist no more than 10 days prior to the start of Project implementation. CDFW recommends a minimum no-disturbance buffer of 0.5 mile be delineated around active nests until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival.

**Recommended Mitigation Measure 5: SWHA Foraging Habitat**

CDFW recommends compensation for the loss of SWHA foraging habitat to reduce impacts to SWHA foraging habitat to less than significant based on the CEC and CDFW's Swainson's Hawk Survey Protocols, Impact Avoidance, and Minimization

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Measures for Renewable Energy Projects in the Antelope Valley of Los Angeles and Kern Counties, California (2010).

**Recommended Mitigation Measure 6: SWHA Take Authorization**

CDFW recommends that in the event an active SWHA nest is detected during surveys and 0.5-mile buffer is not feasible, consultation with CDFW is warranted to discuss how to implement the project and avoid take. If take cannot be avoided, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA.

**COMMENT 3: Burrowing Owl (BUOW)**

**Issue:** BUOW have been documented to occur near and/or adjacent to the Project sites (CDFW 2021). BUOW inhabit open grassland or adjacent canal banks, ROWs, vacant lots, etc. containing small mammal burrows, a requisite habitat feature used by BUOW for nesting and cover. Based on aerial photography, potential habitat occurs both within and bordering the Project sites.

**Specific impact:** Potentially significant direct impacts associated with subsequent activities and development include burrow collapse, inadvertent entrapment, nest abandonment, reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality of individuals.

**Evidence impact is potentially significant:** BUOW rely on burrow habitat year round for their survival and reproduction. Habitat loss and degradation are considered the greatest threats to BUOW in California's Central Valley (Gervais et al. 2008). The Project site is bordered by some of the only remaining habitat in the vicinity, which is otherwise urban or intensively managed for agriculture. Therefore, subsequent ground-disturbing activities associated with the Project have the potential to significantly impact local BUOW populations. In addition, and as described in CDFW's Staff Report on Burrowing Owl Mitigation (CDFG 2012), excluding and/or evicting BUOW from their burrows is considered a potentially significant impact under CEQA.

**Recommended Potentially Feasible Mitigation Measure(s) (Regarding Environmental Setting and Related Impact)**

To evaluate potential impacts to BUOW, CDFW recommends conducting the following evaluation of the subject parcel and implementing the following mitigation measures.

**Recommended Mitigation Measure 7: BUOW Surveys**

CDFW recommends assessing presence/absence of BUOW by having a qualified biologist conduct surveys following the California Burrowing Owl Consortium's Burrowing Owl Survey Protocol and Mitigation Guidelines (CBOC 1993) and

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CDFW's Staff Report on Burrowing Owl Mitigation (CDFG 2012). Specifically, if suitable habitat is present at an individual Project site, CBOC and CDFW's Staff Report suggest three or more surveillance surveys conducted during daylight with each visit occurring at least three weeks apart during the peak breeding season (April 15 to July 15), when BUOW are most detectable.

### **Recommended Mitigation Measure 8: BUOW Avoidance**

CDFW recommends no-disturbance buffers, as outlined in the Staff Report on Burrowing Owl Mitigation (CDFG 2012), be implemented prior to and during any ground-disturbing activities. Specifically, CDFW's Staff Report recommends that impacts to occupied burrows be avoided in accordance with the following table unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.

Location	Time of Year	Level of Disturbance		
		Low	Med	High
Nesting sites	April 1-Aug 15	200 m*	500 m	500 m
Nesting sites	Aug 16-Oct 15	200 m	200 m	500 m
Nesting sites	Oct 16-Mar 31	50 m	100 m	500 m

\* meters (m)

### **Recommended Mitigation Measure 9: BUOW Passive Relocation and Mitigation**

If BUOW are found within these recommended buffers and avoidance is not possible, it is important to note that according to the Staff Report (CDFG 2012), exclusion is not a take avoidance, minimization, or mitigation method and is considered a potentially significant impact under CEQA. However, if necessary, CDFW recommends that burrow exclusion be conducted by qualified biologists and only during the non-breeding season, before breeding behavior is exhibited and after the burrow is confirmed empty through non-invasive methods, such as surveillance. CDFW recommends replacement of occupied burrows with artificial burrows at a ratio of 1 burrow collapsed to 1 artificial burrow constructed (1:1) as mitigation for the potentially significant impact of evicting BUOW. BUOW may attempt to colonize or re-colonize an area that will be impacted; thus, CDFW recommends ongoing surveillance, at a rate that is sufficient to detect BUOW if they return.

### **COMMENT 4: American Badger**

**Issue:** American badger are known to occur near the Project sites (CDFW 2021). Badgers occupy sparsely vegetated land cover with dry, friable soils to excavate

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dens, which they use for cover, and that support fossorial rodent prey populations (i.e. ground squirrels, pocket gophers, etc.) (Zeiner et. al 1990). The Project sites may support these requisite habitat features. Therefore, the Project has the potential to impact American badger.

**Specific impact:** Without appropriate avoidance and minimization measures for American badger, potentially significant impacts associated with ground disturbance include direct mortality or natal den abandonment, which may result in reduced health or vigor of young.

**Evidence impact is potentially significant:** Habitat loss is a primary threat to American badger (Gittleman et al. 2001). The Project has the expectation to promote the growth of the City of Fresno, resulting in a high degree of land conversion and potential habitat fragmentation. As a result, ground-disturbing activities have the potential to significantly impact local populations of American badger.

**Recommended Potentially Feasible Mitigation Measure(s)**

To evaluate potential impacts to American badger associated with the Project, CDFW recommends conducting the following evaluation of the Project sites, incorporating the following mitigation measures into the EIR prepared for this Project, and that these measures be made conditions of approval for the Project.

**Recommended Mitigation Measure 10: American Badger Surveys**

If suitable habitat is present, CDFW recommends that a qualified biologist conduct focused surveys for American badger and their requisite habitat features (dens) to evaluate potential impacts resulting from ground- and vegetation-disturbance.

**Recommended Mitigation Measure 11: American Badger Avoidance**

Avoidance whenever possible is encouraged via delineation and observation of a 50-foot no-disturbance buffer around dens until it is determined through non-invasive means that individuals occupying the den have dispersed.

**COMMENT 5: Western Joshua Tree**

**Issue:** Based upon available aerial photography, western Joshua tree appears to occur within the Project area and may occur on the Project sites. Project activities have the potential impact western Joshua tree, including its seed bank.

**Specific impact:** Without appropriate avoidance and minimization measures potential impacts to western Joshua tree include inability to reproduce and direct mortality. Western Joshua tree is a candidate species as threatened pursuant to CESA.

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**Evidence impact would be significant:** While climate change poses the greatest threat to western Joshua tree, invasive species and habitat loss from human development, as well as increased risk of wildfire and predation are significant contributing factors that collectively threaten the continued viability of this species, all of which may be unintended impacts of the Project. Therefore, the Project has the potential to significantly impact populations of western Joshua tree.

**Recommended Potentially Feasible Mitigation Measure(s)**

To evaluate potential impacts to western Joshua tree associated with the Project, CDFW recommends conducting the following evaluation of the Project area and including the following mitigation measures as conditions of Project approval in the Project's EIR.

**Recommended Mitigation Measure 12: Western Joshua Tree Survey**

CDFW recommends that a qualified botanist identify the number and size of all western Joshua tree on and within 290-feet of the individual Project sites or transmission line corridors associated with the Project. This information can be used to information the location of no-disturbance buffers, and if necessary, the amount of habitat compensation required to reduce impacts to less than significant.

**Recommended Mitigation Measure 13: Western Joshua Tree Avoidance**

CDFW recommends a no-disturbance buffer for individual western Joshua trees of 290 feet. A 290-foot buffer is warranted to not only avoid impacts to individual trees, but potential impacts to the seed bank as well. Vander Wall et. al. 2006 documented 290 feet as maximum distance of seeds dispersed carried by rodents. If a 290-foot buffers cannot be maintained, then consultation with CDFW is warranted to determine if the Project can avoid take or if take authorization is necessary as described in Recommended Mitigation Measure 13.

**Recommended Mitigation Measure 14: Western Joshua Take Authorization**

As stated above, Joshua tree appears to occur in the Project area based upon available aerial photography and consultation with CDFW is warranted to discuss the need for take authorization. If take cannot be avoided, take authorization would need to occur through issuance of an ITP by CDFW to comply with CESA and/or Fish and Game Code section 1900 and California Code of Regulations, title 14, section 786.9, subdivision (b).

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## **COMMENT 6: Other Special-Status Plant Species**

**Issue:** Other plants listed pursuant to federal Endangered Species Act, CESA, and the Native Plant Protection Act, as well as other special status plants such California Rare Plant Rank (CRPR) may also occur in the Project area.

**Specific impact:** Without appropriate avoidance and minimization measures potential impacts to special-status plant species include inability to reproduce and direct mortality. Unauthorized take of species listed as threatened, endangered, or rare pursuant to CESA or the Native Plant Protection Act is a violation of Fish and Game Code.

**Evidence impact would be significant:** Special-status plant species plant species are threatened with habitat loss and habitat fragmentation resulting from development, vehicle and foot traffic, and introduction of non-native plant species (CNPS 2020), all of which may be unintended impacts of the Project. Therefore, impacts of the Project have the potential to significantly impact populations of the species mentioned above.

### **Recommended Potentially Feasible Mitigation Measure(s)**

To evaluate potential impacts to special-status plants associated with the Project, CDFW recommends conducting the following evaluation of the Project area and including the following mitigation measures as conditions of Project approval in the Project's EIR.

#### **Recommended Mitigation Measure 15: Special-Status Plant Habitat Assessment**

CDFW recommends that a qualified botanist conduct a habitat assessment of individual Project sites well in advance of Project implementation, to determine if the Project area or its vicinity contains suitable habitat for special-status plant species.

#### **Recommended Mitigation Measure 16: Focused Surveys**

If suitable habitat is present, CDFW recommends that individual Project sites be surveyed for special-status plants by a qualified botanist following the "Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities" (CDFW 2018). This protocol, which is intended to maximize detectability, includes identification of reference populations to facilitate the likelihood of field investigations occurring during the appropriate floristic period. In the absence of protocol-level surveys being performed, additional surveys may be necessary.

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### **Recommended Mitigation Measure 17: Special-Status Plant Avoidance**

CDFW recommends special-status plant species be avoided whenever possible by delineation and observing a no-disturbance buffer of at least 50 feet from the outer edge of the plant population(s) or specific habitat type(s) required by special-status plant species. If buffers cannot be maintained, then consultation with CDFW is warranted to determine appropriate minimization and mitigation measures for impacts to special-status plant species.

### **Recommended Mitigation Measure 18: Special-Status Plant Take Authorization**

If a State-listed plant species is identified during botanical surveys, consultation with CDFW is warranted to determine if the Project can avoid take of that species. If take cannot be avoided, take authorization would need to occur through issuance of an ITP by CDFW to comply with CESA and/or Fish and Game Code section 1900 and California Code of Regulations, title 14, section 786.9, subdivision (b).

## **II. Editorial Comments and/or Suggestions**

**Desert Kit Fox:** Desert kit fox (*Vulpes macrotis arsipus*) is protected under the California Code of Regulations, Chapter 5, Section 460, which prohibits “take” of the species for any reason. If any active or potential dens are found on the Project site, consultation with the Department would be warranted for guidance on take avoidance measures for the desert kit fox. CDFW also recommends that no den excavation occur during the pupping season. Kit fox are known to use multiple dens during this time and vacant dens may be needed when kit fox relocate their pups. In addition, CDFW recommends all perimeter fencing be raised five to seven inches above ground level and knuckled under to allow desert kit fox movement into and out of the Project site.

**Federally Listed Species:** CDFW recommends consulting with the USFWS on potential impacts to federally listed species including, but not limited to, desert tortoise. Take under the federal Endangered Species Act (FESA) is more broadly defined than CESA; take under FESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS in order to comply with FESA is advised well in advance of any ground-disturbing activities.

**Lake and Streambed Alteration:** The Project area contains may have features that result in Project activities at individual Project sites being subject to CDFW’s regulatory authority pursuant Fish and Game Code section 1600 et seq. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that

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may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake; or (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral or intermittent, such as the unnamed stream within the Project site, as well as those that are perennial in nature.

For additional information on notification requirements, please contact our staff in the Lake and Streambed Alteration Program at (559) 243-4593. It is important to note, CDFW is required to comply with CEQA, as a Responsible Agency, when issuing a Lake or Streambed Alteration Agreement (LSAA). If inadequate, or no environmental review, has occurred, for the Project activities that are subject to notification under Fish and Game Code section 1602, CDFW will not be able to issue the Final LSAA until CEQA analysis for the project is complete. This may lead to considerable Project delays.

**Nesting birds:** CDFW encourages that Project implementation occur during the bird non-nesting season; however, if ground-disturbing or vegetation-disturbing activities must occur during the breeding season (February through mid-September), the Project applicant is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Codes as referenced above.

To evaluate Project-related impacts on nesting birds, CDFW recommends that a qualified wildlife biologist conduct pre-activity surveys for active nests no more than 10 days prior to the start of ground or vegetation disturbance to maximize the probability that nests that could potentially be impacted are detected. CDFW also recommends that surveys cover a sufficient area around the Project site to identify nests and determine their status. A sufficient area means any area potentially affected by the Project. In addition to direct impacts (i.e. nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. Prior to initiation of construction activities, CDFW recommends that a qualified biologist conduct a survey to establish a behavioral baseline of all identified nests. Once construction begins, CDFW recommends having a qualified biologist continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends halting the work causing that change and consulting with CDFW for additional avoidance and minimization measures.

If continuous monitoring of identified nests by a qualified wildlife biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival.

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Variance from these no-disturbance buffers is possible when there is compelling biological or ecological reason to do so, such as when the construction area would be concealed from a nest site by topography. CDFW recommends that a qualified wildlife biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

## **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 CNDDDB. The CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email address: [CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov). The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

## **FILING FEES**

If it is determined that the Project has the potential to impact biological resources, an assessment of filing fees will be necessary. 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 the opportunity to comment on the Project to assist Stanislaus County Department of Parks and Recreation in identifying and mitigating the Project's impacts on biological resources.

More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>). If you have any questions, please contact Jaime Marquez, Environmental Scientist, at the address provided on this letterhead, by telephone at (559) 243-4014, extension 291, or by electronic mail at [Jaime.Marquez@wildlife.ca.gov](mailto:Jaime.Marquez@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
FA83F09FE08945A...  
Julie A. Vance  
Regional Manager

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**Attachment 1**

**MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)  
FOR CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE  
RECOMMENDED MITIGATION MEASURES**

**PROJECT: Rosamond Solar  
SCH No.: 2021060079**

<b>RECOMMENDED MITIGATION MEASURE</b>	<b>STATUS/DATE/INITIALS</b>
<i>Before Disturbing Soil or Vegetation</i>	
Mitigation Measure 1: Desert Tortoise Surveys	
Mitigation Measure 2: Desert Tortoise Take Authorization	
Mitigation Measure 3: SWHA Surveys	
Mitigation Measure 5: SWHA Foraging Habitat	
Mitigation Measure 6: SWHA Take Authorization	
Mitigation Measure 7: BUOW Surveys	
Mitigation Measure 10: American Badger Surveys	
Mitigation Measure 12: Western Joshua Tree Survey	
Mitigation Measure 14: Western Joshua Tree Take Authorization	
Mitigation Measure 15: Special-Status Plant Habitat Assessment	
Mitigation Measure 16: Focused Surveys	
Mitigation Measure 18: Special-Status Plant Take Authorization	
<i>During Construction</i>	
Mitigation Measure 4: No-disturbance buffer	
Mitigation Measure 8: BUOW Avoidance	
Mitigation Measure 9: BUOW Passive Relocation and Mitigation	
Mitigation Measure 11: American Badger Avoidance	
Mitigation Measure 13: Western Joshua Tree Avoidance	
Mitigation Measure 17: Special-Status Plant Avoidance	