

Final Environmental Impact Report

SCH# 2022060193

Volume 5

Chapter 7 – Response to Comments

JASMINE SOLAR PROJECT

by SF Jasmine, LLC (PP22401)

Conditional Use Permit No. 30, Map No. 160
Williamson Act Land Use Contract Cancellation 23-04



Kern County
Planning and Natural Resources Department
Bakersfield, California

February 2024

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**PLANNING AND NATURAL
RESOURCES DEPARTMENT**

Planning
Community Development
Administrative Operations

February 8, 2024

FILE: CUP #30, Map #160; and others;
S.D.: #4 - Couch

Addressee List (See Distribution List)

**Re: Response to Comments for Draft Environmental Impact Report – Jasmine Solar Facility Project
by SF Jasmine, LLC (PP22401) (SCH#2022060193)**

Dear Interested Party:

Enclosed is a document entitled *Volume 5 – Chapter 7 – Response to Comments*, for the above referenced project. Section 15088 of the California Environmental Quality Act Guidelines requires the Lead Agency to evaluate comments on environmental issues received from persons who reviewed the Draft Environmental Impact Report (EIR) and prepare a written response addressing each comment. This document is Chapter 7 of the Final EIR.

A public hearing has been scheduled with the Kern County Planning Commission to consider this request on **February 22, 2024** at 7:00 p.m., or soon thereafter, at the Chambers of the Board of Supervisors, First Floor, Kern County Administrative Center, 1115 Truxtun Avenue, Bakersfield, California.

Thank you for your participation in the environmental process for this project. If you have any questions regarding this project, please do not hesitate to contact me at (661) 862-8607 or via email at smallst@kerncounty.com.

Sincerely,

Terrance Smalls, Supervising Planner
Advanced Planning Division

COMMENTING AGENCIES AND INTERESTED PERSONS: California Department of Fish & Wildlife; San Joaquin Valley Air Pollution Control District; Kern County Fire Department; Kern County Public Works Department, Floodplain Management; Southern California Gas, Kern County Superintendent of Schools, Defenders of Wildlife, Pacific Gas & Electric.

**Jasmine Solar Project
FEIR RTC Distribution List**

Kern County Superintendent of Schools
1300 17th Street
Bakersfield, CA 93301-4533

Kern County Fire Department
Fire Prevention Unit
2820 M Street
Bakersfield, CA 93301

State of California- Natural
Resources Agency – Central Region
Julie A. Vance, Regional Manager
1234 East Shaw Avenue
Fresno, CA 93710

San Joaquin Valley
Air Pollution Control District
Mark Montelongo, Program Manager
1990 East Gettysburg Avenue
Fresno, CA 93726-0244

SoCalGas
Transmission Technical Services
Department
9400 Oakdale Ave
Chatsworth, CA 91311

Defenders of Wildlife/
Sophia Markowska, Sr. California Rep.
P.O. Box 401
Folsom, CA 95763

Kern County Public Works Department/
Attention: Cesar Ayon
2700 “M” Street, Suite 400
Bakersfield, CA 93301

Pacific Gas & Electric
Attn: Michael Calvillo
3850 East California Ave
Fresno, CA 93725

Notice of Completion & Environmental Document Transmittal

Mail to: State Clearinghouse, P. O. Box 3044, Sacramento, CA 95812-3044 (916) 445-0613
For Hand Delivery/Street Address: 1400 Tenth Street, Sacramento, CA 95814

SCH # 2022060193

Project Title: Jasmine Solar Project by SF Jasmine, LLC

Lead Agency: Kern County Planning and Natural Resources Department Contact Person: Terrance Smalls

Mailing Address: 2700 "M" Street Suite 100 Phone: (661) 862-8607

City: Bakersfield Zip: 93301 County: Kern

Project Location: County: Kern City/Nearest Community: Maricopa

Cross Streets: Old River Rd and Copus Road. Zip Code: 93501

Lat. / Long.: 35° 6' 13.068"N, 119° 7' 24.564"W Total Acres: 493

Assessor's Parcel No.: 295-131-12 Section: 31 Twp.: 32S Range: 27E Base: MDB&M

Within 2 Miles: State Hwy #: SR-166 Waterways: N/A

Airports: N/A Railways: N/A Schools: N/A

Document Type:

CEQA:	<input type="checkbox"/> NOP	<input type="checkbox"/> Draft EIR	NEPA:	<input type="checkbox"/> NOI	Other:	<input type="checkbox"/> Joint Document
	<input type="checkbox"/> Early Cons	<input type="checkbox"/> Supplement/Subsequent EIR		<input type="checkbox"/> EA		<input type="checkbox"/> Final Document
	<input type="checkbox"/> Neg Dec	(Prior SCH No.) _____		<input type="checkbox"/> Draft EIS		<input checked="" type="checkbox"/> Other <u>RTC</u>
	<input type="checkbox"/> Mit Neg Dec	Other _____		<input type="checkbox"/> FONSI		

Local Action Type:

<input type="checkbox"/> General Plan Update	<input type="checkbox"/> Specific Plan	<input type="checkbox"/> Rezone	<input type="checkbox"/> Annexation
<input type="checkbox"/> General Plan Amendment	<input type="checkbox"/> Master Plan	<input type="checkbox"/> Prezone	<input type="checkbox"/> Redevelopment
<input type="checkbox"/> General Plan Element	<input type="checkbox"/> Planned Unit Development	<input checked="" type="checkbox"/> Use Permit	<input type="checkbox"/> Coastal Permit
<input type="checkbox"/> Community Plan	<input type="checkbox"/> Site Plan	<input type="checkbox"/> Land Division (Subdivision, etc.)	<input checked="" type="checkbox"/> Other <u>Land Contract Cancellation</u>

Development Type:

<input type="checkbox"/> Residential: Units _____ Acres _____	<input type="checkbox"/> Water Facilities: Type _____ MGD _____
<input type="checkbox"/> Office: Sq.ft. _____ Acres _____ Employees _____	<input type="checkbox"/> Transportation: Type _____
<input type="checkbox"/> Commercial: Sq.ft. _____ Acres _____ Employees _____	<input type="checkbox"/> Mining: Mineral _____
<input type="checkbox"/> Industrial: Sq.ft. _____ Acres _____ Employees _____	<input checked="" type="checkbox"/> Power: Type <u>Solar PV</u> MW <u>70</u>
<input type="checkbox"/> Educational _____	<input type="checkbox"/> Waste Treatment: Type _____ MGD _____
<input type="checkbox"/> Recreational _____	<input type="checkbox"/> Hazardous Waste: Type _____
	<input checked="" type="checkbox"/> Other: <u>Battery Energy Storage System (65 MW or 260 MWh)</u>

Project Issues Discussed in Document:

<input checked="" type="checkbox"/> Aesthetic/Visual	<input type="checkbox"/> Fiscal	<input checked="" type="checkbox"/> Recreation/Parks	<input checked="" type="checkbox"/> Vegetation
<input checked="" type="checkbox"/> Agricultural Land	<input checked="" type="checkbox"/> Flood Plain/Flooding	<input checked="" type="checkbox"/> Schools/Universities	<input checked="" type="checkbox"/> Water Quality
<input checked="" type="checkbox"/> Air Quality	<input checked="" type="checkbox"/> Forest Land/Fire Hazard	<input checked="" type="checkbox"/> Septic Systems	<input checked="" type="checkbox"/> Water Supply/Groundwater
<input checked="" type="checkbox"/> Archeological/Historical	<input checked="" type="checkbox"/> Geologic/Seismic	<input checked="" type="checkbox"/> Sewer Capacity	<input checked="" type="checkbox"/> Wetland/Riparian
<input checked="" type="checkbox"/> Biological Resources	<input checked="" type="checkbox"/> Minerals	<input checked="" type="checkbox"/> Soil Erosion/Compaction/Grading	<input checked="" type="checkbox"/> Wildlife
<input type="checkbox"/> Coastal Zone	<input checked="" type="checkbox"/> Noise	<input checked="" type="checkbox"/> Solid Waste	<input checked="" type="checkbox"/> Growth Inducing
<input checked="" type="checkbox"/> Drainage/Absorption	<input checked="" type="checkbox"/> Population/Housing Balance	<input checked="" type="checkbox"/> Toxic/Hazardous	<input checked="" type="checkbox"/> Land Use
<input checked="" type="checkbox"/> Economic/Jobs	<input checked="" type="checkbox"/> Public Services/Facilities	<input checked="" type="checkbox"/> Traffic/Circulation	<input checked="" type="checkbox"/> Cumulative Effects
<input checked="" type="checkbox"/> Other <u>GHG, Wildfire, Tribal Cultural Resources, Energy</u>			

Present Land Use/Zoning/General Plan Designation:

Undeveloped Land/ A (Exclusive Agriculture)/8.1 = Intensive Agriculture (Min. 20 Acre Parcel Size)

Project Description:

The Jasmine Solar Project, as proposed by SF Jasmine, LLC would develop a photovoltaic solar facility and associated infrastructure necessary to generate up to 70 megawatts (MW) of renewable energy and a Battery Energy Storage System (BESS) capable of providing approximately 17 MW of power for 4 hours totaling 68 megawatt hours (MWh) of energy storage, on approximately 493 acres of privately-owned land. The project study area consists of an approximate total of 527 acres and includes the project solar facility and transmission line areas. The project would be supported by a 70-kilovolt (kV) gen-tie overhead electrical transmission line(s) originating from an on-site substation and terminating at the nearby PG&E 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.

Reviewing Agencies Checklist

Lead Agencies may recommend State Clearinghouse distribution by marking agencies below with and "X". If you have already sent your document to the agency please denote that with an "S".

- | | |
|---|---|
| <input checked="" type="checkbox"/> S Air Resources Board | <input type="checkbox"/> Office of Emergency Services |
| <input type="checkbox"/> Boating & Waterways, Department of | <input type="checkbox"/> Office of Historic Preservation |
| <input checked="" type="checkbox"/> S California Highway Patrol | <input type="checkbox"/> Office of Public School Construction |
| <input type="checkbox"/> CalFire | <input checked="" type="checkbox"/> X Parks & Recreation |
| <input checked="" type="checkbox"/> S Caltrans District # <u>6</u> | <input type="checkbox"/> Pesticide Regulation, Department of |
| <input type="checkbox"/> Caltrans Division of Aeronautics | <input checked="" type="checkbox"/> S Public Utilities Commission |
| <input type="checkbox"/> Caltrans Planning (Headquarters) | <input checked="" type="checkbox"/> S Regional WQCB # <u>Central Valley</u> |
| <input type="checkbox"/> Central Valley Flood Protection Board | <input type="checkbox"/> Resources Agency |
| <input type="checkbox"/> Coachella Valley Mountains Conservancy | <input type="checkbox"/> S.F. Bay Conservation & Development Commission |
| <input type="checkbox"/> Coastal Commission | <input type="checkbox"/> San Gabriel & Lower L.A. Rivers and Mtns Conservancy |
| <input type="checkbox"/> Colorado River Board | <input type="checkbox"/> San Joaquin River Conservancy |
| <input checked="" type="checkbox"/> S Conservation, Department of | <input type="checkbox"/> Santa Monica Mountains Conservancy |
| <input type="checkbox"/> Corrections, Department of | <input type="checkbox"/> State Lands Commission |
| <input type="checkbox"/> Delta Protection Commission | <input type="checkbox"/> SWRCB: Clean Water Grants |
| <input type="checkbox"/> Education, Department of | <input type="checkbox"/> SWRCB: Water Quality |
| <input checked="" type="checkbox"/> S Energy Commission | <input type="checkbox"/> SWRCB: Water Rights |
| <input checked="" type="checkbox"/> S Fish & Game Region # <u>Fresno</u> | <input type="checkbox"/> Tahoe Regional Planning Agency |
| <input checked="" type="checkbox"/> S Food & Agriculture, Department of | <input type="checkbox"/> Toxic Substances Control, Department of |
| <input type="checkbox"/> General Services, Department of | <input checked="" type="checkbox"/> S Water Resources, Department of |
| <input type="checkbox"/> Health Services, Department of | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Housing & Community Development | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Integrated Waste Management Board | |
| <input checked="" type="checkbox"/> X Native American Heritage Commission | |

Local Public Review Period (to be filled in by lead agency)

Starting Date February 8, 2024 Ending Date February 22, 2024

Lead Agency (Complete if applicable):

Consulting Firm: _____	Applicant: _____
Address: _____	Address: _____
City/State/Zip: _____	City/State/Zip: _____
Contact: _____	Phone _____
Phone: _____	

Signature of Lead Agency Representative: _____ */s/* _____ **Date:** 02/08/2024
Terrance Smalls, Supervising Planner

Final Environmental Impact Report

SCH# 2022060193

Volume 5

Chapter 7 – Response to Comments

JASMINE SOLAR PROJECT

By SF Jasmine, LLC (PP22401)

Conditional Use Permit No. 30, Map No. 160
Williamson Act Land Use Contract Cancellation 23-04



Kern County
Planning and Natural Resources Department
Bakersfield, California

Technical Assistance by:
Kimley-Horn

February 2024

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Chapter 7

Response to Comments

7.1 Introduction

Purpose

As defined by Section 15050 of the California Environmental Quality Act (CEQA) Guidelines, the Kern County Planning and Natural Resources Department is serving as “Lead Agency” for the preparation of the Environmental Impact Report (EIR) for the Jasmine Solar Project (project or proposed project). The Final EIR presents the environmental information and analyses that have been prepared for the project, including comments received addressing the adequacy of the Draft EIR, and responses to those comments. In addition to the responses to comments, clarifications, corrections, or minor revisions have been made to the Draft EIR. The Final EIR which includes the responses to comments, the Draft EIR, and the Mitigation, Monitoring, and Reporting Program, will be used by the Planning Commission and the Board of Supervisors in the decision-making process for the proposed project.

Environmental Review Process

A Notice of Preparation (NOP)/Initial Study (IS) (SCH No. 2022060193) was circulated for a 30-day public review period beginning on June 9, 2022, and ending on July 11, 2022. Seven (7) individual written comment letters were received on the NOP during this review period. No additional comments were received at the July 6, 2022, public scoping meeting, as no members of the public were in attendance. All public comments received relevant to CEQA-related issues were considered by the County in preparing the Draft EIR.

The Draft EIR for the proposed project was circulated for a 45-day public review period beginning on October 18, 2023, through December 4, 2023. A total of eight (8) comment letters were received on the Draft EIR during this period.

Section 15088 of the *CEQA Guidelines* requires that the lead agency evaluate comments on environmental issues received from persons and agencies that reviewed the Draft EIR and prepare a written response addressing the comments received. The response to comments is contained in this document -Volume 5, Chapter 7 of the Draft EIR. Volumes 1, 2, 3, 4, and 5 together constitute the Final EIR.

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7.2 Revisions to the Draft EIR

The revisions that follow were made to the text of the Draft EIR. Amended text is identified by page number. Additions to the Draft EIR text are shown with underlined text, and text removed from the Draft EIR is shown with ~~striketrough~~. Revisions to a Draft EIR are required if clarifications or responses to comments cannot be made without alterations to the document. The revisions, as outlined below, fall within the scope of the original project analysis included in the Draft EIR and do not result in an increase to any identified impacts or produce any new impacts. No new significant environmental impact would result from the changes or from a new mitigation measure proposed to be implemented. Therefore, no significant revisions have been made which would require recirculation of the Draft EIR pursuant to *CEQA Guidelines* Section 15088.5 (Recirculation of an EIR Prior to Certification).

Global Changes: The following “global changes” are intended to apply to the Draft EIR in all instances where such text shown below appears within the document. The text revisions are not repeated herein for each occurrence within the Draft EIR in order to streamline this document.

- The project will store up to 260 MWh or 65 MW of battery energy storage
- Frame for figures updated to correct case number from "~~WALUC 22-01~~" to "WALUC 23-04"

Chapter 1.0, *Executive Summary*; Page 1-8:

Project Substation

The project substation is proposed to be in the ~~southeast corner~~ northeastern portion of APN ~~295-131-12~~ 295-132-15. The project Substation would include transformers, breakers, switches, meters, and related equipment. Interconnection equipment, including the control house, would be installed aboveground and underground within the footprint of the substation. The overall footprint of the project Substation is anticipated to be approximately 200 by 200 feet and approximately 100 feet in height at its apex. The project Substation would include an emergency generator for use in the event that the regional transmission system fails; this emergency generator would provide emergency power until the regional transmission system restores operations. The project Substation would also contain a control house building approximately 15 by 40 feet with an overall height of less than 20 feet. The project substation would be surrounded by a seven-foot barbed wire chain-link fence and would comply with electrical codes.

Chapter 1.0, *Executive Summary*, Page 1-9

Lakeview Substation

The existing Lakeview Substation, operated by PG&E, would require modifications that would occupy approximately 0.9 acres adjacent to the ~~western~~ eastern side of its existing footprint. The modifications are needed to accommodate improvements for the gen-tie line connection to the existing electrical equipment. Additional electrical equipment, including Direct Transfer Trip (DTT) equipment, Supervisory Control Data Acquisition and telemetry equipment, and breaker and control switching equipment, would be placed within the existing fenced area at the Lakeview Substation. Further discussion of the Lakeview Substation connections and modifications are included below in Section 4.7.5.

Chapter 1.0, Executive Summary; Table 1-7, Page 1-26 - 1-30:

Table 1-7: Summary of Project Impacts, Mitigation Measures, and Levels of Significance

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance After Mitigation
4.1 Aesthetics			
Impact 4.1-1: The project would have a substantial adverse effect on a scenic vista.	Less than significant	No mitigation would be required.	Less than significant
Impact 4.1-2: The project would substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway.	Less than significant	No mitigation would be required.	Less than significant
Impact 4.1-3: The project would, in nonurbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings. (Public views are those that are experienced from publicly accessible vantage points.) If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality.	Potentially Significant	<p>MM 4.1-1: Prior to issuance of a grading or building permit, a Maintenance, Trash Abatement, and Pest Management Program shall be submitted for review and approval to the Kern County Planning and Natural Resources Department. The program shall include, but not be limited to the following:</p> <ul style="list-style-type: none"> a. The project proponent/operator shall clear debris from the project area at least four times per year; this can be done in conjunction with regular panel washing and site maintenance activities. b. The project proponent/operator shall erect signs with contact information for the project proponent/operator’s maintenance staff at regular intervals along the site boundary, as required by the Kern County Planning and Natural Resources Department. Maintenance staff shall respond within two weeks to resident requests for additional cleanup of debris. Correspondence with 	Less than significant

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance After Mitigation
		such requests and responses shall be submitted to the Kern County Planning and Natural Resources Department.	
		c. The project proponent/operator shall implement a regular trash removal and recycling program on an ongoing basis during construction and operation of the project. Barriers to prevent pest/rodent access to food waste receptacles shall be implemented. Locations of all trash receptacles during operation of the project shall be shown on final plans.	
		d. Trash and food items shall be contained in closed secured containers at the end of the day and removed at least once per week to reduce the attractiveness to opportunistic predators such as common ravens, coyotes, and feral dogs.	
		MM 4.1-2: Prior to the issuance of the building permit for the solar facility, the project proponent/operator shall submit a proposed color scheme and treatment plan, for review and approval by the Kern County Planning and Natural Resources Department, that will ensure all project facilities including operations and maintenance buildings, collection line poles, array facilities, etc. blend in with the colors found in the natural landscape. All color treatments shall result in matte or nonglossy finishes.	
		MM 4.1-3: Wherever possible, within the proposed project boundary the existing vegetation shall remain undisturbed unless mowing is necessary for placement of the project components. All natural vegetation adjacent to the proposed project boundary shall remain in place. Prior to the commencement of project operations and decommissioning, the project proponent/operator shall submit a Landscape Revegetation and Restoration Plan for the project site to the Kern County Planning and Natural Resources Department for review and approval. The plan shall include the measures detailed below.	

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance After Mitigation
		<p>a. In areas temporarily disturbed during construction and decommissioning (including grading or removal of root balls resulting in loose soil), the ground surface shall be <u>restored to pre-existing conditions with an appropriate vegetation type as determined by a certified Professional, such as biologist(s), landscape architect(s), horticulturist(s), botanist(s), that will compose the LRRP. revegetated with a site specific native seed mix or native plants (including Mohave creosote scrub habitat) and/or allowed to re-vegetate with the existing native seed bank in the top soil where possible to establish revegetation. The <u>vegetation type determined by the certified professional shall be communicated to the Kern County Planning and Natural Resources Department for approval prior to completing the LRRP.</u> Areas that contain permanent features such as perimeter roads, maintenance roads or under arrays do not require revegetation.</u></p> <p>b. The plan must include but is not limited to: (1) the approved <u>vegetation type</u> California native seed mix that will be used onsite, (2) a timeline for <u>implementation of revegetating seeding</u> the site, (3) the details of which areas are to be revegetated, and (4) a clear prohibition of the use of toxic rodenticides.</p> <p>c. Ground cover shall include <u>planting</u> native seed mix and shall be spread where earthmoving activities have taken place, as needed to establish re-vegetation. The <u>revegetation type seed mix or native plants</u> shall be determined through consultation with professionals such as landscape architect(s), horticulturist(s), botanist(s), etc. with local knowledge as shown on submitted resume and shall be approved by the Kern County Planning and Natural Resources Department prior to planting. Phased <u>revegetation seeding</u> may be used if a phased</p>	

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance After Mitigation
Impact 4.1-4: The project would create a new source of substantial	Potentially significant	<p>construction approach is used (i.e., the entire site need not be revegetated seeded all at the same time).</p> <p>d. Vegetation/ground cover shall be continuously maintained on the site by the project operator.</p> <p>e. The re-vegetation and restoration of the site shall include a monitoring program, as deemed necessary by the certified professional producing the LRRP. A proposed monitoring program shall be submitted to Kern County Planning and Natural Resources Department for approval prior to completion of the LRRP document, be monitored annually for a three year period following restoration activities that occur post-construction and post-decommissioning. Based on annual monitoring visits during the three year periods, an annual evaluation report shall be submitted to the Kern County Planning and Natural Resources Department for each of the three years. Should efforts to revegetate with the existing native seed bank in the top soil prove in the second year to not be successful by 75 percent cover rate, re-evaluation of revegetation methods shall be made in consultation with the Kern County Planning and Natural Resources Department and an additional year shall be added to the monitoring program to ensure coverage is achieved. Should, through consultation with a qualified botanist, a 75% rate be determined not to be feasible, evidence of such shall be submitted to Kern County Planning and Natural Resources Department. The three year monitoring program is intended to ensure the site naturally achieves native plant diversity, establishes perennials, and is consistent with conditions prior to implementation of the proposed project, where feasible.</p>	Less than significant

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance After Mitigation
light or glare which would adversely affect daytime or nighttime views in the area.		<p>and Natural Resources Staff that the project site complies with the applicable provisions of the Dark Skies Ordinance (Chapter 19.81 of the Kern County Zoning Ordinance) and shall be designed to provide the minimum illumination needed to achieve safety and security objectives. All lighting shall be directed downward and shielded to focus illumination on the desired areas only and avoid light trespass into adjacent areas. Lenses and bulbs shall not be exposed or extend below the shields.</p> <p>MM 4.1-5: Prior to the issuance of building permits, the project proponent shall demonstrate the solar panels and hardware are designed to minimize glare and spectral highlighting. Emerging technologies shall be used, such as diffusion coatings and nanotechnological innovations, to effectively reduce the refractive index of the solar cells and protective glass. These technological advancements are intended to make the solar panels more efficient with respect to converting incident sunlight into electrical power while also reducing the amount of glare generated by the panels. Specifications of such designs shall be submitted to the Kern County Planning and Natural Resources Department.</p> <p>MM 4.1-6: Prior to commencement of project operations of the solar facility, the project operator shall demonstrate that all onsite buildings utilized non-reflective materials, as approved by the Kern County Planning and Natural Resources Department.</p>	
Impact 4.1: Cumulative Impacts	Potentially significant	Implementation of Mitigation Measures MM 4.1 1 through MM 4.1 6 is required.	Significant and unavoidable

Chapter 1.0, Executive Summary; Table 1-7, Page 1-43 – 1-63:

Table 1-7: Summary of Project Impacts, Mitigation Measures, and Levels of Significance

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance After Mitigation
4.4 Biological Resources			
<p>Impact 4.4-1: The project would have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or a special-status species in local or regional plans, policies, or regulations or by California Department of Fish and Wildlife or U.S. Fish and Wildlife Service.</p>	Potentially significant	<p>Implementation Mitigation Measures MM 4.1-4 through MM 4.1-6, see Chapter 4.1, <i>Aesthetics</i>, would be required.</p> <p>MM 4.4-1: Prior to the issuance of grading or building permits from the County, the project proponent/operator shall retain a Lead Biologist(s) who meets the qualifications of an Authorized Biologist as defined by California Department of Fish and Wildlife (CDFW) to oversee compliance with protection measures for all listed and other special-status wildlife species that may be affected by the construction operation, and decommissioning of the project. A Lead Biologist possess the appropriate credentials and experience to handle all aspects of the construction, operations and maintenance, or decommissioning of the project as it may affect special-status species. The Lead Biologist is responsible for being aware of the latest United States Fish and Wildlife Service (USFWS) and CDFW protocols and guidelines for special-status species. The following measures pertain to qualified biologists (i.e., biologists with the appropriate training approved by the Lead Biologist) on site.</p> <ol style="list-style-type: none"> a. The qualified biologist(s) shall be on the project site during construction of perimeter fencing, clearing of vegetation, grading activities, and similar ground-disturbance activities that will be associated with the construction and decommissioning phases. b. The qualified biologist(s) shall have the right to halt activities that are in violation of the special-status species mitigation measures, as well as any regulatory permits from the U.S. Fish and Wildlife Service and/or the California Department of Fish and Wildlife, if applicable. Work shall proceed only after hazards to special-status species are removed and the species is no longer at risk, or at the qualified biologist’s discretion. 	Less than significant

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance After Mitigation
		<ul style="list-style-type: none"> c. The qualified biologist(s) shall maintain a copy of applicable permits and biology-related plans on the project site. d. The qualified biologist(s) shall have in her/his possession a copy of all the mitigation measures while work is being conducted on the project site. e. Prior to issuance of grading or building permits, contact information for the Lead Biologist(s) shall be submitted to the Kern County Planning and Natural Resources Department. f. Individuals involved in biological monitoring shall be supervised by the Lead Biologist and shall have the appropriate experience to accomplish biological monitoring. Biological monitors shall comply with the above measures. 	
		<p>MM 4.4-2: Prior to the issuance of grading or building permits and for the duration of construction activities, and within a minimum of one week of initial ground disturbance at the project site, staging areas and/or transmission corridors, all construction personnel shall attend a Worker Environmental Awareness Training and Education Program developed and presented by a qualified biologist(s) or e, or designee approved by the qualified biologist(s) and may be conducted in person or via videotape or other electronically recorded media.</p>	
		<p>Any personnel associated with construction that did not attend the initial Worker Environmental Awareness Training shall have Worker Environmental Awareness Training prior to working on the project site. Any employee responsible for the operations and maintenance or decommissioning of the project facilities shall also attend the Worker Environmental Awareness Training prior to starting work on the project and on an annual basis.</p>	
		<p>The Worker Environmental Awareness Training and Education Program shall include the components described below.</p>	
		<ul style="list-style-type: none"> a. Information on the life history and identification of the 	

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance After Mitigation
		<p>California glossy snake, San Joaquin coachwhip, tricolored blackbird, Swainson’s hawk, burrowing owl, Ferruginous hawk, loggerhead shrike, and San Joaquin kit fox; as well as other wildlife, special-status plant species, and the CDFW regulated drainages, as well as other wildlife and plant species that may be affected during project activities. The Worker Environmental Awareness Training and Education Program shall also discuss the legal protection status of each species, the definition of “take” under the Federal Endangered Species Act and California Endangered Species Act, measures the project proponent/operator shall implement to protect the species, reporting requirements, specific measures for workers to avoid take of special-status plant and wildlife species, and penalties for violation of the requirements outlined in the California Environmental Quality Act mitigation measures and agency permit requirements.</p> <ul style="list-style-type: none"> b. An acknowledgement form signed by each worker indicating that the Worker Environmental Awareness Training and Education Program has been completed shall be kept on file at the site. c. A copy of the training transcript and/or training video, as well as a list of the names of all personnel who attended the Worker Environmental Awareness Training and Education Program and signed acknowledgement forms shall be submitted to the Kern County Planning and Natural Resources Department. d. A copy of the training transcript, training video or informational binder for specific procedures shall be kept available for all personnel to review and be familiar with as necessary. e. A sticker shall be placed on hard hats indicating that the worker has completed the Worker Environmental Awareness Training and Education Program. Construction workers shall not be 	

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance After Mitigation
		<p>permitted to operate equipment within the construction areas unless they have attended the Worker Environmental Awareness Training and Education Program and are wearing hard hats with the required sticker.</p> <p>MM 4.4-3: As applicable during construction, operations and maintenance, and decommissioning, the project proponent/operator and/or contractor(s) shall implement the general avoidance and protective measures described below.</p> <ul style="list-style-type: none"> a. Prior to conducting vegetation clearing or grading activities associated with construction or decommissioning, a qualified biologist or biological monitor that has been approved by the qualified biologist shall perform pre-construction visual surveys of the area immediately prior to conducting these activities to ensure that no special-status animals are present. The qualified biologist or biological monitor shall monitor all initial construction and decommissioning ground disturbance activities. A report of those activities shall be submitted to the Kern County Planning and Natural Resources Department within 30 days of completion of activities. b. Sensitive biological resources (i.e., special-status species, jurisdictional drainages, nesting birds, etc.) within proposed impact areas, including solar fields, generator-tie lines, staging areas, access routes, and areas of disposal or temporary placement of spoils shall be delineated with stakes and/or flagging prior to construction to avoid sensitive biological resources where possible. Construction-related activities outside of the planned impact areas shall be avoided. c. Access roads that are planned for use during construction shall not extend beyond the planned impact area. All vehicle traffic shall be contained within the planned impact areas or in previously disturbed 	

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance After Mitigation
		<p>areas. Where new access routes are required, the route will be clearly marked (i.e., flagged and/or staked) prior to construction.</p>	
		<p>d. The project proponent/operator shall minimize the areas of disturbance. Parking areas, new roads, staging, storage, excavation, and disposal site locations shall be confined to the smallest areas possible. These areas shall be demarcated and disturbance activities, vehicles, and equipment shall be confined to these areas.</p>	
		<p>e. Spoils shall be stockpiled in disturbed areas that lack native vegetation to the maximum extent practicable. Best Management Practices shall be employed to prevent erosion in accordance with the project’s approved Stormwater Pollution Prevention Plan (see Section 4.7, Geology and Soils, for more details on Stormwater Pollution Prevention Plan requirements). All detected erosion shall be remedied as described in the Erosion Control Plan of the Stormwater Pollution Prevention Plan. Spoils that have been stockpiled and inactive for greater than 10 days shall be inspected by a qualified biologist for signs of special-status wildlife before moving or disturbing the spoils.</p>	
		<p>f. To prevent inadvertent entrapment of San Joaquin kit foxes, American badgers, or other animals, all excavated, steep-walled holes or trenches more than 2 feet deep shall be covered with plywood or similar materials at the close of each working day. If holes or trenches cannot be covered, one or more escape ramps constructed of earthen fill or wooden planks, no less than 12 inches wide and secured at the top, shall be placed a minimum of every 100 feet within the open trench. Covered and non-covered holes or trenches shall be thoroughly inspected for trapped animals by a qualified biologist or their biological monitor at the beginning and end of each day. Immediately before such holes or trenches are filled, they shall again be thoroughly inspected by trained staff approved by the retained qualified biologist for trapped animals. If trapped animals are observed, escape ramps or structures shall be installed</p>	

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance After Mitigation
		<p>immediately to allow for their escape. If a listed species is trapped, the USFWS and/or CDFW, as appropriate for the species, and Kern County Planning and Natural Resources Department shall be contacted immediately.</p>	
		<ul style="list-style-type: none"> <li data-bbox="867 430 1640 889">g. San Joaquin kit fox, burrowing owls, mammals, and nesting birds may use construction pipes, culverts, or similar structures for refuge or nesting. Therefore, all construction pipes, culverts, or similar structures with a diameter of four inches or greater that are stored at the site for one or more overnight periods, and without endcaps, shall be thoroughly inspected by a qualified biologist or the designated biological monitor for special-status wildlife or nesting birds before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If an animal is discovered inside a pipe, that section of pipe shall not be moved until a qualified biologist has been consulted and the animal has either moved from the structure on its own accord or until the animal has been captured and relocated by a qualified biologist holding the appropriate handling permits from the Resource Agencies. <li data-bbox="867 922 1640 1052">h. No vehicle or equipment parked on the project site shall be moved prior to inspecting the ground beneath the vehicle or equipment for the presence of wildlife. If present, the animal shall be left to move on its own. <li data-bbox="867 1084 1640 1182">i. Vehicular traffic to and from the project site shall use existing routes of travel. Cross country vehicle and equipment use outside designated impact areas shall be prohibited. <li data-bbox="867 1214 1640 1312">j. A speed limit of 15 miles per hour shall be enforced within the limits of the project. If night work occurs on the project, the speed limit will be 10 miles per hour. <li data-bbox="867 1344 1640 1377">k. Fueling of equipment shall take place within existing roads. No refueling within or adjacent to drainages (within 150 feet) shall be 	

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance After Mitigation
		permitted. Contractor equipment shall be checked for leaks prior to operation and repaired as necessary.	
		<ul style="list-style-type: none"> <li data-bbox="865 363 1640 456">l. Trash and food items shall be contained in closed containers to reduce the attractiveness to opportunistic predators such as common ravens, coyotes, and feral dogs. <li data-bbox="865 485 1640 545">m. Workers shall be prohibited from bringing pets and firearms to the project site and from feeding wildlife. <li data-bbox="865 574 1640 634">n. Intentional killing or collection of any plant or wildlife species shall be prohibited. <li data-bbox="865 664 1430 691">o. No rodenticides shall be used on the project site. <li data-bbox="865 721 1640 1078">p. To enable San Joaquin kit fox and other wildlife (e.g. American badger) to pass through the project site after construction, the security fence and any permanent interior fencing shall be made a wildlife friendly design that meets the goal of allowing wildlife to move freely through the project site during operation by leaving 4- to 7- <u>4- to 6-inch gap from the bottom of the fencing material openings or portals in the fence or raising the bottom of the fence up 5 to 7 inches from the ground leaving a gap between the fence mesh and the ground.</u> In the latter case, the bottom of the fabric shall be knuckled (wrapped back to form a smooth edge) to protect wildlife that passes under the fence. <u>Perimeter fencing shall not be electrified.</u> 	
		<p>MM 4.4-4: During clearing and grading activities daily monitoring reports shall be prepared by the monitoring biologists. The Lead Biologist shall prepare a summary monitoring report documenting the effectiveness and practicality of the protection measures that are in place and making recommendations for modifying the measures to enhance species protection, as needed. The report shall also provide information on the overall activities conducted related to biological resources, including the Environmental Awareness Training and Education Program, clearance/pre-activity surveys, monitoring activities, and any</p>	

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance After Mitigation
		<p>observed special-status species, including injuries and fatalities. These monitoring reports shall be submitted to the Kern County Planning and Natural Resources Department and relevant resource agencies, as applicable, on a monthly basis along with copies of all survey reports.</p> <p>MM 4.4-5: As applicable during construction, operations and maintenance, and decommissioning, the Lead Biologist or approved biological monitor shall monitor all initial ground-disturbance activities and remain on-call throughout construction/decommissioning in the event a special-status species wanders into the project site.</p> <p>Preconstruction surveys for special-status species shall be conducted within the project boundaries by the Lead Biologist or approved biological monitor within 14 days of the start of any vegetation clearing or grading activities. Methodology for preconstruction surveys shall be appropriate for each potentially occurring species-status species and shall follow USFWS and/or CDFW preconstruction survey guidelines where appropriate. Surveys need not be conducted for all areas of suitable habitat at one time; they may be phased so that surveys occur within 14 days of the portion of the project site being disturbed. The Lead Biologist may use a variety of approaches (including but not limited to monitoring, track plates, and direct observation) and evidence (including burrow characteristics and presence of sign such as scat and tracks) to determine burrow activity. If any evidence of occupation of the project site special-status species is observed, a buffer shall be established by a qualified biologist that results in sufficient avoidance, per the associated resource-specific mitigation measures.</p> <p>MM 4.4-6: Preconstruction surveys shall be conducted by a qualified biologist for the presence of San Joaquin kit fox dens within 14 days prior to commencement of construction activities. Surveys need not be conducted for all areas of suitable habitat at one time; they may be phased so that surveys occur within 14 days prior to that portion of the project site disturbed.</p>	

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance After Mitigation
		<p>a. If potential dens are observed and avoidance is feasible, the following buffer distances shall be established prior to construction activities:</p> <p style="padding-left: 40px;">San Joaquin kit fox potential den: 50 feet.</p> <p style="padding-left: 40px;">San Joaquin fox active den: 100 feet.</p> <p style="padding-left: 40px;">San Joaquin fox natal den: 500 feet.</p> <p>b. If avoidance of the potential dens is not possible, <u>the project proponent shall consult with CDFW prior to any ground disturbing activities to avoid any unauthorized take of SJKF. the following measures are required to avoid potential adverse effects to the San Joaquin kit fox:</u></p> <p style="padding-left: 40px;">1. If the qualified biologist determines that potential dens are inactive, the biologist shall excavate these dens by hand with a shovel to prevent San Joaquin kit foxes from re-using them during construction.</p> <p style="padding-left: 40px;">2. If the qualified biologist determines that potential dens may be active, an onsite passive relocation program shall be implemented. This program shall consist of excluding San Joaquin kit foxes from occupied burrows by installation of one way doors at burrow entrances, monitoring of the burrow for 7 days to confirm usage has been discontinued, and excavation and collapse of the burrow to prevent reoccupation. After the qualified biologist determines that San Joaquin kit foxes have stopped using the dens within the project boundary, the dens shall be hand-excavated with a shovel to prevent re-use during construction.</p> <p>MM 4.4-7: <u>No more than thirty (30) days prior to the start of ground disturbance activities or issuance of any grading or building permits, decommissioning of the project site, a qualified biologist knowledgeable</u></p>	

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance After Mitigation
		<p>on the identification of rare plant species shall conduct a pre-construction plant survey of areas of proposed disturbance within the project site and 100-foot buffer (where legally accessible) to determine if any special-status plant species are present. If special-status plants are identified on-site, their locations shall be mapped and the project proponent shall confer with CDFW or USFWS as required by applicable law to facilitate salvage or seed collection. Preconstruction surveys shall be conducted by a qualified biologist for the presence of special status and protected plant species within the project area for the Hispid Salty Bird's Beak within 14 days prior to commencement of ground disturbing activities. Surveys need not be conducted for all areas of suitable habitat at one time; they may be phased so that surveys occur within 14 days prior to that portion of the project site disturbed.</p> <p>If preconstruction surveys document the absence of this species, no further action is warranted for special status plants.</p> <p>If preconstruction surveys determine presence of this species, additional surveys shall be conducted to determine the exact location on the project site and the number of individuals or populations present. The project proponent/operator shall submit written documentation to the Kern County Planning and Natural Resources Department confirming implementation of the measures described below.</p> <p>a. Protocol level Special Status Plan Survey(s):</p> <p>1. Summer/ fall surveys shall be conducted prior to construction. Surveys shall focus on the Hispid Salty Bird's Beak, but should be floristic in nature (all species identified). Summer/ fall surveys should focus on the entire access road area, especially disturbed areas and roadside drainages.</p> <p>b. The number of specimens affected by the proposed project should be assessed to determine if potential impacts exceed the thresholds of significance under CEQA.</p>	

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance After Mitigation
		<p>e. If any plants listed as CRPR special status species are found at the project site, the plants will be flagged, mapped and a setback of a minimum of 50 feet from project Footprint will be implemented where feasible. If setbacks are not feasible, a monitor shall be present to ensure populations are avoided. To compensate for significant impacts on plants with a CRPR ranking of 1A, 1B, 2, 3, or 4 that cannot be avoided, offsite habitat occupied by the affected species shall be preserved and managed in perpetuity at a minimum 1:1 mitigation ratio (at least one plant preserved for each plant affected, and also at least one occupied acre preserved for each occupied acre affected), up to the significance threshold as follows:</p> <ol style="list-style-type: none"> 1. for CRPR ranked 1A species, mitigation must be provided at 1:1 equivalent. 2. for a CRPR ranked 1B and 2 species where 10% or more of the known population within 5 miles of the work area is impacted, mitigation must be provided at 1:1 equivalent. 3. for a CRPR ranked CRPR of 3 or 4 species where 30% or more of the known population within 5 miles of the work area is impacted, mitigation must be provided at 1:1 equivalent. 4. Areas proposed for preservation and serving as compensatory mitigation for special status plant impacts must contain verified extant populations of the CRP-ranked plants that would be impacted by the work areas. Mitigation areas shall be managed in perpetuity to encourage persistence and even expansion of the preserved target species. 	
		<p>MM 4.4-8: Preconstruction surveys shall be conducted by a qualified biologist within suitable habitat to locate active breeding or wintering burrowing owl burrows no fewer than 14 days prior to commencement of ground-disturbing activities. Surveys need not be conducted for all</p>	

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance After Mitigation																							
		<p>areas of suitable habitat at one time; they may be phased so that surveys occur within 14 days prior to that portion of the project site disturbed.</p> <p>The survey methodology shall be consistent with the methods outlined in the 2012 CDFW Staff Report on Burrowing Owl Mitigation and shall consist of walking parallel transects 7 to 20 meters apart within suitable habitat, adjusting for vegetation height and density as needed, and noting any potential burrows with fresh burrowing owl sign or presence of burrowing owls. As each burrow is investigated, surveying biologists shall also look for signs of American badger and San Joaquin kit fox. Copies of the survey results shall be submitted to the Kern County Planning and Natural Resources Department.</p> <p>If burrowing owls are detected onsite, the avoidance buffers outlined below should be established. These buffers 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, 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. Visible markers shall be placed near the identified burrow(s) to ensure that machinery does not collapse the burrow(s).</p> <table border="1" data-bbox="856 1016 1587 1227"> <thead> <tr> <th rowspan="2">Location</th> <th rowspan="2">Time of Year</th> <th colspan="3">Level of Disturbance</th> </tr> <tr> <th>Low</th> <th>Med</th> <th>High</th> </tr> </thead> <tbody> <tr> <td>Nesting sites</td> <td>April 1 – Aug 15</td> <td>200 m*</td> <td>500 m</td> <td>500 m</td> </tr> <tr> <td>Nesting sites</td> <td>Aug 16 – Oct 15</td> <td>200 m*</td> <td>200 m</td> <td>500 m</td> </tr> <tr> <td>Nesting sites</td> <td>Oct 16 – Mar 31</td> <td>50 m</td> <td>100 m</td> <td>500 m</td> </tr> </tbody> </table> <p>*meters (m)</p> <p>If burrow avoidance is infeasible during the non-breeding season or during the breeding season (February 1 through August 31) where resident owls have not yet begun egg laying or incubation, or where the juveniles are foraging independently and capable of independent survival, a qualified biologist shall implement a passive relocation</p>	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	
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		<p>program in accordance with Appendix E1 (i.e., Example Components for Burrowing Owl Artificial Burrow and Exclusion Plans) of the 2012 CDFW Staff Report on Burrowing Owl Mitigation. <u>No burrowing owl burrow exclusion is permitted during breeding season (February 1 - August 31 or while breeding behavior is exhibited), unless approved by CDFW.</u></p> <p>If passive relocation is required, a qualified biologist shall prepare a Burrowing Owl Exclusion and Mitigation Plan and a Mitigation Land Management Plan in accordance with the 2012 CDFW Staff Report on Burrowing Owl Mitigation, for review by CDFW prior to passive relocation activities. The Mitigation Land Management Plan shall include a requirement for the permanent conservation of offsite Burrowing Owl Passive Relocation Compensatory Mitigation. At a minimum, the following recommendations shall be implemented:</p> <ol style="list-style-type: none"> a. Temporarily disturbed habitat shall be restored, if feasible, to pre-project conditions including decompacting soil and revegetating. b. Permanent impacts to nesting, occupied and satellite burrows and/or burrowing owl habitat shall be mitigated such that the habitat acreage, number of burrows and burrowing owl impacted are replaced based on a site-specific analysis and shall include permanent conservation of similar vegetation communities (grassland, scrublands, desert, urban, and agriculture) to provide for burrowing owl nesting, foraging, wintering, and dispersal (i.e., during breeding and non-breeding seasons) comparable to or better than that of the impact area, and with sufficiently large acreage, and presence of fossorial mammals. c. Permanently protect mitigation land through a conservation easement, deed restriction, or similar mechanism decided to <u>with a nonprofit conservation organization or public agency with a conservation mission in adherence with CA Civil Code Section</u> 	

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance After Mitigation
		<p><u>815.3.</u> If the project is located within the service area of a CDFW-approved burrowing owl conservation bank, the project operator may purchase available burrowing owl conservation bank credits. Land identified to mitigate for passive relocation of burrowing owl may be combined with other offsite mitigation requirements of the proposed project if the compensatory habitat is deemed suitable to support the species. <u>The appropriated compensatory mitigation ratio shall be established in consultation with CDFW.</u></p>	
		<p>MM 4.4-9: Preconstruction surveys shall be conducted by a qualified biologist of all potential nesting habitat within the project site no more than 14 <u>30</u> days prior to commencement of construction activities within the project site during the breeding season <u>nesting bird season</u> (i.e., February 1 to September 15 <u>August 31</u>). Surveys need not be conducted for all areas of suitable habitat at one time; they may be phased so that surveys occur within 10 days prior to that portion of the project site disturbed. <u>Surveys shall cover a sufficient area around the work site to identify nests and determine their status. A sufficient area means any area potentially affected by a project. In addition to direct impacts (i.e., nest destruction), noise, vibration, odors, and movement of workers or equipment could also affect nests. Prior to initiation of construction activities, a qualified biologist shall conduct a survey to establish a behavioral baseline of all identified nests and confirm site conditions have not changed.</u> If construction is scheduled to commence during the non-nesting season for any nesting birds (i.e., September 1 to January 31), no preconstruction surveys or additional measures are required.</p>	
		<p>The surveying biologist must be qualified to determine the status and stage of nesting by migratory birds and all locally breeding raptor species without causing intrusive disturbance.</p>	
		<p>The raptor survey shall focus on potential nest sites (e.g., large trees, windrows) within a 0.5-mile buffer around the project site.</p>	

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance After Mitigation
		<p>A tricolored blackbird nest colony survey shall occur within suitable habitat. Tricolored blackbird nesting season in the San Joaquin Valley is March to mid-June, though most colonies begin nesting in late March. Suitable habitat shall be assessed in March with three follow-up surveys occurring April through June, comprising a total of four surveys of each location. The Swainson’s hawk nest survey shall focus on potential nest sites within a 5-mile buffer around the project site and follow the 2010 Swainson’s hawk protocol surveys (SWHA Survey Protocols, Impact Avoidance, and Minimization Measures, 2010).</p> <p>Surveys shall encompass the project site plus the potential nest buffers as listed above, where access has been granted.</p> <p>If active nests are found, a suitable no-disturbance buffer (e.g., 500 feet for common raptors; 0.5 miles for Swainson’s hawk; 250 feet for non-raptor species shall be established around active nests until a qualified biologist has determined that the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). For non-listed species, encroachment into the avoidance buffer may occur at the discretion of a qualified biologist provided the biologist has monitored the nest prior to construction to establish a behavioral baseline and continues to monitor the nest during construction to ensure the nest is not negatively affected. Buffer distances can also be adjusted if there is a compelling biological reason such as when a construction area would be concealed from a nest site by topography of vegetation as determined by a qualified biologist. For State-listed species, consultation with CDFW shall occur prior to encroachment into the aforementioned buffers.</p> <p>Compensation for loss of Swainson’s hawk foraging habitat will be based on the results of the protocol SWHA survey (SWHA TAC 2000) as described in CDFW’s “Staff Report Regarding Mitigation for Impacts to Swainson's Hawks” (CDFG 1994). If an active Swainson’s hawk nest is detected and a ½-mile no disturbance buffer is not feasible, CDFW will be consulted to discuss how to implement the project and avoid take</p>	

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		<p>MM 4.4-10: The project proponent/operator shall install power lines in conformance with Avian Power Line Interaction Committee (APLIC) standards for electrocution-reducing techniques as outlined in suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006 (APLIC 2006), and for collision-reducing techniques as outlined in Reducing Avian Collisions with Power Lines: The State of the Art in 2012 (APLIC 2012), or any superseding document issued by APLIC.</p>	
		<p>MM 4.4-11: To minimize impacts to Crotch’s Bumble Bees (CBB), areas within the project site containing one or more of the following habitat requisites shall be surveyed by a qualified biologist between March 1 and June 30: flowering vegetation, potential preferred nectar plants, small mammal burrows, bunch grasses, thatch, brush piles, old bird nests, or dead trees. A minimum of two surveys shall be completed between the hours of 0800 and 1600 when temperatures are between 65°F and 90°F, and will not be conducted during inclement weather conditions (e.g., foggy, raining, drizzling, or sustained winds greater than 8 mph). Surveyors will photograph potential CBB from various angles to ensure recordation of key identifying characteristics. <u>Surveys shall follow the CDFW guidelines as outlined in Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species.</u></p>	
		<p>MM 4.4-12: <u>No more than (30) days prior to the issuance of any grading or building permits, decommission of the site or the start of ground disturbance activities or decommissioning, a qualified biologist knowledgeable in the identification of all special-status wildlife species shall conduct a pre-construction survey of areas proposed for disturbance within the project site and 50-foot buffer (where legally accessible) to determine if any American badger are present. If, as a result of this pre-construction survey it is determined that American Badger are present, the following measures shall be implemented:</u></p>	

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<p>Impact 4.4-2: The project could have a substantial adverse effect on any riparian habitat or other sensitive natural community, or jurisdictional waters, identified in</p>	<p>Potentially significant</p>	<p>a. <u>If signs of American Badger are identified on-site, the project proponent shall establish appropriate buffers limiting all construction activities. Buffers for burrows shall be as follows:</u></p> <ul style="list-style-type: none"> i. <u>Potential or Atypical den- 50 feet</u> ii. <u>Known den – 100 feet</u> iii. <u>Natal or pupping den – 500 feet, unless otherwise specified by CDFW.</u> <p>MM 4.4-13: <u>Nesting Bird Monitoring and/or Avoidance Buffer. Once construction begins, a qualified biologist shall continuously monitor nests to detect behavioral changes resulting from the project. If behavioral changes occur, the work causing that change will cease and CDFW may be consulted if necessary for additional avoidance and minimization measures if work must proceed and behavior does not return to the identified baseline condition. If continuous monitoring of identified nests by a qualified biologist is not feasible, 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 shall be implemented. 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 parental care for survival. Variance from these no-disturbance buffers is possible when there is a compelling biological or ecological reason to do so, such as when the construction area would be concealed from a nest site by topography. A qualified biologist shall advise and support any variance from these buffers.</u></p> <p>MM 4.4-14: <u>Prior to issuance of any grading or building permit, the project proponent/operator shall submit a final Jurisdictional Delineation report. A copy of this report shall also be provided to the Central Valley Regional Water Quality Control Board, CDFW, and the County. The</u></p>	<p>Less than significant</p>

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance After Mitigation
<p>local or regional plans, policies, or regulations or by CDFW or USFWS.</p>		<p>report shall include information as shown below as a plan if necessary and shall outline compliance to the following.</p> <ul style="list-style-type: none"> a. Delineation of all jurisdictional features at the project site. Potential jurisdictional features (ephemeral drainages) within the project boundary identified in the jurisdictional delineation report that are not anticipated to be directly impacted by project related activities shall be avoided. This may be shown in plan form. b. Any material/spoils generated from project activities shall be located away from jurisdictional areas or special-status habitat and protected from storm water run-off using temporary perimeter sediment barriers such as berms, silt fences, fiber rolls, covers, sand/gravel bags, and straw bale barriers, as appropriate. c. Equipment containing hazardous liquid materials shall be stored on impervious surfaces or plastic ground covers to prevent any spills or leakage from contaminating the ground and generally at least 50 feet from the delineated boundary of jurisdictional water features. d. Any spillage of material will be stopped if it can be done safely. The contaminated area will be cleaned and any contaminated materials properly disposed. For all spills, the project foreman or designated environmental representative will be notified. <p>MM 4.4-1513: Prior to ground disturbance activities that would impact aquatic features, the project proponent/operator shall be subject to provisions as identified below:</p> <ul style="list-style-type: none"> a. The project proponent/operator shall file a complete Report of Waste Discharge with the RWQCB to obtain Waste Discharge 	

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance After Mitigation
		<p>Requirements and shall also consult with CDFW on the need for a streambed alteration agreement. Copies of reports shall be submitted to the County.</p>	
		<p>b. Based on consultation with RWQCB and CDFW, if permits are required for the project site, appropriate permits shall be obtained prior to disturbance of jurisdictional resources.</p>	
		<p>c. Compensatory mitigation for impacts to unvegetated streambeds/washes shall be identified prior to disturbance of the features at a minimum 1:1 ratio, as approved by the RWQCB or CDFW either through onsite or offsite mitigation, or purchasing credits from an approved mitigation bank.</p>	
		<p>d. The project proponent/operator shall comply with the compensatory mitigation required and proof of compliance, along with copies of permits obtained from RWQCB and/or CDFW, which shall be provided to the County.</p>	
		<p>e. A Habitat Mitigation and Monitoring Plan (HMMP) shall be prepared that outlines the compensatory mitigation in coordination with the RWQCB and CDFW.</p>	
		<p>1. If onsite mitigation is proposed, the HMMP shall identify those portions of the site, such as relocated drainage routes, that contain suitable characteristics (e.g., hydrology) for restoration. Determination of mitigation adequacy shall be based on comparison of the restored habitat with similar, undisturbed habitat in the site vicinity (such as upstream or downstream of the site).</p>	
		<p>2. The HMMP shall include remedial measures in the event that performance criteria are not met.</p>	

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance After Mitigation
<p>Impact 4.4-3: The project would have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.</p>	Less than significant	<p>No mitigation would be required.</p>	Less than significant
<p>Impact 4.4-4: The project would interfere substantially with the movement of any resident or migratory fish or wildlife species or with established resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.</p>	Potentially significant	<p>Implement Mitigation Measures MM 4.1-4 through MM 4.1-6 from Chapter 4.1, <i>Aesthetics</i>.</p> <p>MM 4.4-164.4-14: Movement Corridors shall be established and managed for the benefit of sensitive species movement in compliance with agency recommendations. A qualified biologist shall be involved with the design or provide approval of the plan to ensure areas to ensure wildlife movement exist within and around the project site. The use of movement corridors shall be a part of the operations plan and be ensured for the duration and perpetuity of the project.</p>	Less than significant
<p>Impact 4.4-5: The project would conflict with any local policies or ordinances protecting biological</p>	Less than significant	<p>No mitigation would be required.</p>	Less than significant

Impact	Level of Significance before Mitigation	Mitigation Measure(s)	Level of Significance After Mitigation
resources, such as a tree preservation policy or ordinance.			
Impact 4.4-6: The project would conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan or other approved local, regional, or state habitat conservation plan.	Less than significant	No mitigation would be required.	Less than significant
Impact 4.4: Cumulative Impacts	Potentially significant	Implementation of Mitigation Measures MM 4.4-1 through MM 4.4-146 and MM 4.1-4 through MM 4.1-6 (see Chapter 4.1, <i>Aesthetics</i>) would be required.	Significant and unavoidable

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Chapter 3.0, Project Description, Page 3-21**Project Substation**

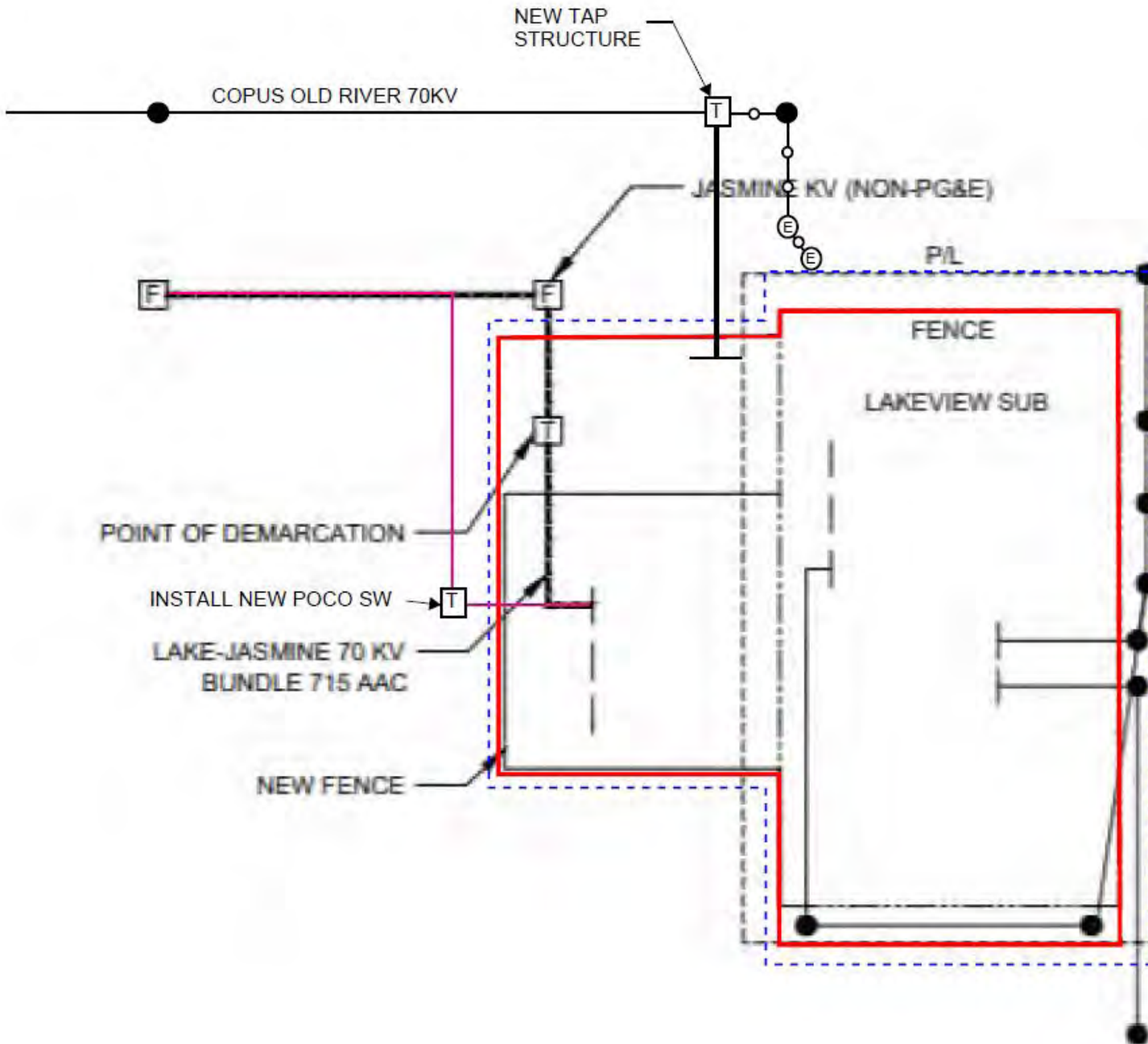
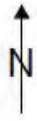
The project substation is proposed to be in the ~~southeast corner~~ northeastern portion of APN ~~295-131-12~~ 295-132-15. The project Substation would include transformers, breakers, switches, meters, and related equipment. Interconnection equipment, including the control house, would be installed aboveground and underground within the footprint of the substation. The overall footprint of the project Substation is anticipated to be approximately 200 by 200 feet and approximately 100 feet in height at its apex. The project Substation would include an emergency generator for use in the event that the regional transmission system fails; this emergency generator would provide emergency power until the regional transmission system restores operations. The project Substation would also contain a control house building approximately 15 by 40 feet with an overall height of less than 20 feet. The project substation would be surrounded by a seven-foot barbed wire chain-link fence and would comply with electrical codes.

Chapter 3.0, Project Description, Page 3-24**Lakeview Substation**

The existing Lakeview Substation, operated by PG&E, would require modifications that would occupy approximately 0.9 acres adjacent to the ~~western~~ eastern side of its existing footprint. The modifications are needed to accommodate improvements for the gen-tie line connection to the existing electrical equipment. Additional electrical equipment, including Direct Transfer Trip (DTT) equipment, Supervisory Control Data Acquisition and telemetry equipment, and breaker and control switching equipment, would be placed within the existing fenced area at the Lakeview Substation. Further discussion of the Lakeview Substation connections and modifications are included below in Section 4.7.5.

Chapter 3.0, Project Description, Page 3-33

Figure 3-12: *Lakeview Substation General Arrangement*, would be revised, see following page.



**Figure 3-12: Lakeview
Substation General
Arrangement**

Jasmine Solar Project by SF Jasmine, LLC

- EXISTING LINE
- - - EXISTING LINE TO BE REMOVED
- NEW LINE TO BE INSTALLED
- EXISTING POLE
- ⊕ EXISTING POLE TO BE REMOVED
- ⊔ NEW POLE TO BE INSTALLED
- ⊔ FUTURE STRUCTURE TO BE INSTALLED BY OWNER

APN: 295-132-15
APN: 295-132-16
Sec. 31 - T32S/R27E



**Kern County
Planning & Natural
Resources Department**

Chapter 3.0, Project Description, Page 3-35

Power Line Reconfiguration

Existing power poles and conductors located outside the substation require reconfiguration in order for the proposed customer-owned photovoltaic solar project to connect to the new substation equipment. This would be achieved by installing new structures, or by replacing existing structures with new structures. Upgrades also will be made to accommodate the -gen tie-line and new line angles resulting from the new arrangements.

~~In order to accommodate the gen tie line interconnection e PG&E would extend an approximately 150-foot 70 kV power line from the Lakeview Substation dead end structure to a new customer owned TSP located immediately north of the substation fence line. An additional pole approximately 80-95 foot tall TSP will be added to support the line between the customer owned TSP and Lakeview Substation. The typical design of the structures is provided in **Figure 3-14: Typical Tubular Steel Design.**~~

PG&E's upgrades will include a 0.9-acre westerly expansion of PG&E's Lakeview Substation and a new 150-foot 70 kV power line with a new approximately 80- to 95-foot-tall tubular steel pole (TSP) to accommodate the customer's generation-tie line interconnection. The typical design of the structures is provided in **Figure 3-14: Typical Tubular Steel Design.**

Other power line work that PG&E would need to conduct to support the interconnection includes rerouting approximately 250 feet of existing 70 kV power line along the north and south sides of Copus Road and installing two new approximately 80- to 95-foot tall TSPs. The rerouted line will cross Copus Road at a new location and connect to a new bay inside the Lakeview Substation expansion. In addition, PG&E will remove approximately 4 to 5 existing poles along this 70 kV power line and 1 to 2 poles along a separate 70 kV power line at the substation.

Chapter 3.0, Project Description, Page 3-38

Construction Schedule

While substation modification and power line construction would require approximately 16 months of construction activity, there would be gaps in the schedule due to equipment delivery logistics, power load considerations, and other factors and is anticipated to be in service by 2024~~6~~, with final close out items completing in 2025~~6~~.

Chapter 3.0, Project Description, Page 3-38 – 3-39

Specifically, the second paragraph under Chapter 3.7.6, *Decommissioning* heading would be revised as follows.

Solar panels would be removed and placed in secure transport crates or container boxes for storage and transported to another site for reuse, material recycling, or disposal. The bolts and reusable fasteners that had attached each module to the racks would be removed and saved for reuse. Once the solar modules are removed, the racks would be disassembled and the structures supporting the racks would be removed and salvaged or recycled. Electrical equipment would be de-energized prior to removal, salvaged (where possible), placed in appropriate shipping containers, and secured in a truck transport trailer for shipment offsite. Electrical equipment, transformers, and switching gear on the inverter and interconnection transformer pads and all above ground electrical wiring would be removed and recycled or disposed. All other aboveground site infrastructure—including fences, awnings, and the concrete pads that supported the

inverters, and related equipment—would be removed. The fence and gate would be removed per a fencing plan and may include the replacement of some perimeter array fencing with fencing to facilitate livestock management. Removed materials would be recycled to the greatest extent possible. All debris would be removed from the area. Decommissioning activities would not apply to any facilities constructed, or improved, by PG&E at the Lakeview Substation.”

Chapter 3.0, Project Description, Page 3-39

Specifically, in Chapter 3.8, *Entitlements Required*, under the State heading, the first bullet point would be revised as follows.

State

- California Public Utilities Commission (CPUC)
 - ~~Section 851 Permit~~ GO 131-D, Section III.B

Section 4.1, Aesthetics, Page 4.1-35 and 36

MM 4.1-3: Wherever possible, within the proposed project boundary the existing vegetation shall remain undisturbed unless mowing is necessary for placement of the project components. All natural vegetation adjacent to the proposed project boundary shall remain in place. Prior to the commencement of project operations and decommissioning, the project proponent/operator shall submit a Landscape Revegetation and Restoration Plan for the project site to the Kern County Planning and Natural Resources Department for review and approval. The plan shall include the measures detailed below.

- a. In areas temporarily disturbed during construction and decommissioning (including grading or removal of root balls resulting in loose soil), the ground surface shall be restored to pre-existing conditions with an appropriate vegetation type as determined by a certified Professional, such as biologist(s), landscape architect(s), horticulturist(s), botanist(s), that will compose the LRRP. revegetated with a site-specific native seed mix or native plants and/or allowed to re-vegetate with the existing native seed bank in the top soil where possible to establish revegetation. The vegetation type determined by the certified professional shall be communicated to the Kern County Planning and Natural Resources Department for approval prior to completing the LRRP. Areas that contain permanent features such as perimeter roads, maintenance roads or under arrays do not require revegetation.
- b. The plan must include but is not limited to: (1) the approved vegetation type ~~California native seed mix~~ that will be used onsite, (2) a timeline for implementation of revegetating seeding the site, (3) the details of which areas are to be revegetated, and (4) a clear prohibition of the use of toxic rodenticides.
- c. Ground cover shall include planting ~~native seed mix and shall be spread~~ where earthmoving activities have taken place, as needed to establish re-vegetation. The revegetation type seed mix or native plants shall be determined through consultation with professionals such as landscape architect(s), horticulturist(s), botanist(s), etc. with local knowledge as shown on submitted resume and shall be approved by the Kern County Planning and Natural Resources Department

prior to planting. Phased ~~revegetation—seeding~~ may be used if a phased construction approach is used (i.e., the entire site need not be ~~revegetated seeded~~ all at the same time).

- d. Vegetation/ground cover shall be continuously maintained on the site by the project operator.
- e. The re-vegetation and restoration of the site shall include a monitoring program, as deemed necessary by the certified professional producing the LRRP. A proposed monitoring program shall be submitted to Kern County Planning and Natural Resources Department for approval prior to completion of the LRRP document. ~~be monitored annually for a three year period following restoration activities that occur post construction and post decommissioning. Based on annual monitoring visits during the three year periods, an annual evaluation report shall be submitted to the Kern County Planning and Natural Resources Department for each of the three years. Should efforts to revegetate with the existing native seed bank in the top soil prove in the second year to not be successful by 75 percent cover rate, re-evaluation of revegetation methods shall be made in consultation with the Kern County Planning and Natural Resources Department and an additional year shall be added to the monitoring program to ensure coverage is achieved. Should, through consultation with a qualified botanist, a 75% rate be determined not to be feasible, evidence of such shall be submitted to Kern County Planning and Natural Resources Department. The three year monitoring program is intended to ensure the site naturally achieves native plant diversity, establishes perennials, and is consistent with conditions prior to implementation of the proposed project, where feasible.~~

Section 4.4, Biological Resources, Page 4.4-30 – 4.4-32

MM 4.4-3: As applicable during construction, operations and maintenance, and decommissioning, the project proponent/operator and/or contractor(s) shall implement the general avoidance and protective measures described below.

- a. Prior to conducting vegetation clearing or grading activities associated with construction or decommissioning, a qualified biologist or biological monitor that has been approved by the qualified biologist shall perform pre-construction visual surveys of the area immediately prior to conducting these activities to ensure that no special-status animals are present. The qualified biologist or biological monitor shall monitor all initial construction and decommissioning ground disturbance activities. A report of those activities shall be submitted to the Kern County Planning and Natural Resources Department within 30 days of completion of activities.
- b. Sensitive biological resources (i.e., special-status species, jurisdictional drainages, nesting birds, etc.) within proposed impact areas, including solar fields, generator-tie lines, staging areas, access routes, and areas of disposal or temporary placement of spoils shall be delineated with stakes and/or flagging prior to construction to avoid sensitive biological resources where possible. Construction-related activities outside of the planned impact areas shall be avoided.

- c. Access roads that are planned for use during construction shall not extend beyond the planned impact area. All vehicle traffic shall be contained within the planned impact areas or in previously disturbed areas. Where new access routes are required, the route will be clearly marked (i.e., flagged and/or staked) prior to construction.
- d. The project proponent/operator shall minimize the areas of disturbance. Parking areas, new roads, staging, storage, excavation, and disposal site locations shall be confined to the smallest areas possible. These areas shall be demarcated and disturbance activities, vehicles, and equipment shall be confined to these areas.
- e. Spoils shall be stockpiled in disturbed areas that lack native vegetation to the maximum extent practicable. Best Management Practices shall be employed to prevent erosion in accordance with the project's approved Stormwater Pollution Prevention Plan (see Section 4.7, Geology and Soils, for more details on Stormwater Pollution Prevention Plan requirements). All detected erosion shall be remedied as described in the Erosion Control Plan of the Stormwater Pollution Prevention Plan. Spoils that have been stockpiled and inactive for greater than 10 days shall be inspected by a qualified biologist for signs of special-status wildlife before moving or disturbing the spoils.
- f. To prevent inadvertent entrapment of San Joaquin kit foxes, American badgers, or other animals, all excavated, steep-walled holes or trenches more than 2 feet deep shall be covered with plywood or similar materials at the close of each working day. If holes or trenches cannot be covered, one or more escape ramps constructed of earthen fill or wooden planks, no less than 12 inches wide and secured at the top, shall be placed a minimum of every 100 feet within the open trench. Covered and non-covered holes or trenches shall be thoroughly inspected for trapped animals by a qualified biologist or their biological monitor at the beginning and end of each day. Immediately before such holes or trenches are filled, they shall again be thoroughly inspected by trained staff approved by the retained qualified biologist for trapped animals. If trapped animals are observed, escape ramps or structures shall be installed immediately to allow for their escape. If a listed species is trapped, the USFWS and/or CDFW, as appropriate for the species, and Kern County Planning and Natural Resources Department shall be contacted immediately.
- g. San Joaquin kit fox, burrowing owls, mammals, and nesting birds may use construction pipes, culverts, or similar structures for refuge or nesting. Therefore, all construction pipes, culverts, or similar structures with a diameter of four inches or greater that are stored at the site for one or more overnight periods, and without endcaps, shall be thoroughly inspected by a qualified biologist or the designated biological monitor for special-status wildlife or nesting birds before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If an animal is discovered inside a pipe, that section of pipe shall not be moved until a qualified biologist has been consulted and the animal has either moved from the structure on its own accord or until the animal has been captured and relocated by a qualified biologist holding the appropriate handling permits from the Resource Agencies.

- h. No vehicle or equipment parked on the project site shall be moved prior to inspecting the ground beneath the vehicle or equipment for the presence of wildlife. If present, the animal shall be left to move on its own.
- i. Vehicular traffic to and from the project site shall use existing routes of travel. Cross country vehicle and equipment use outside designated impact areas shall be prohibited.
- j. A speed limit of 15 miles per hour shall be enforced within the limits of the project. If night work occurs on the project, the speed limit will be 10 miles per hour.
- k. Fueling of equipment shall take place within existing roads. No refueling within or adjacent to drainages (within 150 feet) shall be permitted. Contractor equipment shall be checked for leaks prior to operation and repaired as necessary.
- l. Trash and food items shall be contained in closed containers to reduce the attractiveness to opportunistic predators such as common ravens, coyotes, and feral dogs.
- m. Workers shall be prohibited from bringing pets and firearms to the project site and from feeding wildlife.
- n. Intentional killing or collection of any plant or wildlife species shall be prohibited.
- o. No rodenticides shall be used on the project site.
- p. To enable San Joaquin kit fox and other wildlife (e.g. American badger) to pass through the project site after construction, the security fence and any permanent interior fencing shall be made a wildlife friendly design that meets the goal of allowing wildlife to move freely through the project site during operation by leaving 4- to 7- 4- to 6-inch gap from the bottom of the fencing material openings ~~or portals in the fence or raising the bottom of the fence up 5 to 7 inches from the ground leaving a gap between the fence mesh and the ground. In the latter case, the bottom of the fabric shall be knuckled (wrapped back to form a smooth edge) to protect wildlife that passes under the fence. Perimeter fencing shall not be electrified.~~

Section 4.4, *Biological Resources*, Page 4.4-33 - 4.4-37

MM 4.4-6: Preconstruction surveys shall be conducted by a qualified biologist for the presence of San Joaquin kit fox dens within 14 days prior to commencement of construction activities. Surveys need not be conducted for all areas of suitable habitat at one time; they may be phased so that surveys occur within 14 days prior to that portion of the project site disturbed.

- a. If potential dens are observed and avoidance is feasible, the following buffer distances shall be established prior to construction activities:

San Joaquin kit fox potential den: 50 feet.

San Joaquin fox active den: 100 feet.

San Joaquin fox natal den: 500 feet.

- b. If avoidance of the potential dens is not possible, the project proponent shall consult with CDFW prior to any ground disturbing activities to avoid any unauthorized take of SJKF. the following measures are required to avoid potential adverse effects to the San Joaquin kit fox:

1. ~~If the qualified biologist determines that potential dens are inactive, the biologist shall excavate these dens by hand with a shovel to prevent San Joaquin kit foxes from re-using them during construction.~~
2. ~~If the qualified biologist determines that potential dens may be active, an onsite passive relocation program shall be implemented. This program shall consist of excluding San Joaquin kit foxes from occupied burrows by installation of one-way doors at burrow entrances, monitoring of the burrow for 7 days to confirm usage has been discontinued, and excavation and collapse of the burrow to prevent reoccupation. After the qualified biologist determines that San Joaquin kit foxes have stopped using the dens within the project boundary, the dens shall be hand-excavated with a shovel to prevent re-use during construction.~~

MM 4.4-7: No more than thirty (30) days prior to the start of ground disturbance activities or issuance of any grading or building permits, decommissioning of the project site, a qualified biologist knowledgeable on the identification of rare plant species shall conduct a pre-construction plant survey of areas of proposed disturbance within the project site and 100-foot buffer (where legally accessible) to determine if any special-status plant species are present. If special-status plants are identified on-site, their locations shall be mapped and the project proponent shall confer with CDFW or USFWS as required by applicable law to facilitate salvage or seed collection. Preconstruction surveys shall be conducted by a qualified biologist for the presence of special-status and protected plant species within the project area for the Hispid Salty Bird's Beak within 14 days prior to commencement of ground-disturbing activities. Surveys need not be conducted for all areas of suitable habitat at one time; they may be phased so that surveys occur within 14 days prior to that portion of the project site disturbed.

~~If preconstruction surveys document the absence of this species, no further action is warranted for special status plants.~~

~~If preconstruction surveys determine presence of this species, additional surveys shall be conducted to determine the exact location on the project site and the number of individuals or populations present. The project proponent/operator shall submit written documentation to the Kern County Planning and Natural Resources Department confirming implementation of the measures described below.~~

a. ~~Protocol level Special Status Plan Survey(s):~~

1. ~~Summer/ fall surveys shall be conducted prior to construction. Surveys shall focus on the Hispid Salty Bird's Beak, but should be floristic in nature (all species identified). Summer/ fall surveys should focus on the entire access road area, especially disturbed areas and roadside drainages.~~

~~b. The number of specimens affected by the proposed project should be assessed to determine if potential impacts exceed the thresholds of significance under CEQA.~~

~~c. If any plants listed as CRPR special status species are found at the project site, the plants will be flagged, mapped and a setback of a minimum of 50 feet from Project Footprint will be implemented where feasible. If setbacks are not feasible, a monitor shall be present to ensure populations are avoided. To compensate for significant impacts on plants with a CRPR ranking of 1A, 1B, 2, 3, or 4 that cannot be avoided, offsite habitat occupied by the affected species shall be preserved and managed in perpetuity at a minimum 1:1 mitigation ratio (at least one plant preserved for each plant affected, and also at least one occupied acre preserved for each occupied acre affected), up to the significance threshold as follows:~~

~~1. for CRPR ranked 1A species, mitigation must be provided at 1:1 equivalent.~~

~~2. for a CRPR ranked 1B and 2 species where 10% or more of the known population within 5 miles of the work area is impacted, mitigation must be provided at 1:1 equivalent.~~

~~3. for a CRPR ranked CRPR of 3 or 4 species where 30% or more of the known population within 5 miles of the work area is impacted, mitigation must be provided at 1:1 equivalent.~~

~~4. Areas proposed for preservation and serving as compensatory mitigation for special status plant impacts must contain verified extant populations of the CRPR-ranked plants that would be impacted by the work areas. Mitigation areas shall be managed in perpetuity to encourage persistence and even expansion of the preserved target species.~~

MM 4.4-8: Preconstruction surveys shall be conducted by a qualified biologist within suitable habitat to locate active breeding or wintering burrowing owl burrows no fewer than 14 days prior to commencement of ground-disturbing activities. Surveys need not be conducted for all areas of suitable habitat at one time; they may be phased so that surveys occur within 14 days prior to that portion of the project site disturbed.

The survey methodology shall be consistent with the methods outlined in the 2012 CDFW Staff Report on Burrowing Owl Mitigation and shall consist of walking parallel transects 7 to 20 meters apart within suitable habitat, adjusting for vegetation height and density as needed, and noting any potential burrows with fresh burrowing owl sign or presence of burrowing owls. As each burrow is investigated, surveying biologists shall also look for signs of American badger and San Joaquin kit fox. Copies of the survey results shall be submitted to the Kern County Planning and Natural Resources Department.

If burrowing owls are detected onsite, the avoidance buffers outlined below should be established. These buffers 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, 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. Visible markers shall be placed near the identified burrow(s) to ensure that machinery does not collapse the burrow(s).

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)				

If burrow avoidance is infeasible during the non-breeding season ~~or during the breeding season (February 1 through August 31)~~ where resident owls have not yet begun egg laying or incubation, or where the juveniles are foraging independently and capable of independent survival, a qualified biologist shall implement a passive relocation program in accordance with Appendix E1 (i.e., Example Components for Burrowing Owl Artificial Burrow and Exclusion Plans) of the 2012 CDFW Staff Report on Burrowing Owl Mitigation. No burrowing owl burrow exclusion is permitted during breeding season (February 1 - August 31 or while breeding behavior is exhibited), unless approved by CDFW.

If passive relocation is required, a qualified biologist shall prepare a Burrowing Owl Exclusion and Mitigation Plan and a Mitigation Land Management Plan in accordance with the 2012 CDFW Staff Report on Burrowing Owl Mitigation, for review by CDFW prior to passive relocation activities. The Mitigation Land Management Plan shall include a requirement for the permanent conservation of offsite Burrowing Owl Passive Relocation Compensatory Mitigation. At a minimum, the following recommendations shall be implemented:

- a. Temporarily disturbed habitat shall be restored, if feasible, to pre-project conditions including decompacting soil and revegetating.
- b. Permanent impacts to nesting, occupied and satellite burrows and/or burrowing owl habitat shall be mitigated such that the habitat acreage, number of burrows and burrowing owl impacted are replaced based on a site-specific analysis and shall include permanent conservation of similar vegetation communities (grassland, scrublands, desert, urban, and agriculture) to provide for burrowing owl nesting, foraging, wintering, and dispersal (i.e., during breeding and non-breeding seasons) comparable to or better than that of the impact area, and with sufficiently large acreage, and presence of fossorial mammals.
- c. Permanently protect mitigation land through a conservation easement, ~~deed restriction, or similar mechanism deemed to~~ with a nonprofit conservation organization or public agency with a conservation mission in adherence with CA Civil Code Section 815.3. If the project is located within the service area of a CDFW-approved burrowing owl conservation bank, the project operator may purchase available burrowing owl conservation bank credits. Land identified to mitigate for passive relocation of burrowing owl may be combined with other offsite mitigation requirements of the proposed project if the compensatory habitat

is deemed suitable to support the species. The appropriate compensatory mitigation ratio shall be established in consultation with CDFW.

MM 4.4-9: Preconstruction surveys shall be conducted by a qualified biologist of all potential nesting habitat within the project site no more than ~~44~~ 30 days prior to commencement of construction activities within the project site during the ~~breeding season~~ nesting bird season (i.e., February 1 to ~~September 15~~ August 31). Surveys need not be conducted for all areas of suitable habitat at one time; they may be phased so that surveys occur within 10 days prior to that portion of the project site disturbed. Surveys shall cover a sufficient area around the work site to identify nests and determine their status. A sufficient area means any area potentially affected by a project. In addition to direct impacts (i.e., nest destruction), noise, vibration, odors, and movement of workers or equipment could also affect nests. Prior to initiation of construction activities, a qualified biologist shall conduct a survey to establish a behavioral baseline of all identified nests and confirm site conditions have not changed. If construction is scheduled to commence during the non-nesting season for any nesting birds (i.e., September 1 to January 31), no preconstruction surveys or additional measures are required.

The surveying biologist must be qualified to determine the status and stage of nesting by migratory birds and all locally breeding raptor species without causing intrusive disturbance.

The raptor survey shall focus on potential nest sites (e.g., large trees, windrows) within a 0.5-mile buffer around the project site.

A tricolored blackbird nest colony survey shall occur within suitable habitat. Tricolored blackbird nesting season in the San Joaquin Valley is March to mid-June, though most colonies begin nesting in late March. Suitable habitat shall be assessed in March with three follow-up surveys occurring April through June, comprising a total of four surveys of each location. The Swainson's hawk nest survey shall focus on potential nest sites within a 5-mile buffer around the project site and follow the 2010 Swainson's hawk protocol surveys (SWHA Survey Protocols, Impact Avoidance, and Minimization Measures, 2010).

Surveys shall encompass the project site plus the potential nest buffers as listed above, where access has been granted.

If active nests are found, a suitable no-disturbance buffer (e.g., 500 feet for common raptors; 0.5 miles for Swainson's hawk; 250 feet for non-raptor species) shall be established around active nests until a qualified biologist has determined that the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). For non-listed species, encroachment into the avoidance buffer may occur at the discretion of a qualified biologist provided the biologist has monitored the nest prior to construction to establish a behavioral baseline and continues to monitor the nest during construction to ensure the nest is not negatively affected. Buffer distances can also be adjusted if there is a compelling biological reason such as when a construction area would be concealed from a nest site by topography of vegetation as determined by a qualified biologist. For State-listed species, consultation with CDFW shall occur prior to encroachment into the aforementioned buffers.

Compensation for loss of Swainson's hawk foraging habitat will be based on the results of the protocol SWHA survey (SWHA TAC 2000) as described in CDFW's "Staff Report Regarding Mitigation for Impacts to Swainson's Hawks" (CDFG 1994). If an active Swainson's hawk nest is detected and a ½-mile no disturbance buffer is not feasible, CDFW will be consulted to discuss how to implement the project and avoid take.

Section 4.4, Biological Resources, Page 4.4-37

MM 4.4-11: To minimize impacts to Crotch's Bumble Bees (CBB), areas within the project site containing one or more of the following habitat requisites shall be surveyed by a qualified biologist between March 1 and June 30: flowering vegetation, potential preferred nectar plants, small mammal burrows, bunch grasses, thatch, brush piles, old bird nests, or dead trees. A minimum of two surveys shall be completed between the hours of 0800 and 1600 when temperatures are between 65°F and 90°F, and will not be conducted during inclement weather conditions (e.g., foggy, raining, drizzling, or sustained winds greater than 8 mph). Surveyors will photograph potential CBB from various angles to ensure recordation of key identifying characteristics. Surveys shall follow the CDFW guidelines as outlined in Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species.

Section 4.4, Biological Resources, Page 4.4-37

MM 4.4-12: No more than (30) days prior to the issuance of any grading or building permits, decommission of the site or the start of ground disturbance activities or decommissioning, a qualified biologist knowledgeable in the identification of all special-status wildlife species shall conduct a pre-construction survey of areas proposed for disturbance within the project site and 50-foot buffer (where legally accessible) to determine if any American badger are present. If, as a result of this pre-construction survey it is determined that American Badger are present, the following measures shall be implemented:

- a. If signs of American Badger are identified on-site, the project proponent shall establish appropriate buffers limiting all construction activities. Buffers for burrows shall be as follows:
 - i. Potential or Atypical den- 50 feet
 - ii. Known den – 100 feet
 - iii. Natal or pupping den – 500 feet, unless otherwise specified by CDFW.

Section 4.4, Biological Resources, Page 4.4-38

MM 4.4-13: Nesting Bird Monitoring and/or Avoidance Buffer. Once construction begins, a qualified biologist shall continuously monitor nests to detect behavioral changes resulting from the project. If behavioral changes occur, the work causing that change will cease and CDFW may be consulted if necessary for additional avoidance and minimization measures if work must proceed and behavior does not return to the identified baseline condition. If continuous monitoring of identified nests by a qualified biologist is not feasible, 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 shall be

implemented. 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 parental care for survival. Variance from these no-disturbance buffers is possible when there is a compelling biological or ecological reason to do so, such as when the construction area would be concealed from a nest site by topography. A qualified biologist shall advise and support any variance from these buffers.

Section 4.4, Biological Resources, Page 4.4-39 – 4.4-40

MM 4.4-144.4-12: Prior to issuance of any grading or building permit, the project proponent/operator shall submit a final Jurisdictional Delineation report. A copy of this report shall also be provided to the Central Valley Regional Water Quality Control Board, CDFW, and the County. The report shall include information as shown below as a plan if necessary and shall outline compliance to the following:

- a. Delineation of all jurisdictional features at the project site. Potential jurisdictional features (ephemeral drainages) within the project boundary identified in the jurisdictional delineation report that are not anticipated to be directly impacted by project related activities shall be avoided. This may be shown in plan form.
- b. Any material/spoils generated from project activities shall be located away from jurisdictional areas or special-status habitat and protected from storm water run-off using temporary perimeter sediment barriers such as berms, silt fences, fiber rolls, covers, sand/gravel bags, and straw bale barriers, as appropriate.
- c. Equipment containing hazardous liquid materials shall be stored on impervious surfaces or plastic ground covers to prevent any spills or leakage from contaminating the ground and generally at least 50 feet from the delineated boundary of jurisdictional water features.
- d. Any spillage of material will be stopped if it can be done safely. The contaminated area will be cleaned and any contaminated materials properly disposed. For all spills, the project foreman or designated environmental representative will be notified.

Section 4.4, Biological Resources, Page 4.4-39 – 4.4-40

MM 4.4-154.4-13: Prior to ground disturbance activities that would impact aquatic features, the project proponent/operator shall be subject to provisions as identified below:

- a. The project proponent/operator shall file a complete Report of Waste Discharge with the RWQCB to obtain Waste Discharge Requirements and shall also consult with CDFW on the need for a streambed alteration agreement. Copies of reports shall be submitted to the County.
- b. Based on consultation with RWQCB and CDFW, if permits are required for the project site, appropriate permits shall be obtained prior to disturbance of jurisdictional resources.

- c. Compensatory mitigation for impacts to unvegetated streambeds/washes shall be identified prior to disturbance of the features at a minimum 1:1 ratio, as approved by the RWQCB or CDFW either through onsite or offsite mitigation, or purchasing credits from an approved mitigation bank.
- d. The project proponent/operator shall comply with the compensatory mitigation required and proof of compliance, along with copies of permits obtained from RWQCB and/or CDFW, which shall be provided to the County.
- e. A Habitat Mitigation and Monitoring Plan (HMMP) shall be prepared that outlines the compensatory mitigation in coordination with the RWQCB and CDFW.
 1. If onsite mitigation is proposed, the HMMP shall identify those portions of the site, such as relocated drainage routes, that contain suitable characteristics (e.g., hydrology) for restoration. Determination of mitigation adequacy shall be based on comparison of the restored habitat with similar, undisturbed habitat in the site vicinity (such as upstream or downstream of the site).
 2. The HMMP shall include remedial measures in the event that performance criteria are not met.
 3. If mitigation is implemented offsite, mitigation lands shall be comprised of similar or higher quality and preferably located in Kern County. Offsite land shall be preserved through a deed restriction or conservation easement and the HMMP shall identify an approach for funding assurance for the long-term management of the conserved land. Alternatively, the applicant may purchase credits from an approved mitigation bank.
 4. Copies of any coordination, permits, etc., with RWQCB and CDFW shall be provided to the County.

Section 4.4, Biological Resources, Page 4.4-42 – 4.4-43

MM 4.4-164.4-14: Movement Corridors shall be established and managed for the benefit of sensitive species movement in compliance with agency recommendations. A qualified biologist shall be involved with the design or provide approval of the plan to ensure areas to ensure wildlife movement exist within and around the project site. The use of movement corridors shall be a part of the operations plan and be ensured for the duration and perpetuity of the project.

7.3 Responses to Comments

A list of agencies and interested parties who have commented on the Draft EIR is provided below. No individuals commented on the Draft EIR. A copy of each numbered comment letter and a lettered response to each comment are provided following this list.

Federal Agencies

No comment letters from federal agencies were received.

State Agencies

Comment Letter 1: California Department of Fish and Wildlife (CDFW) (December 7, 2023)

Local Agencies

Comment Letter 2: Kern County Public Works Department Floodplain Management Section (October 26, 2023)

Comment Letter 3: Kern County Fire Department (KCFD) (October 26, 2023)

Comment Letter 4: Southern California Gas (SoCalGas) (October 27, 2023)

Comment Letter 5: Kern County Superintendent of Schools (KCSOS) (October 27, 2023)

Comment Letter 6: Kern County Public Works Department (October 31, 2023)

Comment Letter 7: Pacific Gas and Electric Company (PG&E) (December 3, 2023)

Interested Parties

Comment Letter 8: Defenders of Wildlife, California Program Office (December 4, 2023)

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State Agencies

Comment Letter 1: California Department of Fish and Wildlife (CDFW)

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State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
1234 East Shaw Avenue
Fresno, California 93710
(559) 243-4005
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



December 07, 2023

Terrance Smalls, Supervising Planner
Kern County Planning and Natural Resources Department
2700 M Street, Suite 100
Bakersfield, California 93301
(661) 862-8607
smallst@kerncounty.com

Subject: **Jasmine Solar Project by SF Jasmine, LLC**
Draft Environmental Impact Report (DEIR)
State Clearinghouse No. 2022060193

Dear Terrance Smalls:

The California Department of Fish and Wildlife (CDFW) received a Draft Environmental Impact Report (DEIR) from Kern County Planning and Natural Resources Department (Kern County), as Lead Agency, for the Jasmine Solar Project by SF Jasmine, LLC (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

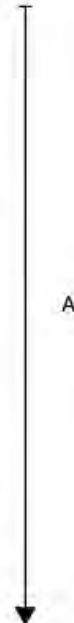
Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required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

¹ 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.

Conserving California's Wildlife Since 1870



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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.

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. 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 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).

Unlisted Species: Species of plants and animals need not be officially listed as Endangered, Rare, or Threatened (E, R, or T) on any State or Federal list to be considered E, R, or T under CEQA. If a species can be shown to meet the criteria for E, R, or T, as specified in the CEQA Guidelines section 15380, CDFW recommends it be fully considered in the environmental analysis for the Project.

As a responsible agency, CDFW is responsible for providing, as available, biological expertise during public agency environmental review efforts (e.g., CEQA), focusing specifically on project activities that have the potential to adversely affect fish and wildlife resources. CDFW provides recommendations to identify potential impacts and possible measures to avoid or reduce those impacts.

PROJECT DESCRIPTION SUMMARY

Proponent: SF Jasmine, LLC

Objective: The Project proposes to construct a photovoltaic solar facility with the associated infrastructure necessary to generate up to 70 megawatts (MW) of renewable energy, and a Battery Energy Storage System (BESS) capable of providing approximately 17 MW of power for 4 hours totaling 68 megawatt hours (MWh) of energy storage, on approximately 493 acres of privately-owned land. The Project study area consists of an approximate total of 527 acres and includes the Project solar facility and transmission line areas. The Project would be supported by a 70-kilovolt (kV) gen-tie overhead electrical transmission line(s) originating from an on-site substation and



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terminating at the nearby PG&E 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, substations, energy (battery) storage system, and operations and maintenance facilities.

Location: The Project site is located in southwestern Kern County, at the northwest corner of Copus Road and Old River Road, approximately four miles west of Interstate-5, 2.5 miles north of State Route 166, approximately 17 miles east of Taft, and approximately 20 miles southwest of downtown Bakersfield. Primary access to the project site is proposed off of Copus Road and Old River Road. The Project site occupies two privately owned parcels: Assessor's Parcel Number (APN) 295-131-12 and APN 295-132-15.

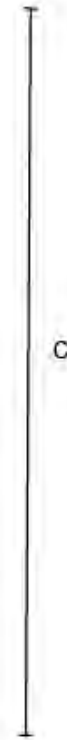
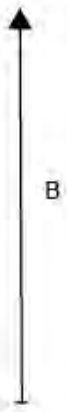
Timeframe: Construction is anticipated to commence in 2024 and would extend for approximately 12 months.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist Kern County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct, indirect, and cumulative impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the CEQA document.

Aerial imagery of the Project boundary and its surroundings show the area contains agricultural lands, including tilled agricultural fields consisting of wheat (*Triticum aestivum*) and alfalfa (*Medicago sativa*), vineyards, orchards, ruderal habitat, and developed lands. Based on a review of the Project description, a review of California Natural Diversity Database (CNDDDB) records, and the surrounding habitat several special-status species could potentially be impacted by Project activities.

Currently, the DEIR acknowledges that the Project area is within the geographic range of several special-status animal species and proposes specific mitigation measures to reduce impacts to less than significant. CDFW has concerns about the ability of some the proposed mitigation measures to reduce impacts to less than significant and avoid unauthorized take for several special-status animal species, including the State threatened and federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*); and the State species of special concern American badger (*Taxidea taxus*) and burrowing owl (*Athene cunicularia*). CDFW also has concerns with potential impacts to migratory and non-migratory nesting birds, including the State watch list species California horned lark (*Eremophila alpestris actia*).



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San Joaquin Kit Fox

Mitigation Measure MM 4.4-3 states that, "To enable San Joaquin kit fox and other wildlife (e.g. American badger) to pass through the project site after construction, the security fence and any permanent interior fencing shall be made a wildlife friendly design that meets the goal of allowing wildlife to move freely through the project site during operation by leaving 4- to 7-inch openings or portals in the fence or raising the bottom of the fence up 5 to 7 inches from the ground leaving a gap between the fence mesh and the ground. In the latter case, the bottom of the fabric shall be knuckled (wrapped back to form a smooth edge) to protect wildlife that passos under the fence." CDFW concurs with this measure but recommends that the style of fencing selected is the type that is raised four to six inches above ground level and knuckled back to form a smooth edge and permeability for wildlife. CDFW does not recommend the use of openings or portals.

Mitigation Measure MM 4.4-6 states that, "Preconstruction surveys shall be conducted by a qualified biologist for the presence of San Joaquin kit fox dens within 14 days prior to commencement of construction activities. Surveys need not be conducted for all areas of suitable habitat at one time; they may be phased so that surveys occur within 14 days prior to that portion of the project site disturbed." CDFW concurs with conducting preconstruction surveys for San Joaquin kit fox (SJKF) dens prior to construction given that SJKF are known to occur in the Project Area but recommends that these den surveys include the Project site and a 500-foot buffer around the Project site.

Mitigation Measure MM 4.4-6 continues by stating that, "If avoidance of the potential dens is not possible, the following measures are required to avoid potential adverse effects to the San Joaquin kit fox:

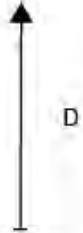
1. If the qualified biologist determines that potential dens are inactive, the biologist shall excavate these dens by hand with a shovel to prevent San Joaquin kit foxes from re-using them during construction.
2. If the qualified biologist determines that potential dens may be active, an onsite passive relocation program shall be implemented. This program shall consist of excluding San Joaquin kit foxes from occupied burrows by installation of one-way doors at burrow entrances, monitoring of the burrow for 7 days to confirm usage has been discontinued, and excavation and collapse of the burrow to prevent reoccupation. After the qualified biologist determines that San Joaquin kit foxes have stopped using the dens within the project boundary, the dens shall be hand-excavated with a shovel to prevent re-use during construction."

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CDFW does not concur with this measure, as excavation of active SJKF dens would result in unauthorized take of the species. As such, if preconstruction surveys detect SJKF or SJKF known dens, and the buffers outlined in MM 4.4-6 are unable to be followed, it is strongly recommended that the Project proponent consult with CDFW prior to any ground disturbing activities to obtain an ITP pursuant to Fish and Game Code section 2081 subdivision (b) to avoid any unauthorized take of SJKF.



American Badger

The Biological Resources Assessment (BRA), conducted in support of the Project DEIR, notes that American badger (AMBA) is not expected to occur as, "No suitable habitat for the species exists within the study area or regional vicinity". CDFW does not concur that the species is not expected to occur and that there is no suitable habitat. AMBA occupy sparsely vegetated land cover with dry, friable soils to excavate dens, which they use for cover, and that support fossorial rodent prey populations (i.e., ground squirrels, pocket gophers, etc.) (Zeiner et. al 1990). They are also able to burrow in active agricultural areas. While the DEIR currently notes that the Project site is comprised of agricultural lands, there is a strong likelihood that AMBA could utilize the disturbed soils within the Project site during construction, and over the life of the Project. Additionally, while no CNDDDB occurrences have been documented within the immediate vicinity (CDFW 2023), CDFW is aware of several direct observations of AMBA adjacent to the Project site.



As the Project site is within the known geographic range of the species, there have been direct observations of AMBA within the Project vicinity, and the Project site is anticipated to contain suitable habitat over the life of the Project, CDFW recommends the following:

Recommended Mitigation Measure 1: AMBA Surveys Prior to Construction

CDFW recommends that a qualified biologist conduct focused surveys for American badger and their requisite habitat features (dens) immediately prior to construction to evaluate potential impacts resulting from ground- and vegetation-disturbance.

Recommended Mitigation Measure 2: AMBA Avoidance Buffer

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

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Burrowing Owl

Mitigation Measure MM 4.4-8 states that, "If burrow avoidance is infeasible during the non-breeding season or during the breeding season (February 1 through August 31) where resident owls have not yet begun egg laying or incubation, or where the juveniles are foraging independently and capable of independent survival, a qualified biologist shall implement a passive relocation program in accordance with Appendix E1 (i.e., Example Components for Burrowing Owl Artificial Burrow and Exclusion Plans) of the 2012 CDFW Staff Report on Burrowing Owl Mitigation." While CDFW concurs with the majority of Mitigation Measure 4.4-8 it is recommended that burrowing owl (BUOW) passive relocation occur only during the non-breeding season to avoid potential violations of Fish and Game Code Sections 3503 (taking and destroying eggs and nests), 3503.5 (taking bird of prey or their eggs), and/or 3513 (taking of migratory non game birds).



Nesting Birds

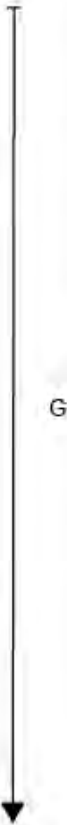
Mitigation Measure MM 4.4-9 states that:

"Preconstruction surveys shall be conducted by a qualified biologist of all potential nesting habitat within the project site no more than 14 days prior to commencement of construction activities within the project site during the breeding season (i.e., February 1 to August 31). Surveys need not be conducted for all areas of suitable habitat at one time; they may be phased so that surveys occur within 10 days prior to that portion of the project site disturbed. If construction is scheduled to commence during the non-nesting season for any nesting birds (i.e., September 1 to January 31), no preconstruction surveys or additional measures are required.

The surveying biologist must be qualified to determine the status and stage of nesting by migratory birds and all locally breeding raptor species without causing intrusive disturbance.

The raptor survey shall focus on potential nest sites (e.g., large trees, windrows) within a 0.5-mile buffer around the project site.

A tricolored blackbird nest colony survey shall occur within suitable habitat. Tricolored blackbird nesting season in the San Joaquin Valley is March to mid-June, though most colonies begin nesting in late March. Suitable habitat shall be assessed in March with three follow-up surveys occurring April through June, comprising a total of four surveys of each location. The Swainson's hawk nest survey shall focus on potential nest sites within a 5-mile buffer around the project site and follow the 2010 Swainson's hawk protocol surveys (SWHA Survey Protocols, Impact Avoidance, and Minimization Measures, 2010).



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Surveys shall encompass the project site plus the potential nest buffers as listed above, where access has been granted.

If active nests are found, a suitable no disturbance buffer (e.g., 500 feet for common raptors; 0.5 miles for Swainson's hawk; 250 feet for non-raptor species shall be established around active nests until a qualified biologist has determined that the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). For non-listed species, encroachment into the avoidance buffer may occur at the discretion of a qualified biologist provided the biologist has monitored the nest prior to construction to establish a behavioral baseline and continues to monitor the nest during construction to ensure the nest is not negatively affected. Buffer distances can also be adjusted if there is a compelling biological reason such as when a construction area would be concealed from a nest site by topography of vegetation as determined by a qualified biologist. For State-listed species, consultation with CDFW shall occur prior to encroachment into the aforementioned buffers.

Compensation for loss of Swainson's hawk foraging habitat will be based on the results of the protocol SWHA survey (SWHA TAC 2000) as described in CDFW's "Staff Report Regarding Mitigation for Impacts to Swainson's Hawks" (CDFG 1994). If an active Swainson's hawk nest is detected and a 1/2-mile no disturbance buffer is not feasible, CDFW will be consulted to discuss how to implement the project and avoid take."

CDFW does not concur that Mitigation Measure MM 4.4-9 is sufficient to mitigate impacts to nests during the bird breeding season, particularly for the portion of the measure which directs surveys for active nests no more than 10 days prior to the start of construction and defines the breeding season as ending on August 31. As such, CDFW recommends the following:

Recommended Mitigation Measure 3: Nesting Bird Surveys Prior to Construction

If ground-disturbing activities occur during the nesting bird season (February 1 – September 15), CDFW recommends that a qualified biologist conduct pre-activity surveys for active nests no more than one week prior to the start of ground 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 work site to identify nests and determine their status. A sufficient area means any area potentially affected by a project. In addition to direct impacts (i.e., nest destruction), noise, vibration, odors, and movement of workers or equipment could also affect nests. Prior to initiation of construction activities, CDFW recommends a



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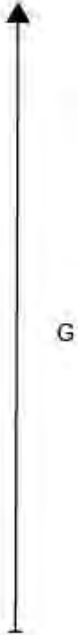
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qualified biologist conduct a survey to establish a behavioral baseline of all identified nests.

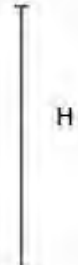
Recommended Mitigation Measure 4: Nesting Bird Monitoring and/or Avoidance Buffer

Once construction begins, CDFW recommends a qualified biologist continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends the work causing that change to cease and that CDFW be consulted for additional avoidance and minimization measures. If continuous monitoring of identified nests by a qualified 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 parental care for survival. Variance from these no-disturbance buffers is possible when there is a 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 biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.



Editorial Comments and/or Suggestions

Federally Listed Species: CDFW recommends consulting with the United States Fish and Wildlife Service (USFWS) regarding potential impacts to federally listed species including but not limited to SJKF. 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 Project activities.



Cumulative Impacts: Currently, the DEIR has a very broad analysis of cumulative impacts to biological resources and does not adequately evaluate impacts to specific resources. As such, the conclusions reached in the cumulative impacts analysis are not supported by substantial evidence and the analysis lacks sufficient rigor and transparency to adequately develop reasonable and feasible measures to reduce harm. To address this lack of evidence, CDFW recommends that a cumulative impact analysis be conducted for all biological resources that will either be significantly or potentially significantly impacted by implementation of the Project, including those whose impacts are determined to be less than significant with mitigation incorporated or for those resources that are rare or in poor or declining health and will be impacted by the



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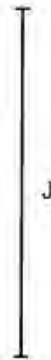
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Project, even if those impacts are relatively small (i.e., less than significant), CDFW recommends cumulative impacts be analyzed for the following species using an acceptable methodology to evaluate the impacts of past, present, and reasonably foreseeable future projects on resources and be focused specifically on the resource, not the Project. An appropriate resource study area should be identified and mapped for each resource being analyzed and utilized for this analysis. CDFW recommends a scientifically sound cumulative impacts analysis be conducted for the following species: SJKF, Swainson's hawk (SWHA), AMBA, BUOW, and California horned lark. CDFW staff is available for consultation in support of cumulative impacts analyses as a trustee and responsible agency under CEQA.



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. €). Accordingly, please report any special-status species and natural communities detected during Project surveys to the 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. 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

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).



Response to Comment Letter 1: California Department of Fish and Wildlife (CDFW)

A-C: Comments A, B, and C are introductory materials related to the Jasmine Solar Project Draft EIR that do not require any responses.

D: This comment pertains to San Joaquin kit fox (*Vulpes macrotis mutica*; SJKF) and Mitigation Measures MM 4.4-3 and MM 4.4-6. The comment concurs with Mitigation Measure MM 4.4-3, and expresses concern that if preconstruction surveys detect SJKF or SJKF known dens, and the buffers outlined in Mitigation Measure MM 4.4-6 are unable to be followed, it is strongly recommended that the project proponent consult with CDFW prior to any ground disturbing activities to obtain an ITP pursuant to Fish and Game Code section 2081 subdivision (b) to avoid any unauthorized take of SJKF.

With respect to Mitigation Measure MM 4.4-3, CDFW recommends that the style of fencing selected is the type that is raised four- to six-inches above ground level and knuckled back to form a smooth edge and permeability for wildlife. In response to this comment, MM 4.4-3 from Section 4.4, *Biological Resources*, on Pages 4.4-30 – 4.4-32 in the Draft EIR would be revised as follows:

MM 4.4-3: As applicable during construction, operations and maintenance, and decommissioning, the project proponent/operator and/or contractor(s) shall implement the general avoidance and protective measures described below.

- a. Prior to conducting vegetation clearing or grading activities associated with construction or decommissioning, a qualified biologist or biological monitor that has been approved by the qualified biologist shall perform pre-construction visual surveys of the area immediately prior to conducting these activities to ensure that no special-status animals are present. The qualified biologist or biological monitor shall monitor all initial construction and decommissioning ground disturbance activities. A report of those activities shall be submitted to the Kern County Planning and Natural Resources Department within 30 days of completion of activities.
- b. Sensitive biological resources (i.e., special-status species, jurisdictional drainages, nesting birds, etc.) within proposed impact areas, including solar fields, generator-tie lines, staging areas, access routes, and areas of disposal or temporary placement of spoils shall be delineated with stakes and/or flagging prior to construction to avoid sensitive biological resources where possible. Construction-related activities outside of the planned impact areas shall be avoided.
- c. Access roads that are planned for use during construction shall not extend beyond the planned impact area. All vehicle traffic shall be contained within the planned impact areas or in previously disturbed areas. Where new access routes are required, the route will be clearly marked (i.e., flagged and/or staked) prior to construction.
- d. The project proponent/operator shall minimize the areas of disturbance. Parking areas, new roads, staging, storage, excavation, and disposal site locations shall be confined to the smallest areas possible. These areas shall be

demarcated and disturbance activities, vehicles, and equipment shall be confined to these areas.

- e. Spoils shall be stockpiled in disturbed areas that lack native vegetation to the maximum extent practicable. Best Management Practices shall be employed to prevent erosion in accordance with the project's approved Stormwater Pollution Prevention Plan (see Section 4.7, Geology and Soils, for more details on Stormwater Pollution Prevention Plan requirements). All detected erosion shall be remedied as described in the Erosion Control Plan of the Stormwater Pollution Prevention Plan. Spoils that have been stockpiled and inactive for greater than 10 days shall be inspected by a qualified biologist for signs of special-status wildlife before moving or disturbing the spoils.
- f. To prevent inadvertent entrapment of San Joaquin kit foxes, American badgers, or other animals, all excavated, steep-walled holes or trenches more than 2 feet deep shall be covered with plywood or similar materials at the close of each working day. If holes or trenches cannot be covered, one or more escape ramps constructed of earthen fill or wooden planks, no less than 12 inches wide and secured at the top, shall be placed a minimum of every 100 feet within the open trench. Covered and non-covered holes or trenches shall be thoroughly inspected for trapped animals by a qualified biologist or their biological monitor at the beginning and end of each day. Immediately before such holes or trenches are filled, they shall again be thoroughly inspected by trained staff approved by the retained qualified biologist for trapped animals. If trapped animals are observed, escape ramps or structures shall be installed immediately to allow for their escape. If a listed species is trapped, the USFWS and/or CDFW, as appropriate for the species, and Kern County Planning and Natural Resources Department shall be contacted immediately.
- g. San Joaquin kit fox, burrowing owls, mammals, and nesting birds may use construction pipes, culverts, or similar structures for refuge or nesting. Therefore, all construction pipes, culverts, or similar structures with a diameter of four inches or greater that are stored at the site for one or more overnight periods, and without endcaps, shall be thoroughly inspected by a qualified biologist or the designated biological monitor for special-status wildlife or nesting birds before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If an animal is discovered inside a pipe, that section of pipe shall not be moved until a qualified biologist has been consulted and the animal has either moved from the structure on its own accord or until the animal has been captured and relocated by a qualified biologist holding the appropriate handling permits from the Resource Agencies.
- h. No vehicle or equipment parked on the project site shall be moved prior to inspecting the ground beneath the vehicle or equipment for the presence of wildlife. If present, the animal shall be left to move on its own.

- i. Vehicular traffic to and from the project site shall use existing routes of travel. Cross country vehicle and equipment use outside designated impact areas shall be prohibited.
- j. A speed limit of 15 miles per hour shall be enforced within the limits of the project. If night work occurs on the project, the speed limit will be 10 miles per hour.
- k. Fueling of equipment shall take place within existing roads. No refueling within or adjacent to drainages (within 150 feet) shall be permitted. Contractor equipment shall be checked for leaks prior to operation and repaired as necessary.
- l. Trash and food items shall be contained in closed containers to reduce the attractiveness to opportunistic predators such as common ravens, coyotes, and feral dogs.
- m. Workers shall be prohibited from bringing pets and firearms to the project site and from feeding wildlife.
- n. Intentional killing or collection of any plant or wildlife species shall be prohibited.
- o. No rodenticides shall be used on the project site.
- p. To enable San Joaquin kit fox and other wildlife (e.g. American badger) to pass through the project site after construction, the security fence and any permanent interior fencing shall be made a wildlife friendly design that meets the goal of allowing wildlife to move freely through the project site during operation by leaving ~~4 to 7~~ 4- to 6-inch gap from the bottom of the fencing material openings or portals in the fence or raising the bottom of the fence up 5 to 7 inches from the ground leaving a gap between the fence mesh and the ground. In the latter case, the bottom of the fabric shall be knuckled (wrapped back to form a smooth edge) to protect wildlife that passes under the fence. Perimeter fencing shall not be electrified.

With respect to Mitigation Measure MM 4.4-6, CDFW does not fully concur with the mitigation measure, stating that excavation of an active SJKF den would result in unauthorized take of the species. Should the buffers stated in Mitigation Measure MM 4.4-6 not be feasible CDFW recommends the project proponent enter consultation prior to any ground disturbing activities in order to avoid any unauthorized take. In response to this, MM 4.4-6 in Section 4.4, *Biological Resources*, on Page 4.4-33 and 4.4-34 of the Draft EIR will be revised as follows:

MM 4.4-6: Preconstruction surveys shall be conducted by a qualified biologist for the presence of San Joaquin kit fox dens within 14 days prior to commencement of construction activities. Surveys need not be conducted for all areas of suitable habitat at one time; they may be phased so that surveys occur within 14 days prior to that portion of the project site disturbed.

- a. If potential dens are observed and avoidance is feasible, the following buffer distances shall be established prior to construction activities:

San Joaquin kit fox potential den: 50 feet.

San Joaquin fox active den: 100 feet.

San Joaquin fox natal den: 500 feet.

- b. If avoidance of the potential dens is not possible the project proponent shall consult with CDFW prior to any ground disturbing activities to avoid any unauthorized take of SJKF, ~~the following measures are required to avoid potential adverse effects to the San Joaquin kit fox:~~

~~1. If the qualified biologist determines that potential dens are inactive, the biologist shall excavate these dens by hand with a shovel to prevent San Joaquin kit foxes from re-using them during construction.~~

~~2. If the qualified biologist determines that potential dens may be active, an onsite passive relocation program shall be implemented. This program shall consist of excluding San Joaquin kit foxes from occupied burrows by installation of one way doors at burrow entrances, monitoring of the burrow for 7 days to confirm usage has been discontinued, and excavation and collapse of the burrow to prevent reoccupation. After the qualified biologist determines that San Joaquin kit foxes have stopped using the dens within the project boundary, the dens shall be hand excavated with a shovel to prevent re-use during construction.~~

E: This comment pertains to American Badger (*Taxidea taxus*; AMBA). The commenter does not concur that the species is not expected to occur within the boundaries of the project site, nor does it agree that the project site offers no suitable habitat for the species. CDFW states that there have been several direct observations of AMBA adjacent to the project site. Additionally, the comment states that the AMBA typically occupy sparsely vegetated land cover with dry, friable soils and are known to burrow in active agricultural areas.

CDFW recommends that a qualified biologist conduct focused surveys for AMBA dens immediately prior to construction to evaluate potential impacts resulting from ground and vegetation disturbance. CDFW also recommends a 50-foot no-disturbance buffer be implemented around dens until it is determined that the den is not occupied. In response to this, MM 4.4-12 would be added on page 4.4-37 of Section 4.4, *Biological Resources*, of the Draft EIR as follows and mitigation measure number would be shifted accordingly:

MM 4.4-12: No more than (30) days prior to the issuance of any grading or building permits, decommissioning of the site or the start of ground disturbance activities or decommissioning, a qualified biologist knowledgeable in the identification of all special-status wildlife species shall conduct a pre-construction survey of areas proposed for disturbance within the project site and 50-foot buffer (where legally accessible) to determine if any American badger are present. If, as a result of this pre-construction survey it is determined that American Badger are present, the following measures shall be implemented:

- a. If signs of American Badger are identified on-site, the project proponent shall establish appropriate buffers limiting all construction activities. Buffers for burrows shall be as follows:
 - i. Potential or Atypical den- 50 feet
 - ii. Known den – 100 feet
 - iii. Natal or pupping den – 500 feet, unless otherwise specified by CDFW.

F: This comment pertains to Burrowing Owls (*Athene cunicularia*; BUOW) and Mitigation Measure MM 4.4-8. The commenter states that they concur with the majority of Mitigation Measure MM 4.4-8, in particular the portions that deal with avoidance. However, CDFW recommends that BUOW passive relocation occur only during the non-breeding season, to avoid potential violations of Fish and Game Code Section 3503 (taking and destroying eggs and nests), 3503.5 (taking of bird of prey or their eggs), and/or 3513 (taking of migratory non game birds). In response to this comment, MM 4.4-8 on page 4.4-35 and 4.4-36 of Section 4.4, *Biological Resource*, of the Draft EIR would be revised as follows:

MM 4.4-8: Preconstruction surveys shall be conducted by a qualified biologist within suitable habitat to locate active breeding or wintering burrowing owl burrows no fewer than 14 days prior to commencement of ground-disturbing activities. Surveys need not be conducted for all areas of suitable habitat at one time; they may be phased so that surveys occur within 14 days prior to that portion of the project site disturbed.

The survey methodology shall be consistent with the methods outlined in the 2012 CDFW Staff Report on Burrowing Owl Mitigation and shall consist of walking parallel transects 7 to 20 meters apart within suitable habitat, adjusting for vegetation height and density as needed, and noting any potential burrows with fresh burrowing owl sign or presence of burrowing owls. As each burrow is investigated, surveying biologists shall also look for signs of American badger and San Joaquin kit fox. Copies of the survey results shall be submitted to the Kern County Planning and Natural Resources Department.

If burrowing owls are detected onsite, the avoidance buffers outlined below should be established. These buffers 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, 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. Visible markers shall be placed near the identified burrow(s) to ensure that machinery does not collapse the burrow(s).

Location	Time of Year	Level of Disturbance		
		Low	Medium	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)

If burrow avoidance is infeasible during the non-breeding season ~~or during the breeding season (February 1 through August 31)~~ where resident owls have not yet begun egg laying or incubation, or where the juveniles are foraging independently and capable of independent survival, a qualified biologist shall implement a passive relocation program in accordance with Appendix E1 (i.e., Example Components for Burrowing Owl Artificial Burrow and Exclusion Plans) of the 2012 CDFW Staff Report on Burrowing Owl Mitigation. No burrowing owl burrow exclusion is permitted during breeding season (February 1 - August 31 or while breeding behavior is exhibited), unless approved by CDFW.

If passive relocation is required, a qualified biologist shall prepare a Burrowing Owl Exclusion and Mitigation Plan and a Mitigation Land Management Plan in accordance with the 2012 CDFW Staff Report on Burrowing Owl Mitigation, for review by CDFW prior to passive relocation activities. The Mitigation Land Management Plan shall include a requirement for the permanent conservation of offsite Burrowing Owl Passive Relocation Compensatory Mitigation. At a minimum, the following recommendations shall be implemented:

- a. Temporarily disturbed habitat shall be restored, if feasible, to pre-project conditions including decompacting soil and revegetating.
- b. Permanent impacts to nesting, occupied and satellite burrows and/or burrowing owl habitat shall be mitigated such that the habitat acreage, number of burrows and burrowing owl impacted are replaced based on a site-specific analysis and shall include permanent conservation of similar vegetation communities (grassland, scrublands, desert, urban, and agriculture) to provide for burrowing owl nesting, foraging, wintering, and dispersal (i.e., during breeding and non-breeding seasons) comparable to or better than that of the impact area, and with sufficiently large acreage, and presence of fossorial mammals.
- c. Permanently protect mitigation land through a conservation easement, ~~deed restriction, or similar mechanism deemed to with~~ a nonprofit conservation organization or public agency with a conservation mission in adherence with CA Civil Code Section 815.3. If the project is located within the service area of a CDFW-approved burrowing owl conservation bank, the project operator may purchase available burrowing owl conservation bank credits. Land identified to mitigate for passive relocation of burrowing owl may be combined with other offsite mitigation requirements of the proposed project if the compensatory habitat is deemed suitable to support the species. The appropriate compensatory mitigation ratio shall be established in consultation with CDFW.

G: This comment pertains to Nesting birds and recommended mitigation measures for nesting bird preconstruction surveys and monitoring. The commenter states that they do not feel as though Mitigation Measure MM 4.4-9 is sufficient to mitigate impacts to nests during the bird breeding season. In response to this, MM 4.4-9 on page 4.4-36 and 4.4-37 of Section 4.4, *Biological*

Resources, of the Draft EIR would be revised and MM 4.4-13 would be added on page 4.4-38 as follows:

MM 4.4-9: Preconstruction surveys shall be conducted by a qualified biologist of all potential nesting habitat within the project site no more than ~~14~~ 30 days prior to commencement of construction activities within the project site during the ~~breeding season~~ nesting bird season (i.e., February 1 to September 15 ~~August 31~~). Surveys need not be conducted for all areas of suitable habitat at one time; they may be phased so that surveys occur within 10 days prior to that portion of the project site disturbed. Surveys shall cover a sufficient area around the work site to identify nests and determine their status. A sufficient area means any area potentially affected by a project. In addition to direct impacts (i.e., nest destruction), noise, vibration, odors, and movement of workers or equipment could also affect nests. Prior to initiation of construction activities, a qualified biologist shall conduct a survey to establish a behavioral baseline of all identified nests and confirm site conditions have not changed. If construction is scheduled to commence during the non-nesting season for any nesting birds (i.e., September 1 to January 31), no preconstruction surveys or additional measures are required.

The surveying biologist must be qualified to determine the status and stage of nesting by migratory birds and all locally breeding raptor species without causing intrusive disturbance.

The raptor survey shall focus on potential nest sites (e.g., large trees, windrows) within a 0.5-mile buffer around the project site.

A tricolored blackbird nest colony survey shall occur within suitable habitat. Tricolored blackbird nesting season in the San Joaquin Valley is March to mid-June, though most colonies begin nesting in late March. Suitable habitat shall be assessed in March with three follow-up surveys occurring April through June, comprising a total of four surveys of each location. The Swainson's hawk nest survey shall focus on potential nest sites within a 5-mile buffer around the project site and follow the 2010 Swainson's hawk protocol surveys (SWHA Survey Protocols, Impact Avoidance, and Minimization Measures, 2010).

Surveys shall encompass the project site plus the potential nest buffers as listed above, where access has been granted.

If active nests are found, a suitable no-disturbance buffer (e.g., 500 feet for common raptors; 0.5 miles for Swainson's hawk; 250 feet for non-raptor species shall be established around active nests until a qualified biologist has determined that the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). For non-listed species, encroachment into the avoidance buffer may occur at the discretion of a qualified biologist provided the biologist has monitored the nest prior to construction to establish a behavioral baseline and continues to monitor the nest during construction to ensure the nest is not negatively affected. Buffer distances can also be adjusted if there is a compelling biological reason such as when a construction area would be concealed from a nest site by topography of vegetation as determined by a qualified biologist. For State-

listed species, consultation with CDFW shall occur prior to encroachment into the aforementioned buffers.

Compensation for loss of Swainson's hawk foraging habitat will be based on the results of the protocol SWHA survey (SWHA TAC 2000) as described in CDFW's "Staff Report Regarding Mitigation for Impacts to Swainson's Hawks" (CDFG 1994). If an active Swainson's hawk nest is detected and a ½-mile no disturbance buffer is not feasible, CDFW will be consulted to discuss how to implement the project and avoid take

MM 4.4-13: Nesting Bird Monitoring and/or Avoidance Buffer

Once construction begins, a qualified biologist shall continuously monitor nests to detect behavioral changes resulting from the project. If behavioral changes occur, the work causing that change will cease and CDFW may be consulted if necessary for additional avoidance and minimization measures if work must proceed and behavior does not return to the identified baseline condition. If continuous monitoring of identified nests by a qualified biologist is not feasible, 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 shall be implemented. 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 parental care for survival. Variance from these no-disturbance buffers is possible when there is a compelling biological or ecological reason to do so, such as when the construction area would be concealed from a nest site by topography. A qualified biologist shall advise and support any variance from these buffers.

H: This comment includes editorial comments and suggestions pertaining to federally listed species. CDFW recommends consulting with USFWS regarding potential impacts to federally listed species, in particular the San Joaquin Kit Fox (SJKF). Take under the federal Endangered Species Act (ESA) is more broadly defined than CESA; take under ESA 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. The comment states that consultation with the USFWS, in order to comply with ESA, is advised well in advance of any ground-disturbing activities.

The County acknowledges the need for early consultation for take of listed species; however, no USFWS consultation is anticipated since mitigation measures will ensure the avoidance of take and no take of federally listed species is expected prior to or during construction. If federally listed species are detected during pre-construction surveys, then consultation with USFWS will commence. The comment has been noted for the record and revisions to the Draft EIR are not required.

I: The commenter states that the Draft EIR has a very broad analysis of cumulative impacts to biological resources and does not adequately evaluate impacts to specific resources. The commenter states an appropriate resources study area should be identified and mapped for each resource being analyzed and utilized for this analysis. They recommend that a cumulative impact analysis be conducted for all biological resources that will either be significantly or potentially

significantly impacted by implementation of the project. They also recommend that a cumulative impacts analysis be conducted for listed species and species of special concern.

The cumulative study area was defined through a description of existing conditions and cumulative projects. The cumulative impact analysis recognizes the inherent benefit of siting this project at a location immediately adjacent to an existing PG&E transmission corridor. Existing conditions capture the effects of past and existing projects and are described in Section 4.4.2, *Environmental Setting*. Current and future projects are described in Figure 3-15, *Cumulative Projects*, Table 1-4, *Summary of Significant and Unavoidable Project-Level and Cumulative Impacts*, and Table 3-4, *Cumulative Projects List*. The Draft EIR considered the potential cumulative effects of the project along with other current and reasonably foreseeable projects and found impacts to biological resources to be cumulatively considerable, significant and unavoidable, as discussed in Section 3.9.1, *Cumulative Projects*.

Section 3.9.1 presents a detailed analysis of these cumulative impacts and describes the means by which the mitigation measures would reduce the severity of impacts to the extent feasible. As noted in the project impact analysis, the project site does not provide habitat for most of the species listed in this comment. Therefore, a cumulative impact analysis for these species is not appropriate as per CEQA Guidelines, Section 15130, Discussion of Cumulative Impacts, “An EIR should not discuss impacts which do not result in part from the project evaluated in the EIR.” The cumulative impact analysis includes a discussion of the special-status wildlife species that currently utilize the project site and surrounding vicinity and loss of foraging and nesting habitat. As specified in the CEQA Guidelines, Section 15130, Discussion of Cumulative Impacts, “The discussion of cumulative impacts shall reflect the severity of the impacts and their likelihood of occurrence, but the discussion need not provide as great detail as is provided for the effects attributable to the project alone.” Therefore, the Draft EIR presents an adequate cumulative impact discussion for biological resources. No changes or modifications have been made to the Draft EIR in response to this comment.

- J:** This comment is noted for the record. Monitoring biologists will report special-status and natural communities detected to the CNDDDB as standard practice. No changes or modifications to the Draft EIR have been made in response to this comment.
- K:** CDFW filing fees will be paid at the time of filing the Notice of Determination in accordance with Fish and Game Code Section 711.4.

Local Agencies

Comment Letter 2: Kern County Public Works Department Floodplain Management Section

Office Memorandum

KERN COUNTY

To: Planning and Natural Resources
Department
Terrance Smalls

Date: October 26, 2023

From: Public Works Department
Floodplain Management Section
Kevin Hamilton, by Brian Blase

Phone: (661) 862-5098
Email: BlaseB@kerncounty.com

**Subject: Draft Environmental Impact Report
Jasmine Solar Project**

Our section has reviewed the attached subject documents and has the following comments:

The runoff of storm water from the site will be increased due to the increase in impervious surface generated by the proposed development.

The subject property is subject to flooding.

A

Therefore, this section recommends the following be included as conditions of approval for this project:

The applicant shall provide a plan for the disposal of drainage waters originating on site and from adjacent road right-of-ways (if required), subject to approval of the Public Works Department.

Associated flood hazard requirements will need to be incorporated into the design of this project per the Kern County Floodplain Management Ordinance.

B

Response to Comment Letter 2: Kern County Public Works Department Floodplain Management Section

- A:** The commenter notes that the project site is subject to flooding and that stormwater runoff from the site would increase due to the increase in impervious surfaces generated by the project. The Draft EIR acknowledges that project implementation would increase the amount of impervious surfaces on-site, which may result in a potential increase in stormwater runoff. However, the majority of the project site would remain pervious and would therefore continue to absorb precipitation. Such characteristics were evaluated in the Draft EIR pursuant to CEQA, as applicable; refer to Section 4.10, *Hydrology and Water Quality*, of the Draft EIR. The comments provided have been noted for the record, and no revisions to the Draft EIR are required.
- B:** The commenter requests that the project proponent submit a plan for the disposal of drainage waters originating on-site and from adjacent road rights-of-way, as well as incorporate flood hazard requirements into the project design per County standards, and that such actions be made Conditions of Approval for the project.

As analyzed in the Draft EIR, the site engineering and design plans for the project would conform to requirements of the Kern County Code of Building Regulations, the Kern County Development Standards, and the Floodplain Management Ordinance. Furthermore, site drainage plans would be required to comply with Division Four of the Kern County Development Standards, which provide guidelines including site development standards and mitigation, flood control requirements, erosion control, and on-site drainage flow requirements. Project conformance with such existing regulations pertaining to erosion and site drainage would neither alter the course of a stream or river nor result in substantial erosion on-site or off-site. As described in Section 4.10, *Hydrology and Water Quality*, of the Draft EIR, implementation of Mitigation Measures MM 4.10-1 which would require preparation and implementation of a stormwater pollution prevention plan, and MM 4.10-2, which would require preparation and implementation of a final hydrologic study and drainage plan, would reduce project impacts in this regard to less than significant and would be incorporated as Conditions of Approval for the project. The comments provided have been noted for the record, and revisions to the Draft EIR would not be required.

Comment Letter 3: Kern County Fire Department (KCFD)

**Office of the Fire Marshal
Kern County Fire Department
Fire Prevention Unit**



2820 M St. • Bakersfield, CA 93301 • www.kerncountyfire.org
Telephone 661-391-3310 • FAX 661-636-0466/67 • TTY Relay 800-735-2929

October 26, 2023

Kern County Planning and Natural Resources Department
2800 M St., Bakersfield, CA 93301
Attn.: Terrance Smalls

Re: Kern County Fire Department Comments Regarding Planning Department Project

To Whom It May Concern,

The Kern County Fire Department (KCFD), as the local fire authority, has received a request for comments regarding [Draft Environmental Impact Report-Jasmine Solar Facility Project](#). Upon initial review, it has been determined that all ground mounted solar array projects over 1MW will require Fire Department plan review prior to construction and meet requirements set forth in KCFD Solar Panel Standard. Solar array projects over 20MW will require special fee calculation from KCFD prior to permit issuance.

A

All Battery Energy Storage Systems must be applied for directly with KCFD for separate permitting and pre-construction approval. All proposed batteries must be UL9540A 2019 4th Edition tested for large scale burns to determine adequate design and mitigation measures. Additionally, the 24,000 gallon fire water tank and fire alarm annunciator panel (Incident Command Post) must be located a minimum of 300' upwind from the nearest battery enclosure. Site emergency response access for the storage yards is preferred to be placed upwind of battery enclosures based on the prevailing winds in the area of construction.

B

A more detailed review and project comments will be conducted when the building permit is obtained, and plans are submitted to KCFD.

C

Please feel free to call our Fire Prevention Office at (661) 391-3310 with any questions.

Respectfully,
Regina Arriaga
Fire Plans Examiner
Kern County Fire Department

Proudly Serving the Cities of Arvin, Bakersfield, Delano, Maricopa, McFarland, Ridgecrest, Shafter, Taft, Tehachapi, Wasco, and all Unincorporated Areas of Kern County

Response to Comment Letter 3: Kern County Fire Department (KCFD)

- A:** The commenter describes the Kern County Fire Department's (KCFD) local regulatory authority to enforce state and local codes related to fire protection and health and safety. The commenter states that the project will be required to meet standards set forth by the KCFD and to submit plans and obtain a permit from the KCFD for installation of a battery energy storage system. Additionally, the commenter indicates that the project would be subject to payment of applicable fees prior to permit issuance.
- B:** The commenter states requirements necessary for KCFD approval of permits. The County acknowledges the comments provided; such requirements as stated will be made Conditions of Approval for the project. This comment does not otherwise raise a substantive issue on the content of the Draft EIR. The comments provided have been noted for the record, and no revisions to the Draft EIR are required.
- C:** The commenter states that the KCFD will provide more detailed review comments at the time of KCFD plan review and building permit issuance. This comment does not raise a substantive issue on the content of the Draft EIR. The comments provided have been noted for the record, revisions to the Draft EIR are not required.

Comment Letter 4: Southern California Gas (SoCalGas)



Transmission Technical
Services Department

9400 Oakdale Ave
Chatsworth, CA 91311
SC9314

October 27, 2023

Terrance Smalls
Kern County Planning and Natural Resources Department
smallst@kerncounty.com

**Subject: JASMINE
SOLAR FACILITY PROJECT BY SF JASMINE, LLC (PP22401)**

DCF: 2425-23NC

The Transmission Department of SoCalGas does not operate any facilities within your proposed improvement. However, the Distribution Department of SoCalGas may maintain and operate facilities within your project scope.

To assure no conflict with the Distribution’s pipeline system, please e-mail them at:

NorthwestDistributionUtilityRequest@semprautilities.com

|
A
|

Best Regards,
Nerses Papazyan
SoCalGas Transmission Technical Services
SoCalGasTransmissionUtilityRequest@semprautilities.com

Response to Comment Letter 4: Southern California Gas (SoCalGas)

- A:** The comment states that the Transmission Department of SoCalGas does not operate any facilities within the project site. The comment states that the Distribution Department of SoCalGas may have facilities and recommends contacting SoCalGas to avoid potential conflicts with the project. This comment does not raise a substantive issue on the content of the Draft EIR analysis and does not directly apply to the CEQA process. Therefore, the comment has been noted for the record and no changes to the document would be required.

Comment Letter 5: Kern County Superintendent of Schools (KCSOS)



October 27, 2023

Kern County Planning Department
Attn: Terrance Smalls, Supervising Planner
2700 M Street, Suite 100
Bakersfield, CA 93301

Our File No.: CO23-0104

RE: **DEVELOPER FEES FOR:** Draft EIR Jasmine Solar, Map No. 160-31
(Northwest corner of Old River Rd. and Copus Rd.)

Dear Mr. Smalls,

This office represents the Lakeside Union Elementary and Kern High School Districts with regard to the imposition of school facility fees, and appreciates the opportunity to respond on behalf of the districts regarding the proposed project. This letter is limited to addressing the possible effects which the project might have on school facilities created by students attributable to the project. It is not intended to address other possible environmental concerns which might be identified by the district(s) after reviewing it.

A

It is our determination that the above-mentioned project regarding the Jasmine Solar Project to include a Conditional Use Permit to allow for the construction and operation of an approximate 70MW solar facility and Williams Act Land Use Contract Cancellation Number 23-04 of approximately 528-acres will not have significant effects on either of these district's facilities and mitigation of this project's impacts on public school facilities will be limited to the collection of statutory fees authorized under Education Code Section 17620 and Government Code Sections 65995 et seq. (all as amended with an operative date of November 4, 1998) at the time that building permits are issued.

B

Thank you for the opportunity to comment on the project. Should you have any questions, or if we can be of any further assistance in this matter, please contact me at 636-4599, or through e-mail at anwatson@kern.org.

Sincerely,

Andrea Watson, Specialist
School District Facility Services



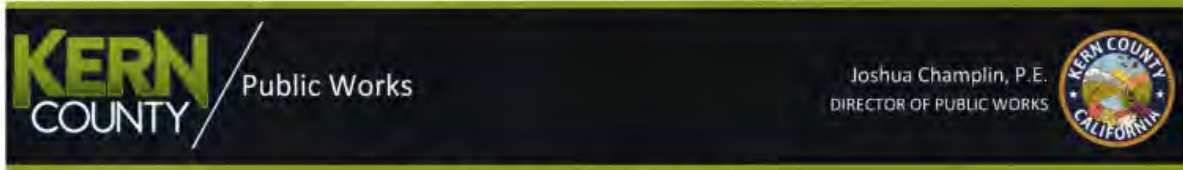
Cc: Districts

Response to Comment Letter 5: Kern County Superintendent of Schools (KCSOS)

- A:** The commenter expresses appreciation for the opportunity to respond on behalf of the district regarding the proposed project. This comment clarifies that the letter's contents are intended to address possible effects which the project may have on school facilities, and not to comment on any other environmental concerns.
- B:** The commenter provides a brief overview of the entitlements being requested by the project and concludes that no significant effect on the district's facilities would occur with project implementation, given the appropriate fees and regulations are complied with. As discussed in Section 4.14, *Public Services*, of the Draft EIR, an average of 200 daily construction workers and a peak workforce of 550 workers could be required for development of the proposed project. It is expected most of these workers would live in the region and would commute to the project site from where their children are already enrolled in school. Even if workers came from out of the area, they would likely return to their out-of-town residences once the facilities were built and would not take their children out of their current schooling situation. Therefore, temporary increases in population are not expected to adversely affect local school populations.

Additionally, operation of the project would require up to two full time employees to perform maintenance activities. Employees would likely commute to the project from their existing permanent residences, however, even if the maintenance employees were hired from out of the area and had to relocate to eastern Kern County, the resulting addition of potential families to this area would not result in a substantial increase in the number of users at local schools. Therefore, impacts would be less than significant. All fees applicable to implementation of the project will be collected when the project proponent/operator applies for required building permits. This comment does not otherwise raise a substantive issue on the content of the Draft EIR. The comment has been noted for the record and revisions to the Draft EIR are not required.

Comment Letter 6: Kern County Public Works Department



Office Memorandum

To: Lorelei Oviatt, Director
 Planning and Natural Resources Department
 Attn: Terrance Smalls, Supervising Planner

October 31, 2023

From: *PC for* Cesar Ayon, Engineering Manager
 Public Works Department/Development

Subject: 7-8.3.b Draft Supplemental Environmental Impact Report for
 Jasmine Solar Project by SF Jasmine, LLC
 (Located at the northwest corner of Old River Road and Copus Road)

Development Review Division

This Division has reviewed the subject project and has no comment.

Thank you for the opportunity to comment on this project. If you have any questions or comments, please contact Rodd Parke of this Division at (661) 862-8848.

A

Flood Management Division

This Division has reviewed the subject project and has the recommend the following:

The runoff of storm water from the site will be increased due to the increase in impervious surface generated by the proposed development.

B

Therefore, this division recommends the following be included as Conditions of Approval for this project:

The applicant shall provide a plan for the disposal of drainage waters originating on site and from adjacent road right-of-ways (if required), subject to approval of the Public Works Department, per the Kern County Development Standards.

C

Associated flood hazard requirements will need to be incorporated into the design of this project per the Kern County Floodplain Management Ordinance.

Thank you for the opportunity to comment on this project. If you have any questions or comments, please contact Brian Blaise of this Division at (661) 862-5098.



2700 M Street, #400, Bakersfield, CA. 93301 | 661.862.5100 | www.KernPublicWorks.com

Sewer and Water Division

This Department has reviewed the subject project and has no comment.

Thank you for the opportunity to comment on this project. If you have any questions or comments, please contact Kyle Perez of this Division at (661) 862-8852.

| D

CSA Division

This Department has reviewed the subject project and has no comment.

Thank you for the opportunity to comment on this project. If you have any questions or comments, please contact Miguel Munoz of this Division at (661) 862-8908.

| E

Response Comment Letter 6: Kern County Public Works Department

- A:** This is an introductory comment and does not raise a substantive issue on the content of the Draft EIR analysis and does not directly apply to the CEQA process. Therefore, no changes to the document have been made or are required.
- B:** The commenter notes that the project site is subject to flooding and that stormwater runoff from the site would increase due to the increase in impervious surfaces generated by the project. The Draft EIR acknowledges that project implementation would increase the amount of impervious surfaces on-site, which may result in a potential increase in stormwater runoff. However, the majority of the project site would remain pervious and would therefore continue to absorb precipitation. Such characteristics were evaluated in the Draft EIR pursuant to CEQA, as applicable; refer to Section 4.10, *Hydrology and Water Quality*, of the Draft EIR. The comments provided have been noted for the record, and no revisions to the Draft EIR are required.
- C:** The commenter requests that the project proponent submit a plan for the disposal of drainage waters originating on-site and from adjacent road rights-of-way, as well as incorporate flood hazard requirements into the project design per County standards, and that such actions be made Conditions of Approval for the project.

As analyzed in the Draft EIR, the site engineering and design plans for the project would conform to requirements of the Kern County Code of Building Regulations, the Kern County Development Standards, and the Floodplain Management Ordinance. Furthermore, site drainage plans would be required to comply with Division Four of the Kern County Development Standards, which provide guidelines including site development standards and mitigation, flood control requirements, erosion control, and on-site drainage flow requirements. Project conformance with such existing regulations pertaining to erosion and site drainage would neither alter the course of a stream or river nor result in substantial erosion on-site or off-site. As described in Section 4.10 of the Draft EIR, implementation of Mitigation Measures MM 4.10-1 which would require preparation and implementation of a stormwater pollution prevention plan, and MM 4.10-2, which would require preparation and implementation of a final hydrologic study and drainage plan, would reduce project impacts in this regard to less than significant and would be incorporated as Conditions of Approval for the project. The comments provided have been noted for the record, and revisions to the Draft EIR are not required.

- D:** The commenter states that the Sewer and Water Division Department has reviewed the document and does not have any comments.
- E:** The commenter states that the CSA Division Department has reviewed the document and does not have any comments.

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Comment Letter 7: Pacific Gas and Electric Company (PG&E)



Michael Calvillo
Senior Land Planner
Environmental Management
Electric Transmission &
Substation

3850 East California Ave
Fresno, CA 93725
(559) 417-3837
Michael.Calvillo@pge.com

December 3, 2023

Terrance Smalls, Supervising Planner
Kern County Planning and Natural Resources Department
2700 "M" Street, Suite 100
Bakersfield, CA 93301

Re: Draft Environmental Impact Report (DEIR) (CUP No. 30, Map No. 160 (State Clearinghouse No. 2022060193, Kern County) for the Jasmine Solar Project

Dear Mr. Smalls:

Pacific Gas and Electric Company (PG&E) appreciates the opportunity to review and comment on the Draft Environmental Impact Report (DEIR) for the Jasmine Solar Project. As you know, PG&E will be responsible for upgrading its electrical system to connect the new solar project to PG&E's electrical grid. We request that the FEIR include the following updated information on the PG&E upgrades needed to support the Jasmine Solar Project. We also provide some additional comments and clarifications.

A

Description of PG&E's Electrical Upgrades

PG&E's upgrades will include a 0.9-acre westerly expansion of PG&E's Lakeview Substation and a new 150-foot 70 kV power line with a new approximately 80- to 95-foot-tall tubular steel pole (TSP) to accommodate the customer's generation-tie line interconnection. Other power line work that PG&E would need to conduct to support the interconnection includes rerouting approximately 250 feet of existing 70 kV power line along the north and south sides of Copus Road and installing two new approximately 80- to 95-foot-tall TSPs. The rerouted line will cross Copus Road at a new location and connect to a new bay inside Lakeview Substation. In addition, PG&E will remove approximately 4 to 5 existing poles along this 70 kV power line and 1 to 2 poles along a separate 70 kV power at the substation.

B

The DEIR correctly states that the California Public Utilities Commission (CPUC) has sole discretionary jurisdiction over the siting and design of PG&E's electrical facilities. (See pp. 1-2, 2-2.) Assuming that no significant unavoidable impacts are found to result from PG&E's facilities, PG&E will complete a noticing process under the CPUC permitting rules in which the CPUC will rely on the County's Final EIR in approving PG&E's interconnection facilities. Note that PG&E intends to obtain approval under the CPUC's GO 131-D, section III.B, rather than Public Utilities Code Section 851, as incorrectly stated in Section 3.8 at page 3-39 under "State" entitlements.

Because the CPUC will rely on the EIR, PG&E requests that minor changes be made to accurately describe PG&E’s current project plans. First, the substation will be expanded to the west rather than the east, as indicated in two locations. **Please replace “eastern” with “western” at pp. 1-9, 3-24.** Also, **all of the power line work described above should be included at page 3-35,** as the description is currently incomplete. Finally, the substation expansion and power line details provided in the DEIR in Figure 3-12, page 3-33, are not accurate based on PG&E’s current engineering design. **Please replace Figure 3-12 with the updated figure PG&E has enclosed,** which is a redline version of Figure 3-12 showing the current plans for the substation expansion and power line interconnection facilities. PG&E notes that these minor revisions will not change the impact conclusions in the DEIR.

⌋
C

Additional Comments and Clarifications

In Section 3.7.6 at page 3-38, the DEIR discusses the decommissioning of the solar project upon completion of the Power Purchase Agreement term. PG&E’s interconnection facilities, which are under the jurisdiction of the CPUC, would not be subject to this decommissioning and would remain in operation to serve other uses as needed. Accordingly, **please clarify that PG&E’s facilities would not be subject to decommissioning in the Final EIR, Conditional Use Permit, and as part of the cancellation of the Williamson Act contracts** so that any decommissioning plan excludes any PG&E-owned facilities.

⌋
D

Finally, **the In-Service Date of 2024 in Section 3.7.5, on page 3-38, should be corrected to 2026.**

⌋
E

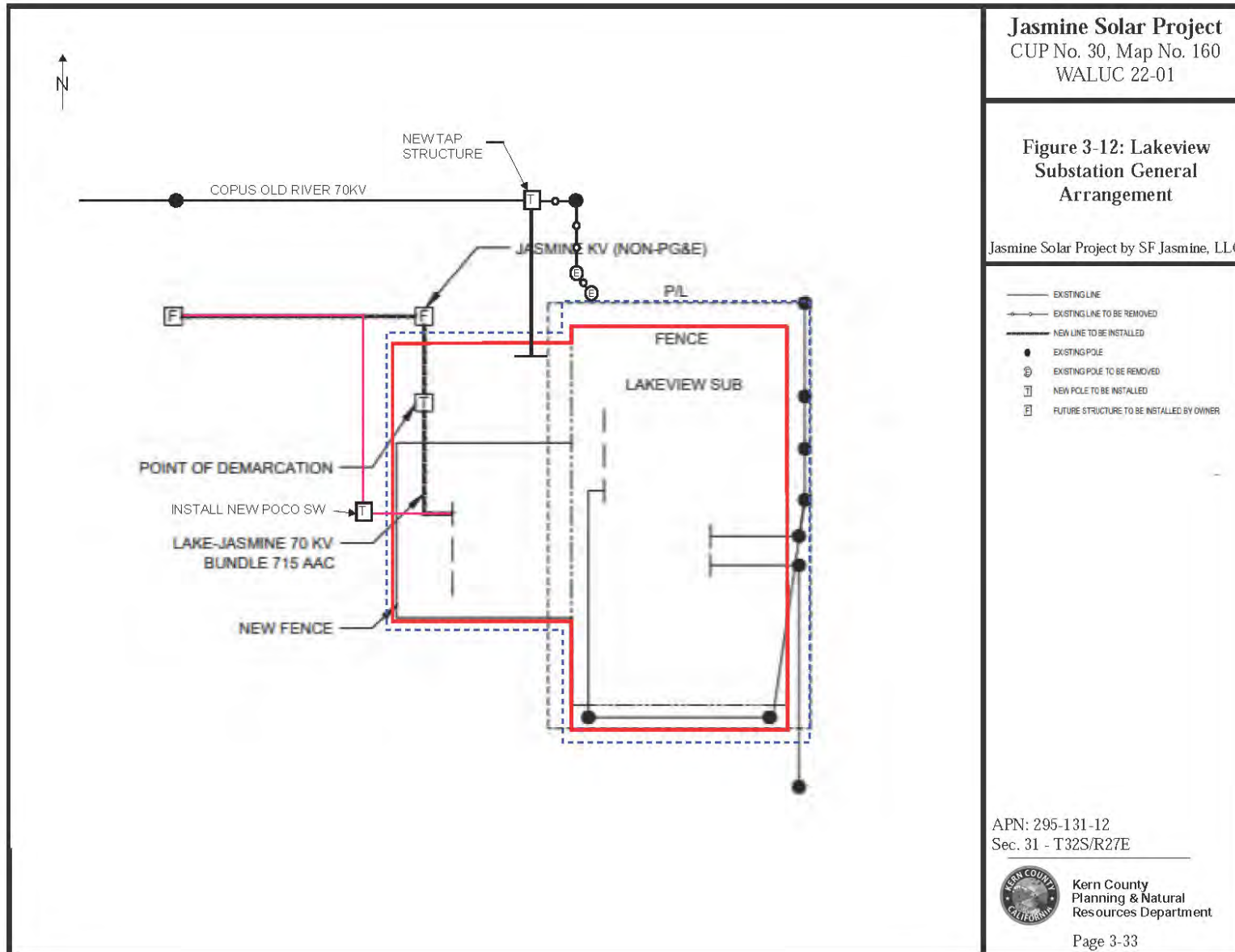
We appreciate your consideration of the above comments. If you have any questions, please contact Michael Calvillo, Senior Land Planner, by telephone at (559) 417-3337 or by e-mail at Michael.Calvillo@pge.com.

Sincerely,

Michael Calvillo

Michael Calvillo

cc: Erica Jones
Wendy Nettles
Jo Lynn Lambert, Esq.



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Response to Comment Letter 7: Pacific Gas and Electric Company (PG&E)

- A:** The commenter states that PG&E will be responsible for upgrading its electrical system to connect to the solar project. This comment does not otherwise raise a substantive issue on the content of the Draft EIR. The comment has been noted for the record and revisions to the Draft EIR are not required.
- B:** This comment states that the California Public Utilities Commission has sole discretionary jurisdiction over the siting and design of PG&E Facilities and states that PG&E will complete the noticing process that falls under CPUC permitting rules. The commenter states that they will obtain approval for the facility upgrades under the CPUC’s GO 131-D, section III.B, not Public Utilities Code Section 851, as stated in Chapter 3, *Project Description* of the Draft EIR. As such, the first bullet point under the State heading on Page 3-39 Draft EIR has been revised as follows:

“State

- California Public Utilities Commission (CPUC)
 - ~~Section 851 Permit~~ GO 131-D, Section III.B”
- C:** The commenter states that the planned substation will be expanded to the west, rather than the east, as indicated in two locations in the Draft EIR. The County recognizes this error and as such, the Draft EIR will be revised to reflect this information as follows:

Chapter 1.0, *Executive Summary*, Page 1-9

Specifically, under Chapter 1.5.4, *Project Characteristics* the following paragraph would be revised as follows:

“Lakeview Substation

The existing Lakeview Substation, operated by PG&E, would require modifications that would occupy approximately 0.9 acres adjacent to the western ~~eastern~~ side of its existing footprint. The modifications are needed to accommodate improvements for the gen-tie line connection to the existing electrical equipment. Additional electrical equipment, including Direct Transfer Trip (DTT) equipment, Supervisory Control Data Acquisition and telemetry equipment, and breaker and control switching equipment, would be placed within the existing fenced area at the Lakeview Substation. Further discussion of the Lakeview Substation connections and modifications are included below in Section 4.7.5.”

Chapter 3.7.1, *Project Description, Project Characteristics*, Page 3-24

Specifically, under Chapter 3.7.1, *Project Facilities*, the following paragraph would be revised as follows:

“Lakeview Substation

The existing Lakeview Substation, operated by PG&E, would require modifications that would occupy approximately 0.9 acres adjacent to the western ~~eastern~~ side of its existing footprint. The modifications are needed to accommodate improvements for the gen-tie line connection to the existing electrical equipment. Additional electrical equipment, including Direct Transfer Trip (DTT) equipment, Supervisory Control Data Acquisition and

telemetry equipment, and breaker and control switching equipment, would be placed within the existing fenced area at the Lakeview Substation. Further discussion of the Lakeview Substation connections and modifications are included below in Section 4.7.5.”

The commenter also states that the power line work described in Project Description is incomplete and should be revised to reflect the most recent work as described in the comment letter. As such, Chapter 3.7.5, *Project Description, The Lakeview Substation and PG&E Upgrades*, on page 3-35 of the Draft EIR has been revised as follows:

“Power Line Reconfiguration

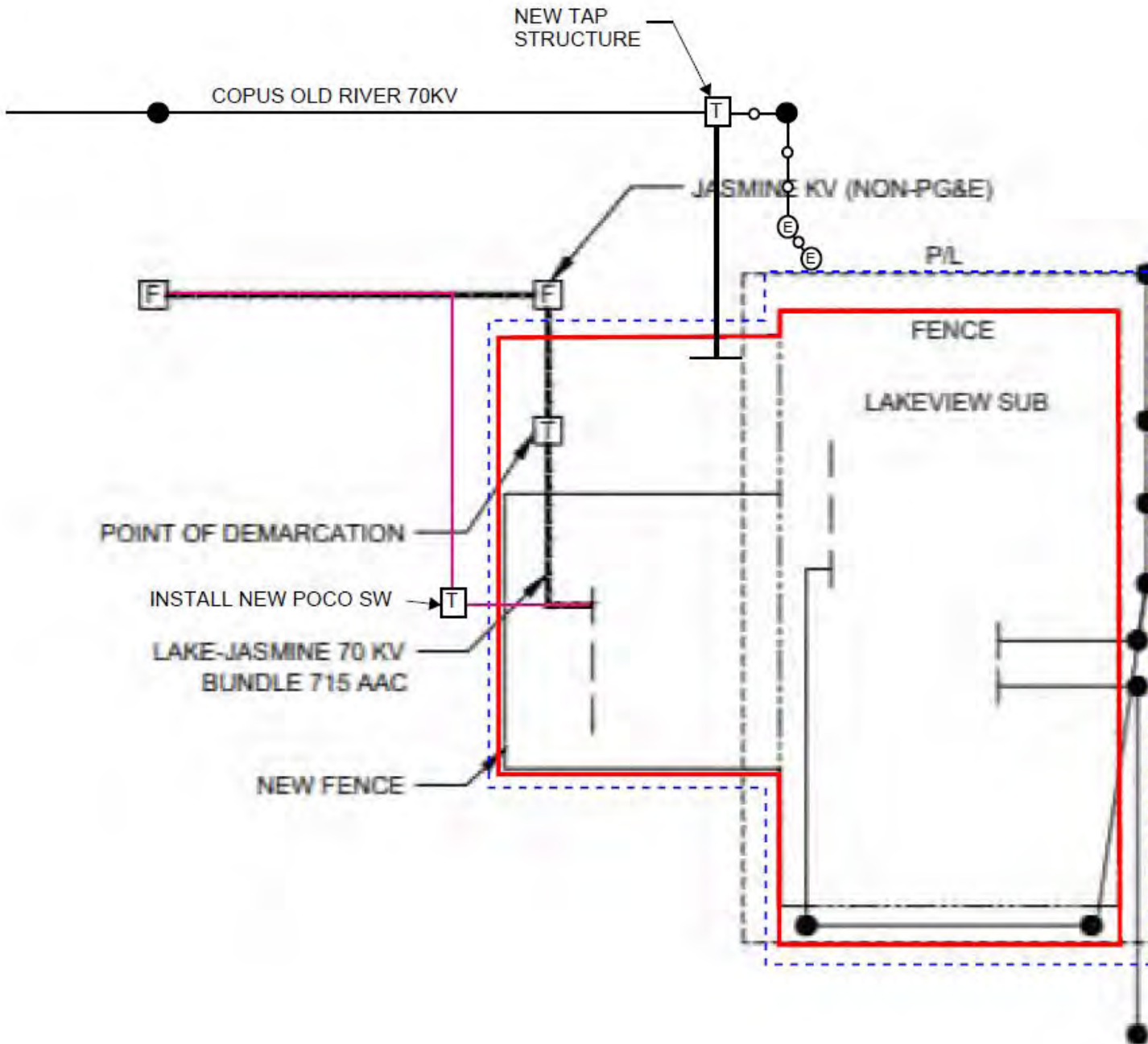
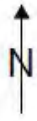
Existing power poles and conductors located outside the substation require reconfiguration in order for the proposed customer-owned photovoltaic solar project to connect to the new substation equipment. This would be achieved by installing new structures, or by replacing existing structures with new structures. Upgrades also will be made to accommodate the - gen tie-line and new line angles resulting from the new arrangements.

~~In order to accommodate the gen tie line interconnection e PG&E would extend an approximately 150-foot 70 kV power line from the Lakeview Substation dead end structure to a new customer owned TSP located immediately north of the substation fence line. An additional pole approximately 80-95 foot tall TSP will be added to support the line between the customer owned TSP and Lakeview Substation. The typical design of the structures is provided in **Figure 3-14: Typical Tubular Steel Design.**~~

PG&E’s upgrades will include a 0.9-acre westerly expansion of PG&E’s Lakeview Substation and a new 150-foot 70 kV power line with a new approximately 80- to 95-foot-tall tubular steel pole (TSP) to accommodate the customer’s generation-tie line interconnection. The typical design of the structures is provided in **Figure 3-14: Typical Tubular Steel Design.**

Other power line work that PG&E would need to conduct to support the interconnection includes rerouting approximately 250 feet of existing 70 kV power line along the north and south sides of Copus Road and installing two new approximately 80- to 95-foot tall TSPs. The rerouted line will cross Copus Road at a new location and connect to a new bay inside the Lakeview Substation expansion. In addition, PG&E will remove approximately 4 to 5 existing poles along this 70 kV power line and 1 to 2 poles along a separate 70 kV power line at the substation.“

Additionally, the commenter states that the substation expansion and power line details provided in **Figure 3-12: Lakeview Substation General Arrangement**, are inaccurate, based on the current design. A redline, revised figure has been provided by the commenter and as such **Figure 3-12: Lakeview Substation General Arrangement** on Page 3-33 in Chapter 3, *Project Description* in the Draft EIR has been revised as shown below.



**Figure 3-12: Lakeview
Substation General
Arrangement**

Jasmine Solar Project by SF Jasmine, LLC

- EXISTING LINE
- - - EXISTING LINE TO BE REMOVED
- NEW LINE TO BE INSTALLED
- EXISTING POLE
- ⓔ EXISTING POLE TO BE REMOVED
- Ⓣ NEW POLE TO BE INSTALLED
- ⓕ FUTURE STRUCTURE TO BE INSTALLED BY OWNER

APN: 295-132-15
APN: 295-132-16
Sec. 31 - T32S/R27E



**Kern County
Planning & Natural
Resources Department**

- D:** The commenter states that the Draft EIR discusses the decommissioning of the solar project upon completion of the Power Purchase Agreement terms. The commenter requests that the Draft EIR clarify that the decommissioning of the Solar Facilities would exclude any PG&E owned facilities. As such, the second paragraph under the Chapter 3.7.6, *Decommissioning* heading on page 3-38 and 3-39 in the Project Description Chapter of the Draft EIR would be revised as follows:

“Solar panels would be removed and placed in secure transport crates or container boxes for storage and transported to another site for reuse, material recycling, or disposal. The bolts and reusable fasteners that had attached each module to the racks would be removed and saved for reuse. Once the solar modules are removed, the racks would be disassembled and the structures supporting the racks would be removed and salvaged or recycled. Electrical equipment would be de-energized prior to removal, salvaged (where possible), placed in appropriate shipping containers, and secured in a truck transport trailer for shipment offsite. Electrical equipment, transformers, and switching gear on the inverter and interconnection transformer pads and all above ground electrical wiring would be removed and recycled or disposed. All other aboveground site infrastructure—including fences, awnings, and the concrete pads that supported the inverters, and related equipment—would be removed. The fence and gate would be removed per a fencing plan and may include the replacement of some perimeter array fencing with fencing to facilitate livestock management. Removed materials would be recycled to the greatest extent possible. All debris would be removed from the area. Decommissioning activities would not apply to any facilities constructed, or improved, by PG&E at the Lakeview Substation.”

- E:** This comment notes the In-Service Date listed in Chapter 3, Project Description, of the Draft EIR on page 3-38 should be corrected to 2026. The County agrees with this comment and the following paragraph under the Construction Schedule heading in Chapter 3.7.5 of the Draft EIR would be revised as follows:

“Construction Schedule

While substation modification and power line construction would require approximately 16 months of construction activity, there would be gaps in the schedule due to equipment delivery logistics, power load considerations, and other factors and is anticipated to be in service by 2024~~6~~, with final close out items completing in 2025~~6~~.”

Interested Parties

Comment Letter 8: Defenders of Wildlife, California Program Office



California Program Office
P.O. Box 401, Folsom, California 95763 | 916-313-5800
www.defenders.org

December 4, 2023

Terrance Smalls, Supervising Planner
Kern County
Planning and Natural Resources Department
2700 M Street, Suite 100
Bakersfield, CA 93301
Delivered via email to: smallst@kerncounty.com

RE: Draft Environmental Impact Report – Jasmine Solar Project
(SCH 2022060193)

Dear Mr. Smalls:

Thank you for the opportunity to provide comments in response to the Draft Environmental Impact Report (DEIR) for the proposed Jasmine Solar Project (Project). Defenders of Wildlife (Defenders) is dedicated to protecting all wild animals and plants in their natural communities and has nearly 2.1 million members and supporters in the United States, with more than 316,000 residing in California.

Defenders strongly support the development of renewable energy production. A low-carbon energy future is critical for California's economy, communities and environment. Achieving this future—and how we achieve it—is critical for protecting California's internationally treasured wildlife, landscapes and diverse habitats. We believe transitioning to a renewable energy future need not exacerbate the ongoing extinction crisis by thoughtfully planning projects while protecting habitat critical to species.

The proposed 493-acre photovoltaic solar facility would generate up to 70 MW of solar energy and includes 17 MW of energy battery storage. The proposed Project is on private land within the San Joaquin Valley portion of Kern County. It is located approximately 4 miles west of Interstate 5 and 2.5 miles north of State Route 166. The proposed Project site has the potential to provide habitat for or support numerous special-status wildlife species, including but not limited to burrowing owl.¹

Comments

We offer the following comments on the DEIR for the proposed Project:

¹ California Natural Diversity Database. Accessed 11/09/2023. <https://wildlife.ca.gov/Data/CNDDDB/Maps-and-Data>

A

1. Project Objectives

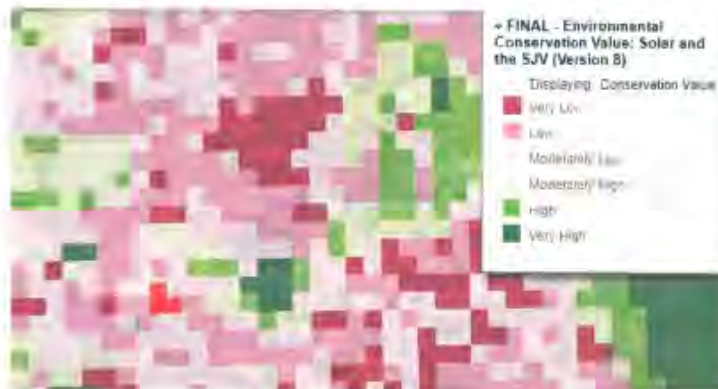
One of the stated objectives of the proposed Project is to “[d]evelop a project sensitive to environmental effects by using existing disturbed areas, maximizing use of existing infrastructure, and minimizing water use.” A “Smart from the Start” approach to the siting and development of renewable energy projects dictates that projects should be located on degraded lands.² This minimizes the potential Project impacts on special-status species and their habitat. Defenders appreciates the prioritization of placing development on disturbed areas, and we encourage the continued development of projects with objectives that prioritize least conflict siting.

B

2. Least Conflict

The Project site is located on land designated with a low and moderately low conservation value, as demonstrated by Figure 1 below. This designation was made through the San Joaquin Valley Least Conflict Solar Project, a state agency collaborative project with multiple stakeholders. The red represents the approximate outline of the Project area.

Figure 1: Approximate Vicinity of the Project with the Environmental Conservation Value³



C

Leaders from the agricultural, conservation, solar development communities, tribes and key agencies identified this area as a “low conflict” and “low value” area based on the present biological resources as depicted by the gradient within the map. Defenders supports the development and operation of renewable energy projects on sites identified as least conflict lands, as development projects should avoid areas with high conservation values for natural resources, such as the presence of special-status species, high biodiversity or connectivity corridors. Defenders encourages project proponents to continue to site development projects on land identified as least conflict and avoid lands with a high conservation value.

² Defenders of Wildlife. *Smart From the Start: Responsible Renewable Energy Development in the Southern San Joaquin Valley*. 2012. Washington, D.C.

³ See <https://databasin.org/datasets/567&d8175d694e5ea89183730af3d1a4/>

3. Species-Specific Protocol-Level Surveys

Although the proposed Project is located on land with a lower conservation value, special-status species and habitats may still occur. Despite the potential for special-status species to occur, no species-specific protocol-level surveys were conducted. Findings cannot be made without species-specific protocol-level surveys as they are necessary to provide thorough and accurate results that support informed decision-making and enable identification of appropriate avoidance and mitigation measures for each species.

a. Burrowing Owl

Suitable burrowing owl (BUOW) habitat is present within the Project area⁴, and according to the Biological Resource Assessment, there is a moderate potential for burrowing owl to forage or nest within the site. The only survey conducted was the field reconnaissance survey in November 2020. November is outside of the BUOW breeding season, which is when surveys should be performed,⁵ and there were no BUOW species-specific surveys. Defenders requests conducting protocol-level surveys that adhere to the *Burrowing Owl Survey Protocol and Mitigation Guidelines*⁶ and the *Staff Report on Burrowing Owl Mitigation*.⁷

b. San Joaquin Kit Fox

Defenders requests protocol-level surveys for San Joaquin kit fox (SJKF) be performed that, at a minimum, conform to the current survey standards established by the US Fish and Wildlife Service (USFWS).⁸ If the species or sign is observed, consultation with the California Department of Fish and Wildlife (CDFW) for the appropriate buffer and mitigation ratio for habitat management (HM) land is required.

c. Swainson's Hawk

Defenders requests Swainson's hawk (SWHA)-specific protocol-level surveys be conducted that adhere to CDFW recommendations.⁹ If the updated surveys determine the Project may impact SWHA foraging or nesting habitat, we recommend HM lands be provided at a ratio of at least 2:1¹⁰ for habitat impacted within a five-mile radius of nests that have been active within the previous five years.

⁴ See <https://databasin.org/maps/new/#datasets=421e63060890432d82027edc117dd661>

⁵ California Department of Fish and Game. 2012. *Staff Report on Burrowing Owl Mitigation*.

⁶ California Burrowing Owl Consortium. 1993. *Burrowing Owl Survey Protocol and Mitigation Guidelines*.

⁷ California Department of Fish and Game. 2012. *Staff Report on Burrowing Owl Mitigation*.

⁸ U.S. Fish and Wildlife Service. 2011. *Standardized Recommendations for Protection of the Endangered San Joaquin Kit Fox Prior To or During Ground Disturbance*. Sacramento, California.

⁹ California Energy Commission and Department of Fish and Game. 2010. *Swainson's Hawk Survey Protocols, Impact Avoidance, and Minimization Measures for Renewable Projects in the Antelope Valley for Los Angeles and Kern Counties, California*.

¹⁰ Ibid.

4. Deficient Mitigation Measures

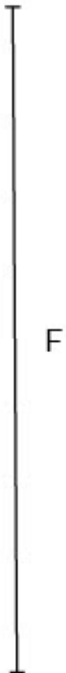
a. Preconstruction Surveys

Several mitigation measures allow for the completion of preconstruction surveys in phases prior to that portion of the site being disturbed. Completing surveys in phases will create challenges to ensuring adequate exclusion zones are applied around the nests and dens for special-status species. It is appropriate to conduct surveys as needed during phases, only if complete preconstruction surveys were conducted before the start of ground-breaking activities. Defenders requests revising measures 4.4-5, 4.4-7, 4.4-8, 4.4-9 to ensure the entire Project site is initially surveyed for special-status species during the preconstruction surveys, and then specific areas are surveyed once again as the different phases are developed.



b. Revise MM 4.4-3 p.

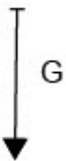
Coyotes are a known predator and a significant threat to SJKF. The proposed Project site fencing must be permeable to SJKF while being impermeable to passage by larger predators, including coyotes. Fence openings measuring six inches or less are considered impassable to coyotes.¹¹ Furthermore, limiting fence opening to specific portals, as opposed to an opening that encompasses the entirety of the site, limits the ability for continuous SJKF permeability. Therefore, we request the entire perimeter fence be raised to six inches above ground level to allow free passage of SJKF throughout the entirety of the site. Furthermore, the fencing shall not be electrified.



“To enable San Joaquin kit fox and other wildlife (e.g. American badger) to pass through the project site after construction, the security fence and any permanent interior fencing shall be made a wildlife friendly design that meets the goal of allowing wildlife to move freely through the project site during operation by ~~leaving 4- to 7 inch openings or portals in the fence or~~ raising the bottom of the fence up 5 to 7 6 inches from the ground leaving a gap between the fence mesh and the ground. In the latter case, the bottom of the fabric shall be knuckled (wrapped back to form a smooth edge) to protect wildlife that passes under the fence. The fencing shall not be electrified.”

c. Revise MM 4.4-6 a.

USFWS guidelines recommend contacting USFWS to establish appropriate buffers around occupied and unoccupied SJFK natal/pupping dens.¹² Defenders requests adhering to USFWS guidelines.



¹¹ Cypher, B. L., & Van Horn Job, C. L. 2009. *Permeable Fence and Wall Designs that Facilitate Passage by Endangered San Joaquin Kit Foxes*. Stanislaus, CA.

¹² U.S. Fish and Wildlife Service. 2011. *Standardized Recommendations for Protection of the Endangered San Joaquin Kit Fox Prior To or During Ground Disturbance*. Sacramento, CA.

"If potential dens are observed and avoidance is feasible, the following buffer distances shall be established prior to construction activities:

- San Joaquin kit fox potential den: 50 feet.
- San Joaquin fox active den: 100 feet.
- San Joaquin fox natal den (occupied and unoccupied): **500-feet US Fish and Wildlife Service must be contacted.**"

G

d. **Revise MM 4.4-8 c.**

Mitigation land shall be managed in perpetuity by a qualified conservation organization as defined by CA Civil Code Section 815.3 or by purchasing credits in a CDFW-approved mitigation bank. A deed restriction is not governed under § 815.3 and may be inadequate as it may result in non-permanent protection.

"Permanently protect mitigation land through a conservation easement, ~~deed restriction, or similar mechanism decided to that protects in perpetuity with~~ a nonprofit conservation organization or public agency with a conservation mission in adherence with CA Civil Code Section 815.3. If the project is located within the service area of a CDFW-approved burrowing owl conservation bank, the project operator may purchase available burrowing owl conservation bank credits. Land identified to mitigate for passive relocation of burrowing owl may be combined with other offsite mitigation requirements of the proposed project if the compensatory habitat is deemed suitable to support the species. The appropriate compensatory mitigation ratio shall be established in consultation with CDFW."

H

e. **Revise MM 4.4-11**

Crotch's bumble bee surveys shall be conducted in accordance with CDFW methods as outlined in *Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species*.¹³

"To minimize impacts to Crotch's Bumble Bees (CBB), areas within the project site containing one or more of the following habitat requisites shall be surveyed by a qualified biologist between March 1 and June 30: flowering vegetation, potential preferred nectar plants, small mammal burrows, bunch grasses, thatch, brush piles, old bird nests, or dead trees. A minimum of two surveys shall be completed between the hours of 0800 and 1600 when temperatures are between 65°F and 90°F, and will not be conducted during inclement weather conditions (e.g., foggy, raining, drizzling, or sustained winds greater than 8 mph). Surveyors will photograph potential CBB from various angles to ensure recordation of key identifying characteristics. Surveys shall follow the CDFW guidelines outlined in Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species."

I

¹³ California Department of Fish and Wildlife. 2023. *Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species*.

Thank you once again for the opportunity to provide comments on the DEIR for the Jasmine Solar Project. We look forward to reviewing the Final EIR for the Project and request to be notified when it is available. Please feel free to contact me with any questions.



Respectfully submitted,

Sophia Markowska
Senior California Representative
408-603-4694
Smarkowska@defenders.org

Response Comment Letter 8: Defenders of Wildlife, California Program Office

- A:** This is an introductory comment and does not raise a substantive issue on the content of the Draft EIR analysis and does not directly apply to the CEQA process. Therefore, no changes to the document have been made or are required.
- B-C:** The commenter states that they appreciate the project's prioritization of placing development on previously disturbed lands and they encourage the continued development of projects that prioritize least conflict siting. The commenter states that they support the development and operation of renewable energy projects, such as Jasmine Solar Project, on sites identified as least conflict lands.
- D:** This comment pertains to protocol surveys for BUOW, SJKF, and SWHA. The commenter states that suitable habitat exists on site for the aforementioned species and as such, specific protocol-level surveys for all three should be undertaken.
- E:** This comment pertains to preconstruction surveys and Mitigation Measures MM 4.4-5, MM 4.4-7, MM 4.4-8, and MM 4.4-9. The commenter requests that Mitigation Measures related to preconstruction surveys be revised to ensure that the project site is initially surveyed for special-status species during the preconstruction surveys, and then that specific areas are surveyed once again as the different phases of the project are developed.

Please see CDFW Comment Letter 1, responses E, F, and G.

- F:** The commenter notes that Coyotes are a known predator to San Joaquin Kit Fox (SJKF). The proposed fencing should be permeable to SJKF while being impermeable to passage by larger predators. The commenter also notes that perimeter fencing shall not be electrified.

Please see response to CDFW Comment D. Mitigation Measure MM 4.4-3 was revised to leave a 4- to 6-inch gap under the discretion of the CDFW. This mitigation measure was also revised to noted that perimeter fencing shall not be electrified.

- G:** The commenter notes that USFWS recommends contacting USFWS to establish appropriate buffers around occupied and unoccupied SJKF natal/pupping dens. The commenter also recommends using USFWS guidelines and that Mitigation Measure MM 4.4-6 be revised to reflect these changes.

Please see response to CDFW Comments D and H. In response to this comment, Mitigation Measure MM 4.4-6 would be revised to require consultation with CDFW prior to any ground disturbing activities to avoid unauthorized take of SJKF if avoidance of the potential dens is not possible.

- H:** The commenter notes that a deed restriction would not be in adherence with CA Civil Code Section 815.3. The commenter notes that this would not qualify as permanent protection. Therefore, MM 4.4-8, on page 4.4-35 and 4.4-36 in Section 4.4, *Biological Resources*, of the Draft EIR has been revised as follows:

MM 4.4-8: Preconstruction surveys shall be conducted by a qualified biologist within suitable habitat to locate active breeding or wintering burrowing owl burrows no fewer than 14 days prior to commencement of ground-disturbing activities. Surveys need not be conducted for all areas of suitable habitat at one time; they may be phased so that surveys occur within 14 days prior to that portion of the project site disturbed.

The survey methodology shall be consistent with the methods outlined in the 2012 CDFW Staff Report on Burrowing Owl Mitigation and shall consist of walking parallel transects 7 to 20 meters apart within suitable habitat, adjusting for vegetation height and density as needed, and noting any potential burrows with fresh burrowing owl sign or presence of burrowing owls. As each burrow is investigated, surveying biologists shall also look for signs of American badger and San Joaquin kit fox. Copies of the survey results shall be submitted to the Kern County Planning and Natural Resources Department.

If burrowing owls are detected onsite, the avoidance buffers outlined below should be established. These buffers 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, 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. Visible markers shall be placed near the identified burrow(s) to ensure that machinery does not collapse the burrow(s).

Location	Time of Year	Level of Disturbance		
		Low	Medium	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)				

If burrow avoidance is infeasible during the non-breeding season ~~or during the breeding season (February 1 through August 31)~~ where resident owls have not yet begun egg laying or incubation, or where the juveniles are foraging independently and capable of independent survival, a qualified biologist shall implement a passive relocation program in accordance with Appendix E1 (i.e., Example Components for Burrowing Owl Artificial Burrow and Exclusion Plans) of the 2012 CDFW Staff Report on Burrowing Owl Mitigation. No burrowing owl burrow exclusion is permitted during breeding season (February 1 - August 31 or while breeding behavior is exhibited), unless approved by CDFW.

If passive relocation is required, a qualified biologist shall prepare a Burrowing Owl Exclusion and Mitigation Plan and a Mitigation Land Management Plan in accordance with the 2012 CDFW Staff Report on Burrowing Owl Mitigation, for review by CDFW prior to passive relocation activities. The Mitigation Land Management Plan shall include a requirement for the permanent conservation of offsite Burrowing Owl Passive Relocation Compensatory Mitigation. At a minimum, the following recommendations shall be implemented:

- a. Temporarily disturbed habitat shall be restored, if feasible, to pre-project conditions including decompacting soil and revegetating.

- b. Permanent impacts to nesting, occupied and satellite burrows and/or burrowing owl habitat shall be mitigated such that the habitat acreage, number of burrows and burrowing owl impacted are replaced based on a site-specific analysis and shall include permanent conservation of similar vegetation communities (grassland, scrublands, desert, urban, and agriculture) to provide for burrowing owl nesting, foraging, wintering, and dispersal (i.e., during breeding and non-breeding seasons) comparable to or better than that of the impact area, and with sufficiently large acreage, and presence of fossorial mammals.
- c. Permanently protect mitigation land through a conservation easement, ~~deed restriction, or similar mechanism deemed to~~ with a nonprofit conservation organization or public agency with a conservation mission in adherence with CA Civil Code Section 815.3. If the project is located within the service area of a CDFW-approved burrowing owl conservation bank, the project operator may purchase available burrowing owl conservation bank credits. Land identified to mitigate for passive relocation of burrowing owl may be combined with other offsite mitigation requirements of the proposed project if the compensatory habitat is deemed suitable to support the species. The appropriate compensatory mitigation ratio shall be established in consultation with CDFW.

I: This comment pertains to the Crotch's Bumblebee and Mitigation Measure MM 4.4-11. The commenter states that the surveys for Crotch's Bumblebee should be conducted in accordance with CDFW guidelines as outlined in Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species. In response to this, MM 4.4-11 on page 4.4-37 of Section 4.4, *Biological Resources*, of the Draft EIR has been revised as follows:

MM 4.4-11: To minimize impacts to Crotch's Bumble Bees (CBB), areas within the project site containing one or more of the following habitat requisites shall be surveyed by a qualified biologist between March 1 and June 30: flowering vegetation, potential preferred nectar plants, small mammal burrows, bunch grasses, thatch, brush piles, old bird nests, or dead trees. A minimum of two surveys shall be completed between the hours of 0800 and 1600 when temperatures are between 65°F and 90°F, and will not be conducted during inclement weather conditions (e.g., foggy, raining, drizzling, or sustained winds greater than 8 mph). Surveyors will photograph potential CBB from various angles to ensure recordation of key identifying characteristics. Surveys shall follow the CDFW guidelines as outlined in Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species.

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