



STATE OF CALIFORNIA • NATURAL RESOURCES AGENCY

Gavin Newsom, Governor

DEPARTMENT OF FISH AND WILDLIFE

Charlton H. Bonham, Director

Central Region

1234 East Shaw Avenue | Fresno, California 93710 | (559) 243-4005

August 16, 2023

Brianahi De Leon, City Planner
City of McFarland
401 West Kern Ave
McFarland, California 93250
(661) 792-3091
bdeleon@mcfarlandcity.org



Subject: **San Joaquin Renewables Biomass to Renewable Natural Gas Facility Project
Notice or Preparation (NOP)
State Clearinghouse No. 2023070324**

Dear Brianahi De Leon:

The California Department of Fish and Wildlife (CDFW) received a Notice of Preparation (NOP) for an Environmental Impact Report (EIR) from the City of McFarland, as Lead Agency, for the San Joaquin Renewables Biomass to Renewable Natural Gas Facility Project (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

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.

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§ 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.), 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: San Joaquin Renewables, LLC

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Objective: The Project proposes to construct and operate a biofuel facility that would convert orchard wood waste and nut shells into biochar (a charcoal-like material), renewable natural gas (RNG), and coproducts including ammonium sulfate fertilizer and carbon dioxide through a non-combustion thermal conversion process called gasification. Biomass materials would be collected from local orchards and nut processing facilities and delivered to the site by truck.

RNG production would be achieved by combining oxygen, nitrogen, steam, sand, limestone, and biomass in the gasifier converter to produce a gas mixture called syngas. The oxygen and nitrogen used by the gasifier converter would be produced by another set of equipment at the facility called an air separation unit (ASU), which separates the various constituents of air into concentrated streams of both gas and liquid oxygen, nitrogen, and argon. A component of the ASU would include a 250-foot-tall cold box. The syngas is processed to remove biochar, sulfur, and nitrogen compounds and then converted into a mixture of methane, carbon dioxide, and water. Once carbon dioxide and water are removed, the methane would meet the safety requirements of Southern California Gas Company (SoCalGas) and would be injected into the SoCalGas pipeline, which runs on the northern and eastern sides of the site.

The facility would process up to 1,500 bone-dry tons per day (BDT) or 1,764 wet-basis (typically 15 percent moisture content) tons per day of agricultural waste biomass into approximately 12.5 million standard cubic feet per day (MMSCFD) of RNG. The RNG would be sold for use as a biofuel in transportation, electricity production, or any other application that uses natural gas. The outputs of the gasification process that would be trucked off the facility for sale include liquefied oxygen, nitrogen, and argon; biochar; and ammonium sulfate fertilizer. The carbon dioxide would either be vented to the atmosphere, trucked to an off-site approved injection well, or manufactured into dry ice or liquified on site and shipped from the facility by truck for sale. In addition to the gasification area, air separation unit area, and possible dry ice production area, the facility would also include a maintenance and operation building, truck repair building, two administration buildings (with one of the buildings containing a visitor center), a scale house, a biomass receiving and storage area (shell storage area and wood yard) with truck tippers to unload the biomass and conveyers to move the material to the storage area, a compressed natural gas (CNG) fueling station with six fast-fill fueling points open to the public, an enclosed biomass grinder, up to ten acres of solar panel arrays, liquid storage tanks, two stormwater infiltration basins, a flare, roadways and parking lots, and an electric power generation facility that would produce electricity to power the facility.

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Location: The Project is located on an 80-acre rectangular parcel bounded by Elmo Highway to the north, Melcher Road to the east, and an unnamed dirt road to the west. The project site is directly north of the City of McFarland's wastewater treatment plant.

Timeframe: Construction is expected to take 12 to 18 months and is expected to begin in the second or third quarter of 2024.

COMMENTS AND RECOMMENDATIONS

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

Aerial imagery of the Project boundary and its surroundings show the area contains agricultural habitats including cultivated grasses (e.g., wheat or oats) that is used as fodder and was historically irrigated by an adjacent wastewater treatment plant's secondary treated wastewater effluent. 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.

The Project site is within the geographic range of several special status animal species including the State threatened and federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*); the State threatened Swainson's hawk (*Buteo swainsoni*); the State threatened tricolored blackbird (*Agelaius tricolor*); the State candidate for listing as endangered Crotch's bumble bee (*Bombus crotchii*); and the State species of special concern burrowing owl (*Athene cunicularia*).

Additionally, the Project site is within the geographic range of several special status plant species including the California Rare Plant Rank (CRPR) 1B.2 Munz's tidy tips (*Layia munzii*), earlimart orache (*Atriplex cordulata* var. *erecticaulis*), and recurved larkspur (*Delphinium recurvatum*). Finally, the Project is within the geographic range of many migratory and non-migratory nesting birds.

San Joaquin Kit Fox

The Project site is within the known geographic range of San Joaquin kit fox (SJKF) and several historical occurrences have been documented within the project vicinity (CDFW 2023a). SJKF den in a variety of areas such as arid

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grassland and alkali scrub/shrub habitats in open areas with sandy soils (Grinnel et al. 1937), agricultural and fallow/ruderal habitat, and dry stream channels, and populations can fluctuate over time. SJKF may be attracted to Project site due to the type and level of ground disturbing activities and the loose, friable soils resulting from intensive ground disturbance. Based on aerial imagery and the information provided in the NOP, the Project site may contain suitable habitat for SJKF denning and foraging.

As SJKF may have the potential to den and/or forage within the Project site and have been documented within the Project vicinity, CDFW recommends that a qualified biologist conduct a habitat assessment as part of the biological technical studies conducted in support of the Draft EIR. If potentially suitable habitat is identified, CDFW recommends that a qualified biologist assess the presence/absence of SJKF by conducting focused surveys to detect SJKF and their sign within the Project footprint as part of the biological studies conducted in support of the Draft EIR. If surveys indicate the presence or potential presence of SJKF, consultation with CDFW is recommended for guidance on mitigation measures such as avoidance, minimization, and mitigation.

Swainson's Hawk

The Project is within the known geographic range of Swainson's hawk (SWHA), and a historical occurrence has been documented approximately 6.0 miles southwest of the Project site (CDFW 2023a). SWHA are known to breed within the Central Valley of California and prefer to nest and forage in alfalfa, fallow fields, field crops, and grassland habitats with a sufficient source of small mammals (CDFG 1994). Based on aerial imagery and the information provided in the NOP, the Project site may contain suitable habitat for SWHA foraging. In addition, there are trees and structures located within the vicinity of the Project site that may provide suitable nesting habitat.

As SWHA may have the potential to use the Project site and have been documented within the Project vicinity, CDFW recommends that a qualified biologist conduct a habitat assessment as part of the biological technical studies conducted in support of the Draft EIR. If potentially suitable habitat is identified, CDFW recommends that a qualified wildlife biologist conduct surveys for nesting SWHA, also as part of the biological technical studies conducted in support of the Draft EIR, following the entire survey methodology developed by the SWHA Technical Advisory Committee (SWHA TAC 2000). If surveys indicate the presence or potential presence of SWHA, consultation with CDFW is recommended for guidance on mitigation measures such as avoidance, minimization, and mitigation.

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Tricolored Blackbird

The Project site is within the known geographic range of tricolored blackbird (TRBL) and multiple historical and recent occurrences have been documented within the Project vicinity (CDFW 2023a). TRBL breed within the vicinity of fresh water, primarily in marshy areas. Important sites for nesting colonies include heavy growths of cattails, tules, thistles, willows, blackberries, mustard, nettles, and salt cedar. They typically forage within flooded lands, grassy fields, and margins of ponds (Grinnel and Miller 1944). Based on aerial imagery and the information provided in the NOP, the grassland habitats within the Project site may provide potential foraging habitat.

CDFW recommends that a qualified biologist conduct a habitat assessment as part of the biological technical studies conducted in support of the Draft EIR. If potentially suitable habitat is identified, consultation with CDFW is recommended for guidance on focused survey methods and mitigation measures such avoidance, minimization, and mitigation.

Crotch's Bumble Bee

The Project site is within the known geographic range of Crotch's bumble bee (CBB) and a historical occurrence was documented approximately 10 miles east of the Project site (CDFW 2023a). CBB are known to inhabit areas of grasslands and scrub that contain requisite habitat elements for nesting, such as small mammal burrows and bunch/thatched grasses. CBB was once common throughout most of central and southern California. However, it now appears to be absent from most of their range, especially in the central portion of its historic range within California's Central Valley (Hatfield et al. 2014). Analyses by the Xerces Society et al. (2018) suggest there have been sharp declines in relative abundance by 98% and persistence by 80% over the last ten years. As noted in the NOP, the Project site contains a mix of non-native grasses used for fodder. As such, CBB could potentially use the habitats within the Project site.

CDFW recommends a qualified biologist conduct a habitat assessment as part of the biological technical studies conducted in support of the Draft EIR to determine if the Project site or its immediate vicinity contain habitat suitable to support CBB. Potential nesting sites, which include all small mammal burrows, perennial bunch grasses, thatched annual grasses, brush piles, old bird nests, dead trees, and hollow logs would need to be documented as part of the assessment. If potentially suitable habitat is identified, CDFW recommends that a qualified biologist conduct focused surveys for CBB, and their requisite habitat features following the methodology outlined in the Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species (CDFW

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2023b), as part of the biological technical studies conducted in support of the Draft EIR. If potentially suitable habitat is identified, consultation with CDFW is recommended for guidance on mitigation measures such avoidance, minimization, and mitigation.

Burrowing Owl

The Project site is within the known geographic range of burrowing owl (BUOW) and a historical occurrence was documented approximately four miles north of the Project site (CNDDDB 2023a). BUOW inhabit open grasslands or adjacent canal banks, right-of-ways, vacant lots, etc., containing small mammal burrows, a requisite habitat feature used by BUOW for nesting and cover. Based on aerial imagery and the information provided in the NOP, the Project site may contain suitable habitat for BUOW nesting and foraging.

As BUOW may have the potential to nest and/or forage within the Project site, CDFW recommends that a qualified biologist conduct a habitat assessment as part of the biological technical studies conducted in support of the Draft EIR. If potentially suitable habitat is identified, CDFW recommends that a qualified biologist assess the presence/absence of BUOW by having a qualified biologist conduct surveys, also as part of the biological studies conducted in support of the Draft EIR, following the California Burrowing Owl Consortium's (CBOC) "Burrowing Owl Survey Protocol and Mitigation Guidelines" (CBOC 1993) and CDFW's "Staff Report on Burrowing Owl Mitigation" (CDFG 2012). If surveys indicate the presence or potential presence of BUOW, consultation with CDFW is recommended for guidance on mitigation measures such as avoidance, minimization, and mitigation.

Special Status Plant Species

The Project site is within the known geographic range of several special status plant species including Munz's tidy tips, earlimart orache, and recurved larkspur. The Project site may contain suitable habitat for special status plant species, including the species mentioned above.

CDFW recommends that a qualified botanist conduct surveys for special status plants following the "Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities" (CDFW 2018) as part of the biological technical studies conducted in support of the Draft EIR. This protocol, which is intended to maximize detectability, includes the identification of reference populations to facilitate the likelihood of field investigations occurring during the appropriate floristic period. If surveys indicate the presence or potential presence of special status plants, consultation with CDFW is

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recommended for guidance on mitigation measures such as avoidance, minimization, and mitigation.

Nesting Birds

The Project site is within the known geographic range of several species of migratory and non-migratory birds and may contain suitable habitat for nesting migratory and non-migratory bird species.

To evaluate Project-related impacts on nesting birds, CDFW recommends that a general habitat assessment for nesting birds be conducted as part of the biological technical studies conducted in support of the Draft EIR.

Editorial Comments and/or Suggestions

Lake and Streambed Alteration: Based on aerial imagery, the Project site appears to have features indicating multiple streams and drainages may be present. If streams, swales, or drainages occur on the Project site, Project activities may be subject to CDFW's regulatory authority pursuant to Fish and Game Code section 1600 et seq. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake (including the removal of riparian vegetation); (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral, intermittent, or episodic, as well as those that are perennial.

CDFW is required to comply with CEQA in the issuance of a Lake or Streambed Alteration Agreement; therefore, if the Draft EIR approved for the Project does not adequately describe the Project and its impacts to lakes or streams, a subsequent CEQA analysis may be necessary for LSA Agreement issuance. For information on notification requirements, please refer to CDFW's website (<https://wildlife.ca.gov/Conservation/LSA>) or contact CDFW staff in the Central Region Lake and Streambed Alteration Program at (559) 243-4593 or R4LSA@wildlife.ca.gov.

Artificial Lighting: Installation of outdoor artificial night lighting can disrupt the circadian rhythms of many wildlife species. Many species use photoperiod cues for communication, determining when to begin foraging, thermoregulation behavior, and migration (Longcore and Rich 2004, Miller 2006, Nightingale et al. 2006, Perry et al. 2008, Stone et al. 2009). Phototaxis, a phenomenon which results in attraction and movement towards light, can disorient, entrap, and

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temporarily blind wildlife species that experience it (Longcore and Rich 2004). Project activities could result in disruption of wildlife behavior, inadvertent injury, or mortality.

CDFW recommends that the Draft EIR for the Project include an analysis of artificial lighting as it relates to biological resources and incorporate enforceable mitigation measures to decrease the impacts of artificial outdoor lighting on wildlife species. Potentially feasible mitigation measures include motion sensitive lighting; mounting light fixtures as low as possible to minimize light trespass; use of light fittings that direct and confine the spread of light downward; and use of long-wavelength light sources. In addition, CDFW recommends that lighting is not installed in ecologically sensitive areas (e.g., streams, wetlands, and habitat used by special status species, such as nesting/roosting sites and riparian corridors) and the use of the white/blue wavelengths of the light spectrum be avoided.

Project Alternatives Analysis: CDFW recommends that the information and results obtained from the biological technical surveys, studies, and analysis conducted in support of the Project's Draft EIR be used to develop and modify the Project's alternatives to avoid and minimize impacts to biological resources to the maximum extent possible. When efforts to avoid and minimize have been exhausted, CDFW advises that remaining impacts to sensitive biological resources be mitigated to reduce impacts to a less than significant level, if feasible.

Cumulative Impacts: 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 Project, even if those impacts are relatively small (i.e., less than significant). Cumulative impacts are recommended to be analyzed 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 also be identified and mapped for each resource being analyzed and utilized for this analysis. CDFW recommends closely evaluating the need for a cumulative impacts analysis for the following species as part of the Draft EIR due to these species being in poor or declining health or at risk: SJKF, SWHA, TRBL, CBB, BUOW, Munz's tidy tips, earlimart orache, and recurved larkspur. CDFW staff is available for consultation in support of cumulative impacts analyses as a trustee and responsible agency under CEQA.

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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 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

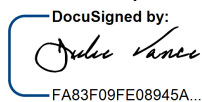
The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order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

CONCLUSION

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

If you have any questions, please contact Jeremy Pohlman, Senior Environmental Scientist (Specialist), at the address provided on this letterhead, by telephone at (805) 503-2375, or by electronic mail at Jeremy.Pohlman@wildlife.ca.gov.

Sincerely,

DocuSigned by:

FA83F09FE08945A...

Julie A. Vance
Regional Manager

ec: See Page Eleven

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ec: State Clearinghouse
state.clearinghouse@opr.ca.gov

Jeremy Pohlman
California Department of Fish and Wildlife

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