



State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 South Coast Region
 3883 Ruffin Road
 San Diego, CA 92123
 (858) 467-4201
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
 CHARLTON H. BONHAM, Director



April 24, 2023

Ashley Smith
 Chief of Project Planning
 County of San Diego - Planning and Development Services
 5510 Overland Ave
 San Diego, CA 92123
Ashley.Smith2@sdcounty.ca.gov

Subject: Starlight Solar Major Use Permit (Project), Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR), SCH #2023030603

Dear Ashley Smith:

The California Department of Fish and Wildlife (CDFW) has reviewed the above-referenced NOP for the Project pursuant to 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.

CDFW ROLE

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

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

CDFW also administers the Natural Community Conservation Planning (NCCP) program, a California regional habitat conservation planning program. CDFW, the County of San Diego, and the United States Fish and Wildlife Service signed the Third Restated and Amended Planning Agreement for the development of the North and East County Multiple Species Conservation Program (MSCP) Plans in March of 2021. The Proposed Project occurs within the plan boundary of the draft East County MSCP Plan. The Planning Agreement includes an interim process to review projects within the Planning Areas to ensure that preliminary conservation objectives and preserve options for establishing a viable reserve system are not precluded and that project impacts are adequately mitigated.

PROJECT DESCRIPTION SUMMARY

Proponent: County of San Diego (County)

Objective: The objective of the Project is to construct a remotely-controlled solar energy generation and storage facility. The Project will produce up to 100 megawatts of alternating current solar energy and will include a battery energy storage system that will store up to 217.4 megawatts

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.

Ashley Smith, Chief of Project Planning
 County of San Diego- Planning and Development Services
 April 24, 2023
 Page 2 of 5

of electricity for dispatch into the local San Diego Gas and Electric grid. The power produced by the facility will connect into the Boulevard East Substation via an underground generation tie-line. The Project will also include internal access roads, security fencing, lighting, and signage, a 30-foot fuel modification zone, and water tanks for fire protection.

Location: The Project site is located south of the community of Boulevard in southern unincorporated San Diego County. The site is south of Interstate 8 and Old Highway 80, and East of Tierra Del Sol Road. Access to the 565-acre site will be provided by Jewel Valley Road and Tule Jim Lane, which each connect to Old Highway 80 in the town of Boulevard. Land surrounding the site consists of ranches, vacant land, and single-family residences.

Biological Setting: The Project site is largely undeveloped and is designated by the County's General Plan as Rural. According to the NOP, natural communities mapped on site include granitic northern mixed chaparral, redshank chaparral, granitic chamise chaparral, montane buckwheat scrub, field/pasture, big sagebrush scrub, open coast live oak woodland, non-native grassland, southern riparian scrub, freshwater, coast live oak woodland, tamarisk scrub, freshwater seep, and alkali marsh. The NOP states that biological resource mitigation land will be conserved and managed south and west of the Project area. Acreages of habitat impacts and mitigation land are not provided.

The Project site has potential to support a variety of sensitive wildlife species, including Quino checkerspot butterfly (*Euphydryas editha quino*; Federal Endangered Species Act listed-endangered), western spadefoot (*Spea hammondi*; California Species of Special Concern (SSC)), Southern California legless lizard (*Anniella stebbinsi*; SSC), coastal whiptail (*Aspidoscelis tigris stejnegeri*; SSC), Blainville's horned lizard (*Phrynosoma blainvillii*; SSC), tricolored blackbird (*Agelaius tricolor*; CESA listed-threatened), prairie falcon (*Falco mexicanus*; Watch List), long-eared owl (*Asio otus*; SSC), burrowing owl (*Athene cunicularia*; SSC), Trinidad kangaroo rat (*Dipodomys merriami trinidadensis*; SSC), Jacumba pocket mouse (*Perognathus longimembris internationalis*; SSC), Bryant's woodrat (*Neotoma bryanti lepida*; SSC), pallid San Diego pocket mouse (*Chaetodipus fallax pallidus*; SSC), and a very uncommon species, the southern grasshopper mouse (*Onychomys torridus*).

The Project site also has potential to support sensitive and rare plant species, including Jacumba milk-vetch (*Astragalus douglasii* var. *perstrictus*; CRPR 1B.2), long-spined spineflower (*Chorizanthe polygonoides* var. *longispina*; CRPR 1B.2), desert beauty (*Linanthus bellus*; CRPR 2B.1), Tecate tarplant (*Deinandra floribunda*; CRPR 1B.2), sticky geraea (*Geraea viscida*; CRPR 2B.2), Higgin's barberry (*Berberis higginsiae*; CRPR 3.2), San Bernardino aster (*Symphyotrichum defoliatum*; CRPR 1B.2), decumbent goldenbush (*Isocoma menziesii* var. *decumbens*; CRPR 1B.2), and southern jewelflower (*Streptanthus campestris*; CRPR 1B.3)

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

COMMENT #1: Project Footprint and Consistency with Draft East County MSCP Plan

The Project is within the Planning Area for the draft East County MSCP Plan (EC MSCP) and is located within a Focused Conservation Area (FCA). FCAs were identified to conserve large blocks of habitat and connectivity between them and to maintain important ecological functions. We recommend that the DEIR consider potential adverse effects to large blocks of intact habitat relative to the goals of the EC MSCP, identify measures to avoid and minimize impacts to the FCA and any sensitive resources on site, and that unavoidable impacts be mitigated in-kind, in a large habitat block(s), and/or in a manner that provides for comparable biodiversity while minimize edge effects.

In order to maintain consistency with the goals and objectives of the EC MSCP Planning effort, CDFW requests that a Project alternative be developed to facilitate east-west habitat connectivity. Currently, the draft Project footprint creates an approximately three-mile-long barrier to habitat connectivity and wildlife movement. CDFW recommends that the footprint be consolidated into one central area, instead of extending north to south.

COMMENT #2: Biological Baseline Assessment

CDFW acknowledges that the Applicant intends to prepare and discuss a Project-specific Biological Resources Analysis in the DEIR. The DEIR should provide a complete assessment of

Ashley Smith, Chief of Project Planning
 County of San Diego- Planning and Development Services
 April 24, 2023
 Page 3 of 5

the flora and fauna within and adjacent to the project area, with particular emphasis upon identifying endangered, threatened, sensitive, and locally unique species and sensitive habitats. The DEIR should include the following information:

- a. A thorough, recent floristic-based assessment of special status plants and natural communities, following CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities (see <https://www.wildlife.ca.gov/Conservation/Plants/Info>). CDFW recommends that floristic, alliance-based and/or association-based mapping and vegetation impact assessments be conducted at the Project site and neighboring vicinity, and at potential mitigation sites for the project. Adjoining habitat areas should be included in this assessment where site activities could lead to direct or indirect impacts offsite. Habitat mapping at the alliance level will help establish baseline vegetation conditions.
- b. A current inventory of the biological resources associated with each habitat type on site and within the area of potential effect. CDFW's California Natural Diversity Data Base (CNDDDB) in Sacramento should be consulted at <https://www.wildlife.ca.gov/Data/BIOS> to obtain current information on any previously reported sensitive species and habitat. In addition, the San Diego Mammal Atlas should also be reviewed regarding sensitive mammal species known or likely to occur.
- c. An inventory of rare, threatened, endangered and other sensitive species on site and within the area of potential effect. CNDDDB indicates the occurrence of several special status species within the Project vicinity. Species to be addressed should include sensitive fish, wildlife, reptile, invertebrate, and amphibian species. Seasonal variations in use of the project area should also be addressed. Focused species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are required. Acceptable species-specific survey procedures should be developed in consultation with CDFW and the U.S. Fish and Wildlife Service. It is important that small mammal surveys, including live-trapping, are completed throughout the project footprint to determine which species are present. Other species-specific surveys that should be completed include surveys for Quino checkerspot butterfly, western spadefoot, reptiles, and burrowing owl.

COMMENT #3: Biological Direct, Indirect, and Cumulative Impacts

To provide a thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources, with specific measures to offset such impacts, the following should be addressed in the DEIR:

- a) Specific acreages of habitat types that will be impacted due to Project-related activities. Details should be provided on whether impacts will be temporary or permanent.
- b) Potential adverse impacts from lighting, noise, human activity, invasive species, and drainage. Mitigation measures proposed to alleviate such impacts in onsite undeveloped areas and onto adjacent lands should be included.
- c) Indirect project impacts on biological resources, including resources in nearby public lands, open space, adjacent natural habitats, riparian ecosystems, and any designated and/or proposed or existing reserve lands (e.g., preserve lands associated with a NCCP). Impacts on, and maintenance of, wildlife corridor/movement areas, including access to undisturbed habitats in adjacent areas, should be fully evaluated in the DEIR.
- d) Cumulative effects on biological resources. This analysis should be developed as described under CEQA Guidelines, section 15130. General and specific plans, as well as past, present, and anticipated future projects, should be analyzed relative to their impacts on similar plant communities and wildlife habitats.

COMMENT #4: Mitigation and Avoidance of Project-Related Biological Impacts

The NOP states that biological resource mitigation land will be conserved and managed south and west of the Project area. Specific details, such as exact location and acreages of mitigation lands should be described in the DEIR. For proposed preservation and/or restoration, the DEIR should include measures to protect the targeted habitat values from direct and indirect negative impacts in perpetuity, such as a Conservation Easement. An appropriate non-wasting endowment should be set aside to provide for long-term management of mitigation lands. Because the mitigation is expected to contribute to the forthcoming EC MSCP preserve system, CDFW strongly recommends that the long-term resource management plan for the mitigation land be provided to

Ashley Smith, Chief of Project Planning
 County of San Diego- Planning and Development Services
 April 24, 2023
 Page 4 of 5

CDFW and the U.S. Fish and Wildlife Service (jointly, the Wildlife Agencies) for review and approval.

The DEIR should include mitigation measures for adverse project-related impacts to sensitive plants, animals, and habitats. Mitigation measures should emphasize avoidance and reduction of project impacts. For unavoidable impacts, on-site habitat restoration or enhancement should be discussed in detail. If on-site mitigation is not feasible or would not be biologically viable and therefore not adequately mitigate the loss of biological functions and values, off-site mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed.

COMMENT #5: Nesting Birds

CDFW recommends that measures be taken to avoid project impacts to nesting birds. Migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (Title 50, § 10.13, Code of Federal Regulations). Sections 3503, 3503.5, and 3513 of the California Fish and Game Code prohibit take of all birds and their active nests including raptors and other migratory nongame birds (as listed under the Federal MBTA). Sections 3503.5 and 3513 of the California Fish and Game Code prohibit take of all raptors and other migratory nongame birds and section 3503 prohibits take of the nests and eggs of all birds. Proposed project activities (including, but not limited to, staging and disturbances to native and nonnative vegetation, structures, and substrates) should occur outside of the avian breeding season which generally runs from February 1- September 1 (as early as January 1 for some raptors) to avoid take of birds or their eggs. If avoidance of the avian breeding season is not feasible, CDFW recommends surveys by a qualified biologist with experience in conducting breeding bird surveys to detect protected native birds occurring in suitable nesting habitat that is to be disturbed and (as access to adjacent areas allows) any other such habitat within 300 feet of the disturbance area (within 500 feet for raptors). Project personnel, including all contractors working on site, should be instructed on the sensitivity of the area. Reductions in the nest buffer distance may be appropriate depending on the avian species involved, ambient levels of human activity, screening vegetation, or possibly other factors.

COMMENT #6: Lake and Streambed Alteration Agreement

CDFW has regulatory authority over activities in streams that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of any river, stream, or lake or use material from a river, stream, or lake. For any such activities, the Project applicant (or "entity") must provide written notification to CDFW pursuant to section 1600 et seq. of the Fish and Game Code. Based on this notification and other information, CDFW determines whether a Lake and Streambed Alteration Agreement (LSAA) with the applicant is required prior to conducting the proposed activities. CDFW's issuance of a LSAA for a project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. Due to the riparian resources on site, CDFW recommends that the County assess whether notification is appropriate. A Notification package for a LSAA may be obtained by accessing CDFW's web site at <http://www.wildlife.ca.gov/Conservation/LSA>.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB_FieldSurveyForm.pdf. 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: http://www.dfg.ca.gov/biogeodata/cnddb/plants_and_animals.asp.

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.)

Ashley Smith, Chief of Project Planning
County of San Diego- Planning and Development Services
April 24, 2023
Page 5 of 5

CONCLUSION

CDFW appreciates the opportunity to comment on the NOP to assist the County in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Brigid Moran at Brigid.Moran@wildlife.ca.gov.

Sincerely,

DocuSigned by:

David Mayer

D700B4520375406...

David Mayer
Environmental Program Manager
South Coast Region

ec: CDFW
Jennifer Turner, San Diego – Jennifer.Turner@wildlife.ca.gov
Cindy Hailey, San Diego – Cindy.Hailey@wildlife.ca.gov

OPR
State Clearinghouse – State.Clearinghouse@opr.ca.gov

USFWS
Jonathan Snyder – Jonathan_d_Snyder@fws.gov

REFERENCES

California Environmental Quality Act (CEQA). 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.
California Office of Planning and Research. 2009 or current version. CEQA: California Environmental Quality Act. Statutes and Guidelines, § 21081.6 and CEQA Guidelines, § 15097, §15126.4(2).