



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



February 7, 2025
Sent via email

Gustavo Gomez
County of Riverside
4080 Lemon Street, 12th Floor
Riverside, CA 92501

Subject: NOP – Notice of Preparation of a Draft EIR
Grace Solar Energy Center
State Clearinghouse No. 2025010194

Dear Gustavo Gomez:

The California Department of Fish and Wildlife (CDFW) received a Notice of Preparation (NOP) from the County of Riverside (County) for the Grace Solar Energy Center Project (proposed Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA guidelines.

Thank you for the opportunity to provide additional comments and recommendations regarding those activities involved in the proposed Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the proposed 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 proposed 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 proposed 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.

PROJECT DESCRIPTION SUMMARY

The proposed Project description, as provided in the NOP, is as follows: “[t]he Palo Verde Mesa Solar Project (a project previously approved by the County—see State Clearinghouse number 2012081026) is a solar photovoltaic (PV) electrical generating facility and associated infrastructure permitted up to 450 megawatts (MW), located on approximately 3,400 acres of private land. The Palo Verde Mesa Project Environmental Impact Report (EIR) No. 532, Conditional Use Permit (CUP) No. 3684, Public Use Permit (PUP) No. 916, and Development Agreement (DA) No. 86 were approved by the County in August 2017. Boulevard Associates, LLC (“Applicant”) proposes to modify the approved project design and change the project name to Grace Solar Energy Center (Project) under a Supplemental EIR (SEIR) and CUP amendment. Boulevard Associates, LLC (“Applicant”) proposes to entitle, construct, operate, maintain, and decommission the Project. The Project would include a utility-scale solar PV electrical generating and storage facility and associated infrastructure to generate and deliver renewable electricity to the statewide electricity transmission grid. The proposed Project would generate and store up to 500 MW of renewable electricity via arrays of solar PV panels, battery energy storage system (BESS), 230-kV gen-tie line, access roads and appurtenant facilities.”

COMMENTS AND RECOMMENDATIONS

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

CDFW’s comments are constrained by the limited project description provided in the NOP, State Clearinghouse notice 2025010194. At this time, the provided project description does not contain sufficient detail to allow CDFW to prepare comprehensive responses that are informative for scoping the subsequent DEIR, and by extension, processing and permitting timelines. This may necessitate CDFW to provide comments typically reserved for the CEQA scoping process associated with the NOP (e.g., focused surveys and analyses) during the DEIR review period.

CDFW recommends that the forthcoming DEIR address the following:

Project Description

The County provided the project description described above in the State Clearinghouse public NOP of an EIR. CDFW previously commented on the Palo Verde Mesa Solar Project DEIR concerning the Project and relevant regulatory environment at that time. Since the provision of the aforementioned comments, and the County’s

subsequent certification of the Palo Verde Mesa Project environmental impact report (EIR), several regulatory considerations have changed including the candidacy listing of western burrowing owl (*Athene cunicularia hypugaea*, western burrowing owl). Additionally, more than 12 years have passed since the Project's biological surveys, resulting in likely changes to baseline habitat conditions. Lastly, CDFW has become aware of improvements to the Buck Boulevard access road through a streambed alteration agreement application which appears to include deviations from the designs originally analyzed in the Palo Verde Solar EIR. The DEIR should include a project description that clearly identifies changes to the project design and analyzes the effects of these changes on biological resources.

Assessment of Biological Resources

Section 15125(c) of the CEQA Guidelines states that knowledge of the regional setting of a project is critical to the assessment of environmental impacts and that special emphasis should be placed on environmental resources that are rare or unique to the region. To enable CDFW staff to adequately review and comment on the proposed Project, the DEIR should include a complete assessment of the flora and fauna within and adjacent to the Project footprint, with particular emphasis on identifying rare, threatened, endangered and other sensitive species and their associated habitats.

CDFW recommends that the DEIR specifically include:

1. An assessment of the various habitat types located within the Project footprint, and a map that identifies the location of each habitat type. CDFW recommends that floristic, alliance- and/or association-based mapping and assessment be completed following *The Manual of California Vegetation*, second edition (Sawyer et al. 2009¹). Adjoining habitat areas should also 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.
2. A general biological inventory of the fish, amphibian, reptile, bird, and mammal species that are present or have the potential to be present within each habitat type onsite and within adjacent areas that could be affected by the Project. CDFW's California Natural Diversity Database (CNDDDB) in Sacramento should be contacted at (916) 322-2493 or CNDDDB@wildlife.ca.gov or <https://wildlife.ca.gov/Data/CNDDDB/Maps-and-Data> to obtain current information on any previously reported sensitive species and habitat, including Significant Natural Areas identified under Chapter 12 of the Fish and Game Code (section 1930 et seq.), in the vicinity of the Project.

¹ Sawyer, J. O., T. Keeler-Wolf, and J. M. Evens. 2009. A manual of California Vegetation, 2nd ed. California Native Plant Society Press, Sacramento, California. <http://vegetation.cnps.org/>

Please note that CDFW's CNDDDB is a positive detection database only and is not exhaustive in terms of the data it houses, nor is it an absence database. CDFW recommends that it be used as a starting point in gathering information about the *potential presence* of species within the general area of the Project site.

3. A complete, *recent* inventory of rare, threatened, endangered, and other sensitive species located within the Project footprint and within offsite areas with the potential to be affected, including California Species of Special Concern (SSC) and California Fully Protected Species (Fish & G. Code, § 3511, 4700, 5050 & 5515). Species to be addressed should include all those which meet the CEQA definition (CEQA Guidelines § 15380). The inventory should address seasonal variations in use of the Project area and should not be limited to resident species. Focused species-specific surveys should be completed by a qualified biologist, and conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable. Acceptable species-specific survey procedures should be developed in consultation with CDFW and the U.S. Fish and Wildlife Service, where necessary. Note that CDFW generally considers biological field assessments for wildlife to be valid for a one-year period, and assessments for rare plants may be considered valid for a period of up to three years. Some aspects of the Project may warrant periodic updated surveys for certain sensitive taxa, particularly if the Project is proposed to occur over a protracted time frame, or in phases, or if surveys are completed during periods of drought.

SSC is a species, subspecies, or distinct population of an animal native to California that currently satisfies one or more of the following (not necessarily mutually exclusive) criteria:

4. is extirpated from the State or, in the case of birds, is extirpated in its primary season or breeding role;
5. is listed as ESA-, but not CESA-, threatened, or endangered; meets the State definition of threatened or endangered but has not formally been listed;
6. is experiencing, or formerly experienced, serious (nonscyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status; and/or
7. has naturally small populations exhibiting high susceptibility to risk from any factor(s), that if realized, could lead to declines that would qualify it for CESA threatened or endangered status.

Fully protected species may not be taken or possessed at any time and no licenses or permits may be issued for their take except as follows:

- Take is for necessary scientific research,
- Efforts to recover a fully protected, endangered, or threatened species,

- Live capture and relocation of a bird species for the protection of livestock, or
- They are a covered species whose conservation and management is provided for in a Natural Community Conservation Plan (Fish & G. Code, §§ 3511, 4700, 5050, & 5515).

Specified types of infrastructure projects may be eligible for an incidental take permit for unavoidable impacts to fully protected species if certain conditions are met (see Fish & G. Code §2081.15). Project proponents should consult with CDFW early in the project planning process.

The inventory of rare, threatened, endangered, and other sensitive species and associated focused species-specific surveys should include, but not be limited to, the following:

Burrowing Owl (*Athene cunicularia hypugaea*)

On October 10, 2024, the Fish and Game Commission determined that western burrowing owl warrants protection as a candidate species under the California Endangered Species Act (Fish & G. Code, § 2050 et seq.). During the candidacy period, western burrowing owl will be afforded the same protection as threatened and endangered species under CESA. If Project activities could result in take, appropriate CESA authorization (i.e., Incidental Take Permit under Fish and Game Code section 2081) should be obtained prior to commencement of Project activities.

Take of individual burrowing owls and their nests or eggs is defined by Fish and Game Code section 86, and prohibited by sections 3503, 3503.5, and 3513. Take is defined in Fish and Game Code section 86 as “hunt, pursue, catch, capture or kill, or attempt to hunt, pursue, catch, capture or kill.”

CDFW recommends that the Project proponent follow the recommendations and guidelines provided in the *Staff Report on Burrowing Owl Mitigation* (Department of Fish and Game, March 2012); available for download from CDFW’s website: [Survey and Monitoring Protocols and Guidelines \(ca.gov\)](#). CDFW recommends that the entirety of the Project be assessed and surveyed for burrowing owl given that small mammal burrows were abundant at the time of the surveys. The Staff Report on Burrowing Owl Mitigation specifies three steps for project impact evaluations:

- a. A habitat assessment;
- b. Surveys; and
- c. An impact assessment

As stated in the Staff Report on Burrowing Owl Mitigation, the three progressive steps are effective in evaluating whether a project will result in impacts to burrowing owls, and the information gained from the steps will inform any subsequent avoidance,

minimization, and mitigation measures. Habitat assessments are conducted to evaluate the likelihood that a site supports burrowing owl. Burrowing owl surveys provide information needed to determine the potential effects of proposed projects and activities on burrowing owls, and to avoid take in accordance with Fish and Game Code sections 86, 3503, and 3503.5. Impact assessments evaluate the extent to which burrowing owls and their habitat may be impacted, directly or indirectly, on and within a reasonable distance of a proposed CEQA project activity or non-CEQA project.

Desert Kit Fox

Desert kit fox is protected as a fur-bearing mammal under title 14 of the California Code of Regulations (Chap. 5, §460) and may not be taken at any time. Because desert kit fox exhibits high fidelity to natal dens, it is crucial to adequately assess whether desert kit fox is present on the Project site well in advance of commencing Project activities. If desert kit fox is found on-site during breeding season, it could delay Project activities until appropriate buffers can be established on the Project site.

Desert kit foxes also have the potential to move onto the Project site between the time that the biological surveys were originally conducted in 2012. CDFW considers the Project as having the potential to impact desert kit fox.

To support the County in reducing impacts to desert kit fox to a level less than significant, CDFW recommends the DEIR include an analysis of impacts to desert kit fox, including the findings from focused surveys for desert kit fox covering the entirety of the project footprint, and to incorporate appropriate avoidance, minimization, and mitigation measures based on findings from the surveys.

Agassiz's Desert Tortoise (*Gopherus agassizii*)

The proposed Project occurs within the range of Agassiz's desert tortoise; a state-listed endangered and federally listed threatened species. CDFW recommends that the Project complete protocol level surveys proposed to be directly or indirectly affected by the Project, using appropriately qualified biologists, following the USFWS Desert Tortoise Field Manual, accessible here:

https://www.fws.gov/nevada/desert_tortoise/documents/field_manual/DesertTortoise-Field-Manual.pdf. To reduce the likelihood of nonconcurrence with proposed surveys, methodology, and qualifications of biologists, CDFW recommends working with the USFWS and CDFW concurrently to ensure a consistent and adequate approach to planning your work (USFWS, 2018).

If desert tortoise are found within the Project area during surveys or construction activities, and complete avoidance is not possible, CDFW recommends the Project acquire a State ITP prior to any vegetation- or ground-disturbing activities. Any take of desert tortoise without take authorization would be a violation of Fish and Game Code section 2080.

Analysis of Direct, Indirect, and Cumulative Impacts to Biological Resources

The DEIR should provide a thorough discussion of the direct, indirect, and cumulative impacts expected to adversely affect biological resources as a result of the Project. To ensure that Project impacts to biological resources are fully analyzed, the following information should be included in the DEIR:

1. A discussion of potential indirect project impacts on biological resources, including resources in areas adjacent to the project footprint, such as nearby public lands (e.g. National Forests, State Parks, etc.), open space, adjacent natural habitats, riparian ecosystems, wildlife corridors, and any designated and/or proposed reserve or mitigation lands (e.g., preserved lands associated with a Natural Community Conservation Plan, or other conserved lands).
2. An evaluation of impacts to on-site and adjacent open space lands from both the construction of the proposed Project and any long-term operational and maintenance needs.
3. A cumulative effects analysis developed as described under CEQA Guidelines section 15130. Project related impacts to riparian areas, alluvial fan habitats, wildlife corridors or wildlife movement areas, sensitive species and other sensitive habitats, open lands, open space, and adjacent natural habitats in the cumulative effects analysis. 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.

Alternatives Analysis

CDFW recommends the DEIR describe and analyze a range of reasonable alternatives to the Project that are potentially feasible, would “feasibly attain most of the basic objectives of the Project,” and would avoid or substantially lessen any of the Project’s significant effects (CEQA Guidelines § 15126.6[a]). The alternatives analysis should also evaluate a “no project” alternative (CEQA Guidelines § 15126.6[e]).

California Endangered Species Act

CDFW is responsible for ensuring appropriate conservation of fish and wildlife resources including threatened, endangered, and/or candidate plant and animal species, pursuant to CESA. CDFW recommends that a CESA Incidental Take Permit (ITP) be obtained if the Project has the potential to result in “take” (California Fish and Game Code Section 86 defines “take” as “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill”) of State-listed CESA species, either through construction or over the life of the project. CESA ITPs are issued to conserve,

protect, enhance, and restore State-listed CESA species and their habitats.

CDFW encourages early consultation, as significant modification to the proposed Project and avoidance, minimization, and mitigation measures may be necessary to obtain a CESA ITP. The California Fish and Game Code requires that CDFW comply with CEQA for issuance of a CESA ITP. CDFW therefore recommends that the DEIR addresses all Project impacts to listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of CESA.

CDFW Lake and Streambed Alteration Program

Based on review of aerial photography, ephemeral streams transects the Project site. Project activities may impact Fish and Game Code section 1602 resources. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that results in one or more of the following: substantially divert or obstruct the natural flow of any river, stream or lake; substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or deposit debris, waste or other materials that could pass into any river, stream or lake. Please note that "any river, stream or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a body of water. Upon receipt of a complete notification, CDFW determines if the proposed Project activities may substantially adversely affect existing fish and wildlife resources and whether a Lake and Streambed Alteration (LSA) Agreement is required. An LSA Agreement includes measures necessary to protect existing fish and wildlife resources. CDFW may suggest ways to modify your Project that would eliminate or reduce harmful impacts to fish and wildlife resources.

CDFW's issuance of an LSA Agreement is a "project" subject to CEQA (see Pub. Resources Code 21065). To facilitate issuance of an LSA Agreement, if necessary, the DEIR should fully identify the potential impacts to the lake, stream, or riparian resources, and provide adequate avoidance, mitigation, and monitoring and reporting commitments. Early consultation with CDFW is recommended, since modification of the proposed Project may be required to avoid or reduce impacts to fish and wildlife resources. To submit a Lake or Streambed Alteration notification package, please go to <https://www.wildlife.ca.gov/Conservation/LSA/Forms>.

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

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Database (CNDDDB). The CNNDDB field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

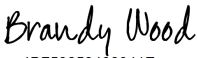
ENVIRONMENTAL DOCUMENT FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document 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 environmental document filing 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.)

CONCLUSIONS

CDFW appreciates the opportunity to comment on the NOP of a DEIR for the Grace Solar Energy Center Project (SCH No. 2025010194) and recommends that the County address CDFW's comments and concerns in the forthcoming DEIR. Questions regarding this letter or further coordination should be directed to Eric Weiss, Senior Environmental Scientist (Specialist), at Eric.Weiss@wildlife.ca.gov or (909) 844-2769 (cell).

Sincerely,

DocuSigned by:

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Brandy Wood
Environmental Program Manager

ec:

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