



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
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**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



November 1, 2022

Governor's Office of Planning & Research

**NOV 2 2022**

Amy Spitzer  
SMUD Environmental Services  
P.O. Box 15830 MS H201  
Sacramento, CA 95852-0830

**STATE CLEARING HOUSE**

Dear Ms. Spitzer:

Subject: COUNTRY ACRES SOLAR PROJECT  
DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR)  
SCH# 2021110307

The California Department of Fish and Wildlife (CDFW) received and reviewed the Notice of Availability of a DEIR from the Sacramento Municipal Utility District (SMUD) for the Country Acres Solar Project (Project) pursuant the California Environmental Quality Act (CEQA) statute and guidelines.<sup>1</sup> CDFW previously submitted comments in response to the Notice of Preparation of the DEIR on December 17, 2021.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish, wildlife, native plants, and their habitat. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may need to exercise its own regulatory authority under the Fish and Game Code.

**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. (Fish & G. Code., § 1802.) Similarly for purposes of CEQA, CDFW provides, 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.

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

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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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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.), SMUD may seek related take authorization as provided by the Fish and Game Code. CDFW also administers the Native Plant Protection Act, Natural Community Conservation Act, and other provisions of the Fish and Game Code that afford protection to California's fish and wildlife resources.

### **PROJECT DESCRIPTION SUMMARY**

The Project site is located on approximately 1,170 acres of land in unincorporated southwestern Placer County just west of the City of Roseville, north of Baseline Road and east of South Brewer Road. Primary access to the Project site would be provided by an entry road from Baseline Road to the south and Phillip Road to the north. The Project site includes grassland, agricultural rice fields, and almond orchards, with scattered seasonal wetlands, including vernal pools. The site also includes several drainages, including segments of upper Curry Creek.

The Project consists of the construction and operation of a photovoltaic (PV) solar power and battery storage facility and interconnection facilities, including a generation substation, switch station, and interconnection lines, that would provide new power production capacity of up to 344 megawatts delivered at the point of interconnection with the grid managed by SMUD. In addition, the Project also includes limited grading and vegetation removal and other minor site improvements to facilitate construction. Project construction would take approximately 18 to 24 months and is proposed to begin in spring of 2023. At the end of the Project's useful life (anticipated to be 30 to 35 years), the site would be decommissioned; however, SMUD may retain the substation, switching station, and battery storage facilities.

### **COMMENTS AND RECOMMENDATIONS**

Over the past year, CDFW has participated in multiple coordination meetings with SMUD, the Placer Conservation Authority (PCA), Placer County, and other State and federal regulatory agencies to discuss the Project, including meetings on June 2, 2022, July 19, 2022, and October 5, 2022. Some of the comments below reflect discussions that occurred during those coordination meetings. CDFW offers these comments and recommendations to assist SMUD in adequately identifying and, where appropriate, mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

#### **Placer County Conservation Program**

The Project is largely located within the Valley Potential Future Growth Area of the Placer County Conservation Program (PCCP), with a 57.79-acre portion of the northern and western Project boundaries falling within the PCCP Reserve Acquisition Area (RAA).

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The PCCP consists of three planning documents published by Placer County: the Western Placer County Habitat Conservation Plan and Natural Community Conservation Plan (HCP/NCCP), the Western Placer County Aquatic Resources Program (CARP), and the Western Placer County In-Lieu Fee Program (ILF). The PCCP was approved and adopted by the Permittees (Placer County, City of Lincoln, South Placer Regional Transportation Authority, Placer County Water Agency, and the PCA) and received corresponding HCP/NCCP permits and incidental take coverage for the fourteen (14) Covered Species from the Wildlife Agencies (CDFW, U.S. Fish and Wildlife Service, and National Marine Fisheries Service). In addition, the Central Valley Regional Water Quality Control Board, U.S. Army Corps of Engineers, and U.S. Environmental Protection Agency are the permitting and oversight agencies for elements of the PCCP subject to the state Porter-Cologne Water Quality Act and the federal Clean Water Act, addressed by the CARP and ILF. Because SMUD is not a Permittee under the PCCP, and municipal power generation is not considered a Covered Activity under the PCCP, SMUD cannot receive coverage under the PCCP's incidental take permits or programmatic wetland permits as a Special Participating Entity.

DEIR Table 3.4-6 identifies the impact acreages to the vegetation communities/land cover types within the Project footprint based on an overlay of 10% design features, and crosswalks those impacts with the corresponding PCCP land cover types. The DEIR proposes Mitigation Measures 3.2-1, 3.4-8, 3.4-10, and 3.4-16 to provide compensatory mitigation for important agricultural lands (Farmland of Local Importance and Unique Farmland), sensitive natural communities, wetlands and other waters of the United States and waters of the State, western burrowing owl (*Athene cunicularia hypugaea*), and Swainson's hawk (*Buteo swainsoni*). These mitigation measures generally state that compensatory mitigation will take place via acquisition of in-kind conservation easements, purchase of mitigation bank credits or other agreements with 3<sup>rd</sup> party entities to fund acquisition and management of land/easements, or payment of fees to the PCA under a Memorandum of Understanding (MOU).

CDFW is concerned with the proposed Project's consistency with the PCCP, including how SMUD will ensure that the Project will not impede the PCCP's ability to meet its biological goals and objectives over the 30–35-year life of the Project. While the DEIR proposes mitigation for some of the impacted PCCP land cover types identified in Table 3.4-6 (impacts include approximately 832 acres of rice fields), the proposed species mitigation measures only address compensatory mitigation for the loss of western burrowing owl nesting and foraging habitat (Mitigation Measure 3.4-8) and Swainson's hawk foraging habitat (Mitigation Measure 3.4-10). CDFW recommends that the final EIR include compensatory mitigation for all PCCP Covered Species modeled habitat that will be permanently impacted by the Project, including giant garter snake (*Thamnophis gigas*). Additionally, CDFW recommends that any compensatory mitigation for impacts to PCCP Covered Species modeled habitat be as consistent as possible with the PCCP conservation strategy. Mitigation lands preserved for this project should also be located within the PCCP RAA.

CDFW encourages SMUD to continue working with the PCA, Placer County, and the State and federal regulatory agencies with permitting authority over the Project to develop a

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mitigation strategy that is as consistent as possible with the PCCP's conservation strategy, biological goals and objectives, and conditions on covered activities.

### **CESA Candidate Bumble Bee Species**

Project-related activities have the potential to impact habitat of the Crotch's bumble bee (*Bombus crotchii*) and western bumble bee (*Bombus occidentalis occidentalis*), both listed as candidate species under CESA. As candidate species, they receive the same legal protections afforded to endangered or threatened species (Fish and G. Code §§ 2074.2 and 2085). The DEIR does not analyze potential Project impacts to Crotch's and western bumble bee and associated habitats. Without appropriate avoidance and minimization measures for the bumble bees and their habitat, Project-related activities involving ground and vegetation-disturbance could result in significant impacts, including loss of foraging resources, changes in foraging behavior, burrow collapse, nest abandonment, reduced nest success, reduced health and vigor of eggs, young and/or queens, and direct mortality.

Due to the presence of suitable Crotch's and western bumble bee habitat within the Project site, CDFW recommends that the final EIR includes appropriate avoidance, minimization, and mitigation measures that will be implemented during the Project construction and operation. CDFW recommends that prior to vegetation removal and/or grading, a qualified entomologist familiar with the species' behavior and life history conducts surveys to determine the presence/absence of Crotch's and western bumble bee. Surveys should be conducted during flying season when the species are most likely to be detected above ground, between March 1 to September 1 (Thorp et al. 1983). During surveys, the qualified entomologist should flag inactive small mammal burrows and other potential nest sites to reduce the risk of take. Once Project activities begin, the qualified entomologist should continuously monitor potential nest sites and floral resources for Crotch's and western bumble bee activity for the duration of construction. If either species is detected, the qualified entomologist should notify CDFW immediately as further coordination may be required to avoid or mitigate significant impacts. Survey results including negative findings should be submitted to CDFW prior to initiation of Project activities.

If "take" to Crotch's or western bumble bee cannot be avoided either during Project construction or over the life of the Project, SMUD should consult with CDFW to determine if a CESA incidental take permit is necessary prior to starting any construction activities.

### **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 (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 submitted online or mailed electronically to CNDDDB at the following email address: [CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov).

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## FILING FEES

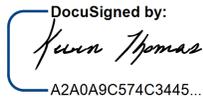
The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order 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.)

## CONCLUSION

Pursuant to Public Resources Code §21092 and §21092.2, CDFW requests written notification of proposed actions and pending decisions regarding the proposed project. Written notifications shall be directed to: California Department of Fish and Wildlife North Central Region, 1701 Nimbus Road, Rancho Cordova, CA 95670 or emailed to R2CEQA@wildlife.ca.gov.

CDFW appreciates the opportunity to comment on the DEIR to assist in identifying and mitigating Project impacts on biological resources. CDFW personnel are available for consultation regarding biological resources and strategies to minimize and/or mitigate impacts. Questions regarding this letter or further coordination should be directed to Patrick Moeszinger, Senior Environmental Scientist (Specialist) at (916) 767-3935 or patrick.moeszinger@wildlife.ca.gov.

Sincerely,

DocuSigned by:  
  
A2A0A9C574C3445...

Kevin Thomas  
Regional Manager

ec: Juan Torres, Senior Environmental Scientist (Supervisor)  
Patrick Moeszinger, Senior Environmental Scientist (Specialist)  
*Department of Fish and Wildlife*

Office of Planning and Research, State Clearinghouse, Sacramento

## REFERENCES

Thorp, R. W., D. S. Horning, Jr., and L. L. Dunning. 1983. Bumble bees and cuckoo bumble bees of California. *Bulletin of the California Insect Survey* 23: 1-79.