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**To:** [Jennifer.Ludovissy@Wildlife.ca.gov](mailto:Jennifer.Ludovissy@Wildlife.ca.gov); [Burlaza, Melanie@Wildlife](mailto:Burlaza.Melanie@Wildlife)  
**Subject:** JVR Energy Park EIR (SCH #2019039044) - Responses to CDFW Comment Letter  
**Date:** Tuesday, June 29, 2021 10:10:37 AM  
**Attachments:** [image001.png](#)  
[A2 CA Dept of Fish and Wildlife Comment Letter - Final.pdf](#)  
[A2 CA Dept of Fish and Wildlife Reponse - Final.pdf](#)

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The California Department of Fish and Wildlife comment letter on the JVR Energy Park Draft Environmental Impact Report and the responses to CDFW comments are attached.

Please note the Draft FINAL EIR is available on the County of San Diego's website at:  
<https://www.sandiegocounty.gov/content/sdc/pds/ceqa/MUP-18-022.html>

Sincerely,  
Susan Harris

Susan Harris  
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For local information and daily updates on COVID-19, please visit [www.coronavirus-sd.com](http://www.coronavirus-sd.com). To receive updates via text, send COSD COVID19 to 468-311.



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**Subject:** Copy of Comment Ltr RE: Draft EIR for JVR Energy Park Project  
**Date:** Monday, December 07, 2020 3:55:37 PM  
**Attachments:** [image004.png](#)

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Ms. Harris,

Please see attached letter for your records. If you have any questions, please contact Melanie Burlaza at \_\_\_\_\_.

Thank you!  
Jenny

**JENNY LUDOVISSY** | Staff Services Analyst



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 CHARLTON H. BONHAM, Director



December 7, 2020

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**Subject: Comments on the Draft Environmental Impact Report for the JVR Energy Park Project, SCH #2019039044**

Dear Ms. Harris:

The California Department of Fish and Wildlife (CDFW) has reviewed the above-referenced Draft Environmental Impact Report (DEIR) for the JVR Energy Park Project.

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, we appreciate the opportunity to provide comments regarding those aspects of the Project that the 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.

A2-2

#### **CDFW's ROLE**

The 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; California Environmental Quality Act [CEQA] Guidelines § 15386, subd. (a).) The 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, the 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.

A2-3

The CDFW is also a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) The CDFW may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to the 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.

A2-4

The CDFW also administers the Natural Community Conservation Planning (NCCP) program. The County of San Diego (County) participates in the NCCP program by implementing its

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approved Multiple Species Conservation Program (MSCP) and the planning agreement for the draft East County Plan of which the Mountain Empire Subregional Plan is a part.

A2-5  
 contd.

## Project Description

**Objective:** The JVR Energy Project would entail the operation and construction of a 90-megawatt (MW) solar energy facility and a 20-MW energy storage system. The Project would include approximately 300,000 photovoltaic modules on single axis trackers, an underground electrical collection system, a substation, an overhead gen-tie line, and access roads. The development footprint of the proposed facilities would be approximately 691 acres. The Project would require a General Plan Amendment, a Rezone, and a Major Use Permit. Eventual decommissioning would occur at the end of the Project's useful life. The site previously included agricultural operations.

A2-6

**Project Location:** The 1,345-acre project site is located in the unincorporated Mountain Empire Subregion of the County. The site is adjacent to the community of Jacumba Hot Springs and the Jacumba Airport, and to the south of Interstate 8 (I-8). The U.S./Mexico international border is located along the southern boundary of the Project site. Primary access would be provided from I-8 with local access from Carrizo Gorge Road and Old Highway 80.

A2-7

## COMMENTS AND RECOMMENDATIONS

The CDFW offers the following comments and recommendations 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.

A2-8

### Comment #1: Impacts to Vegetation Communities

Table 2.3-4 indicates that desert saltbush scrub will have a mitigation deficit of 96.09 acres at a 2:1 ratio. The DEIR states that this deficit is mitigated through the preservation of desert sink scrub (12.43 acres), mesquite bosque (24.46 acres), and Sonoran mixed woody and succulent scrub (59.20 acres).

**Issue:** The DEIR proposes to mitigate 96.09 acres of desert saltbush scrub out-of-kind. This habitat type is associated with a number of special status species such as glossy snake (*Arizona elegans occidentalis*), burrowing owl (*Athene cunicularia*), and loggerhead shrike (*Lanius ludovicianus*). And a potential burrowing owl burrow was detected onsite within this habitat type.

**Specific Impact:** With the proposed mitigation measure, the Project would result in a permanent loss of 96.09 acres of desert saltbush scrub. This plant community could provide habitat for special status plant and wildlife species.

A2-9

**Why impacts would occur:** Desert saltbush scrub could provide habitat for special status plants and wildlife species. Impacts to special status plants and wildlife species may occur through habitat loss or modification, resulting in reduced reproductive capacity, population declines, or local extirpation of a sensitive or special status plant or wildlife species.

**Evidence impacts would be significant:** Inadequate avoidance, minimization, and mitigation measures for impacts to sensitive vegetation communities will result in the Project continuing to

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have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by CDFW or United States Fish and Wildlife Service (USFWS).

A2-9  
 contd.

**Mitigation Measure #1:** CDFW recommends that the project proponent restore or create habitat on or off site at no less than 2:1 for permanent impacts to desert saltbush scrub. For mitigation through participation in a mitigation bank, CDFW recommends no less than 3:1 for permanent impacts for the desert saltbush scrub vegetation community.

A2-10

CDFW's recommended ratio is higher to account for loss of seed bank and risk of failure. High attrition and low survivorship of native seedlings may occur. Moreover, the ratio is higher to account for the temporal loss of habitat. This may be multiple years, from the moment of impact to until the project proponent is able to restore/create self-sustaining habitat that is similar in species abundance, composition, density, and coverage to the habitat impacted. CDFW recommends habitat restoration or creation in areas suitable to support plant species found in desert saltbush scrub. Mitigation should not occur where physical and/or biological factors (e.g., soils, slope) are not suitable to support desert saltbush scrub.

A2-11

#### **Comment #2: Impacts to Special Status Plants**

Impact BI-SP-2 of the DEIR states that there will be direct impacts to pygmy lotus (*Acemispone haydonii*) and sticky gerardia (*Gerardia viscida*). Pygmy lotus is a California Rare Plant Rank (CRPR) List 1B.3 (California Native Plant Society 2019, CNPS) and County List A species (County of San Diego 2010a). Sticky gerardia is a CRPR 2B.2 (CNPS 2019) and a County List B species (County of San Diego 2010a). Page 104 of the DEIR says that County List A species (pygmy lotus) will be mitigated at a 3:1 ratio and County List B species (sticky gerardia) will be mitigated at a 1:1 ratio. The DEIR proposes mitigation through "a combination of salvaging plants located in proposed impact areas and replanting in suitable mitigation lands and establishment of additional plants" (page 104). Specific provisions are to be delineated in the Resources Management Plan (RMP) per Mitigation Measure M-BI-4.

A2-12

**Issue:** CDFW does not consider transplanting or salvaging rare plants within a development as appropriate mitigation for rare plants. Translocation and transplantation are the process of moving an individual plant from the Project site and permanently moving it to a new location. The DEIR does not provide sufficient detail for the mitigation for these plants. In addition, "suitable mitigation lands" should be specified within the EIR and future RMP.

A2-13

A2-14

A2-15

**Recommendation #1:** CDFW generally does not support the use of translocation or transplantation as the primary mitigation strategy for unavoidable impacts to species. Studies have shown that these efforts are experimental and the outcome unreliable (CNPS 1998). CDFW has found that permanent preservation and management of habitat capable of supporting these species is often a more effective long-term strategy for conserving sensitive plants. Furthermore, we recommend that the EIR include specific provisions for mitigation for these plants in the RMP, to include details on the use of a qualified restoration specialist, the dates restoration is to take place, and the exact locations for restoration. We recommend further research to determine the best conservation and restoration strategy for these plant species, as many plants have higher survivorship when seeded rather than transplanted.

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### Comment #3: Impacts to Species of Special Concern (SSC)

The following special-status species were observed at the Project site: San Diegan tiger whiptail (*Aspidoscelis tigris stejnegeri*; County Group 2, SSC), tricolored blackbird (*Agelaius tricolor*; Group 1, ST [state threatened], BCC, SSC), golden eagle (*Aquila chrysaetos*; Group 1, BCC, FP, WL), burrowing owl (*Athene cunicularia*; County Group 1, BCC, SSC), Vaux's swift (*Chaetura vauxi*; SSC), northern harrier (*Circus hudsonius*; County Group 1, SSC), loggerhead shrike (*Lanius ludovicianus*; County Group 1, BCC, SSC), yellow-headed blackbird (*Xanthocephalus xanthocephalus*; SSC), San Diego black-tailed jackrabbit (*Lepus californicus*; Group 2, SSC), San Diego desert woodrat (*Neotoma lepida intermedia*; County Group 2, SSC), American badger (*Taxidea taxus*; potential burrow) (Group 2, SSC), and Quino checkerspot butterfly (*Euphydryas editha quino*; County Group 1; FE [federally endangered]).

The following are special-status species with high potential to occur in the BSA: California glossy snake (*Arizona elegans occidentalis*; SSC), San Diego banded gecko (*Coleonyx variegatus abbotti*; County Group 1, SSC), red diamond rattlesnake (*Crotalus ruber*; County Group 2, SSC), Blainville's horned lizard (*Phrynosoma blainvillii*; County Group 2, SSC), pallid bat (*Antrozous pallidus*; County Group 2, SSC), northwestern San Diego pocket mouse (*Chaetodipus fallax*; County Group 2, SSC), pallid San Diego pocket mouse (*Chaetodipus fallax pallidus*; County Group 2, SSC), and Jacumba pocket mouse (*Perognathus longimembris internationalis*; County Group 2, SSC).

A2-18

**Issue:** Impacts to SSC are discussed in section 2.3.3.2, labeled Impact BI-W-1 and BI-W-2. The DEIR proposes mitigation measures M-BI-1 (biological monitoring), M-BI-2 (temporary construction fencing, M-BI-3 (habitat preservation), M-BI-4 (RMP) and M-BI-5 (nesting bird survey) to avoid or minimize impacts to special status species. CDFW appreciates the intention behind these mitigation measures, but is concerned that the measures do not provide enough specificity to avoid or minimize impacts to special status species, specifically Species of Special Concern.

A2-19

**Specific impact:** Direct impacts to SSC could result from Project construction and activities (e.g., equipment staging, mobilization, and grading); ground disturbance; vegetation clearing; and trampling or crushing from construction equipment, vehicles, and foot traffic and increased temperatures around the solar arrays. Indirect impacts could result from temporary or permanent loss of suitable habitat.

A2-20

**Why impacts would occur:** Without appropriate species-specific avoidance measures, biological construction monitoring may be ineffective for detecting SSC. This may result in trampling or crushing of SSC. Demolition and paving after false negative conclusions may trap wildlife hiding under refugia and burrows. Large solar panel arrays are known to emit levels of heat that can harm birds (Walston et al. 2016).

A2-21

A2-22

**Evidence impacts would be significant:** CEQA provides protection not only for CESA- and ESA-listed species, but for any species including but not limited to SSC. CDFW considers impacts to SSC a significant direct and cumulative adverse effect without implementing appropriate avoidance and/or mitigation measures. Take of SSC could require a mandatory finding of significance by the Lead Agency (CEQA Guidelines, § 15065).

A2-23

**Recommended Potentially Feasible Mitigation Measure(s):** CDFW recommends the County of San Diego include SSC-specific mitigation measures in the final environmental document.

A2-24



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**Mitigation Measure #2: Scientific Collecting Permit** – CDFW has the authority to issue permits for the take or possession of wildlife, including mammals; birds, nests, and eggs; reptiles, amphibians, fish, plants; and invertebrates (Fish & G. Code, §§ 1002, 1002.5, 1003). Effective October 1, 2018, a Scientific Collecting Permit is required to monitor project impacts on wildlife resources, as required by environmental documents, permits, or other legal authorizations; and, to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with otherwise lawful activities (Cal. Code Regs., tit. 14, § 650). Please visit CDFW's Scientific Collection Permits webpage for information (CDFW 2020c).

A2-25

Pursuant to the California Code of Regulations, title 14, section 650, the County of San Diego/qualified biologist must obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities.

**Mitigation Measure #3: Species Surveys** – The County should retain a qualified biologist with experience surveying for southern California special status wildlife species. Prior to commencing any project construction and activities, including equipment and material staging, the qualified biologist should conduct surveys for where suitable habitat is present and directly impacted by project construction and activities, and construction equipment and vehicle access and parking. Surveys should place an emphasis towards identifying any Species of Special Concern (SSC) including (but not limited to) California glossy snake; loggerhead shrike; burrowing owl; American badger; and San Diego desert woodrat. Focused surveys should consist of a minimum of three daytime surveys and one nighttime survey no more than 7 days from the start of any project construction and activities.

A2-26

If SSC are detected, the qualified biologist should use visible flagging to mark the location where SSC was detected. The qualified biologist should take a photo of each location, map each location, and provide the specific species detected at that location. Flagging should be maintained for the duration of the project. The qualified biologist should provide a summary report of herpetofauna surveys to the County before any demolition, paving, soil compaction, and vegetation clearing work occurs.

**Mitigation Measure #4: Relocation Plan** – The qualified biologist should prepare a species-specific list (or plan) of proper handling and relocation protocols and a map of suitable and safe relocation areas. The list (or plan) of protocols should be implemented during project construction and activities/biological construction monitoring. A qualified biologist may consult with CDFW to prepare species-specific protocols for proper handling and relocation procedures.

A2-27

**Mitigation Measure #5: Worker Training and Field Protocols** – During project construction and activities, the qualified biologist should have prepared a map showing locations where SSC were detected and share this information to workers as part of the Worker Environmental Awareness Program (WEAP). The qualified biologist should communicate to workers that upon encounter with a SSC, work must stop, a qualified biologist must be notified, and work may only resume once a qualified biologist has determined that it is safe to do so. Any contractor or employee that inadvertently kills or injures a special-status animal, or finds one either dead, injured, or entrapped, should immediately report the incident to the qualified biologist and/or onsite representative identified in the WEAP.

A2-28

Monitoring by a qualified biologist will occur continuously during all ground disturbance work (i.e., demolition, paving, soil compaction, and grading), vegetation removal, and installation of

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the portion of the gas pipeline occurring in densely vegetated areas. Surveys for SSC should be conducted prior to the initiation of each day of vegetation removal activities in suitable habitat. Surveys for SSC should be conducted in the areas flagged in earlier surveys before construction and activities may occur in or adjacent to those areas. Work may only occur in these areas after a qualified biologist has determined it is safe to do so. Even so, workers should be advised to work with caution near flagged areas. Once all ground disturbance work, vegetation removal, and pipeline installation are complete, monitoring will occur periodically for the duration of the project. If SSC is encountered, qualified biologist should safely relocate the animal per relocation and handling protocols.

A2-28  
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**Mitigation Measure #6: Injured or Dead Wildlife** – If any SSC are harmed during relocation or a dead or injured animal is found, work in the immediate area should stop immediately, the qualified biologist should be notified, and dead or injured wildlife documented immediately. The qualified biologist should contact the USFWS, CDFW, and the County by telephone by the end of the day, or at the beginning of the next working day if the agency office is closed. In addition, a formal report should be sent to the County, CDFW, and USFWS (as appropriate) within three calendar days of the incident or finding. The report should include the date, time of the finding or incident (if known), and location of the carcass or injured animal and circumstances of its death or injury (if known). Injured animals should be taken immediately to the nearest appropriate veterinary or wildlife rehabilitation facility. The qualified biologist should, immediately upon finding the remains or injured animal, coordinate with the onsite construction foreman to discuss the events that caused the mortality or injury, if known, and implement measures to prevent future incidents. Details of these measures should be included with the report. Work in the immediate area may only resume once the proper notifications have been made and additional mitigation measures have been identified to prevent additional injury or death. Species remains should be collected and frozen as soon as possible, and CDFW and USFWS, as appropriate, should be contacted regarding ultimate disposal of the remains.

A2-29

#### **Comment #4: Impacts to Nesting Birds**

**Issue:** M-BI-5(a) uses buffers to minimize impacts rather than fully avoiding impacts to nesting birds.

A2-30

**Specific impact:** Increased nesting mortality due to nest abandonment or decreased feeding frequency as a result of Project construction and activities.

A2-31

**Why impacts would occur:** Construction during the breeding season for nesting birds could result in the loss of fertile eggs or nestlings or otherwise lead to nest abandonment. Impacts could result from noise disturbances, increased human activity, dust, vegetation clearing, ground disturbing activities (e.g., staging, access, excavation, grading), and vibrations caused by heavy equipment.

A2-32

**Evidence impacts would be significant:** Nests of all birds and raptors are protected under State laws and regulations, including Fish and Game Code, sections 3503 and 3503.5. Take or possession of migratory nongame birds designated in the Federal Migratory Bird Treaty Act of 1918 (Code of Federal Regulations, Title 50, § 10.13) is prohibited under Fish and Game Code section 3513. The loss of occupied habitat or reductions in the number of sensitive and special status bird species, either directly or indirectly through nest abandonment or reproductive suppression, would constitute a significant impact absent appropriate mitigation.



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### Recommended Potentially Feasible Mitigation Measure(s)

**Mitigation Measure #7:** CDFW recommends modifying Mitigation Measure M-BI5(a) to fully avoid impacts to nesting birds by conditioning the environmental document to provide the following language: "Project construction, equipment staging, mobilization, grading, ground disturbance activities, and vegetation removal shall be completed outside the avian breeding season. The County of San Diego will not perform any Project construction or activities or remove or otherwise disturb vegetation on the project site from February 15 to August 31, and as early as January 1, to avoid impacts to breeding/nesting birds and raptors."

A2-33

### Comment #5: Impacts to Tricolored Blackbird

**Issue:** Page 28 of the Biological Technical Report (Dudek 2019) states that tricolored blackbird was observed during focused Quino checkerspot butterfly surveys perched in trees adjacent to the U.S./Mexico border and were observed nesting in the pond west of Jacumba Street in 2019 (Amoaku 2019), approximately 0.5 mile west of the BSA. Based on 2019 observations, they utilize the southwestern portion of the site for foraging. Per the map provided in Figure 2.3.7 of the DEIR, tricolored blackbird are observed within the direct project footprint. It is unclear what indirect impacts the Project may have on this species.

A2-34

A2-35

**Specific impact:** The Proposed Project would impact 593.5 acres of potential tricolored blackbird foraging habitat within the Project site. Additionally, no provisions are made to avoid direct impacts to any tricolored blackbird onsite during demolition, grading and other construction activities. The Project provides mitigation measure M-BI-3 (Habitat Preservation) and M-BI-4 (RMP) to mitigate for these impacts; however, further clarification should be included in the DEIR to assess indirect impacts to the species due to loss of foraging habitat and the effect of increased ambient heat around the solar arrays.

A2-36

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A2-38

**Why impacts would occur:** The Proposed Project will remove 593.5 acres of suitable foraging habitat for tricolored blackbird. The installation and presence of a large solar arrays are known to result in increased bird mortalities due to the increased heat surrounding the solar panels.

A2-39

A2-40

**Evidence impacts would be significant:** Inadequate avoidance and mitigation measures will result in the Project continuing to have a substantial adverse direct and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or USFWS.

A2-41

### Recommended Potentially Feasible Mitigation Measure(s)

**Mitigation Measure #8:** Permanent impacts to occupied and adjacent foraging habitat should be offset by setting aside replacement habitat to be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity, that should include an appropriate non-wasting endowment to provide for the long-term management of mitigation lands. CDFW recommends that the County require a tricolored blackbird mitigation plan to be submitted to CDFW for review and comment prior to Project implementation.

A2-42

**Recommendation #2:** CDFW recommends monitoring for the tricolored blackbird within the easement area to ensure its intended habitat functionality. We also recommend that the final

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document includes an impact analysis to address the effect of heat from solar panels on tricolored blackbird.

A2-43  
 contd.

#### **Comment #6: Impacts to Burrowing Owl**

**Issue:** The DEIR states that burrowing owl was detected onsite, with one active burrow onsite and a second potential burrow onsite.

A2-44

**Specific impact:** Burrowing owl presence and potential burrows indicate that Project activities may result in direct and/or indirect burrowing owl mortality or injury; the disruption of natural burrowing owl breeding behavior; and loss of breeding, wintering and foraging habitat for the species. Project impacts would contribute to statewide population declines for burrowing owl.

A2-45

**Why impact would occur:** Burrowing owls are known to occur onsite with at least one active burrow. Nest and roost burrows of the burrowing owl are most commonly dug by ground squirrels (*Otospermophilus beecheyi*), but they have also been known to use a variety of other species dens or holes, including coyote (*Canis latrans*) (Gervais, J.A., Rosenberg, D.K., and Comrack, L.A., 2008). These associated species having either been observed or are expected to occur on site. Impacts to burrowing owl could result from vegetation clearing and other ground disturbing activities. Project disturbance activities may result in crushing or filling of active owl burrows, causing the death or injury of adults, eggs, and young. In addition, the Project may remove burrowing owl foraging habitat by eliminating native vegetation that supports essential rodent, insect, and reptile that are prey for burrowing owl. Rodent control activities could result in direct and secondary poisoning of burrowing owl ingesting treated rodents.

A2-46

**Evidence impact would be significant:** Take of individual burrowing owls and their nests 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." Without appropriate take avoidance surveys prior to Project operations including, but not limited to, ground and vegetation disturbing activities and rodent control activities, adverse impacts to burrowing owl may occur because species presence/absence has not been verified. In addition, burrowing owl qualifies for enhanced consideration afforded to species under CEQA, that can be shown to meet the criteria for listing as endangered, rare or threatened (CEQA Guidelines, § 15380(d)).

A2-47

Inadequate avoidance and mitigation measures will result in the Project continuing to have a substantial adverse direct and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or United States Fish and Wildlife Service (USFWS).

A2-48

#### **Recommended Potentially Feasible Mitigation Measure(s)**

**Mitigation Measure #9:** To reduce impacts to burrowing owl, CDFW recommends that the Project adhere to CDFW's March 7, 2012, Staff Report on Burrowing Owl Mitigation. All survey efforts should be conducted prior to any project activities that could result in habitat disturbance to soil, vegetation or other sheltering habitat for burrowing owl. In California, the burrowing owl breeding season extends from 1 February to 31 August with some variances by geographic location and climatic conditions. Survey protocol for breeding season owl surveys states to conduct four survey visits: 1) at least one site visit between 15 February and 15 April, and 2) a

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minimum of three survey visits, at least three weeks apart, between 15 April and 15 July, with at least one visit after 15 June.

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**Mitigation Measure #10:** Permanent impacts to occupied owl burrows and adjacent foraging habitat should be offset by setting aside replacement habitat to be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity, that should include an appropriate non-wasting endowment to provide for the long-term management of mitigation lands. CDFW recommends that the County require a burrowing owl mitigation plan be submitted to CDFW for review and comment prior to Project implementation.

A2-50

**Mitigation Measure #11:** Project use of rodenticides that could result in direct or secondary poisoning to burrowing owl should be avoided.

A2-51

### **Comment #7: Impacts to Golden Eagle**

**Issue:** The Biological Resources section of the DEIR states that, "One juvenile golden eagle was observed flying over the project site on March 24, 2019 and a golden eagle was observed kettling with a group of turkey vultures, ravens, and red-tailed hawks on April 14, 2019. There is a golden eagle nest recorded on Round Mountain (northwest of the BSA)." The DEIR also states that it does not appear that golden eagles utilize the BSA regularly; however, recent data from USGS indicates that this area has frequent documented presence of golden eagle. Additionally, the DEIR states that impacts to this species is unlikely due to their wide ranges; however, that statement is unsubstantiated and should therefore not be included in the impact analysis.

A2-52

**Specific Impact:** Section 1.2.1 states the Project would include "Five 138 kV transmission poles ranging in height from 70 to 115 feet, with approximately 1,860 feet overhead transmission lines (tie-in) to loop the switchyard into the existing SDG&E Boulevard – East County transmission line". Electrocutation from transmission poles remains a major cause of mortality for golden eagle. The construction of the solar array will also remove foraging habitat for golden eagle. The DEIR does not analyze any indirect, direct or cumulative impacts that the Project may have on the resident species.

A2-53

**Evidence the impact would be significant:** The golden eagle is a California Fully Protected Species, a species protected by the federal Bald and Golden Eagle Protection Act, and preliminarily proposed to be a covered species in the forthcoming East County MSCP. Golden eagle is known to nest in the East County MSCP Plan Area and to practice nest fidelity. In addition, County Biological Guidelines (Page 20, County of San Diego 2010) state, "[a]ny alteration of habitat within 4,000 feet of an active golden eagle nest could only be considered less than significant if a biologically-based determination can be made that the project would not have a substantially adverse effect to the long-term survival of the identified pair of golden eagles."

A2-54

Furthermore, California Fish and Game Code FGC § 3511 states that, 'Except as provided in this section, Section 2081.7, or Section 2835, a fully protected bird may not be taken or possessed at any time. No provision of this code or any other law shall be construed to authorize the issuance of a permit or license to take a fully protected bird, and no permit or license previously issued shall have any force or effect for that purpose.'

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### Recommended Potentially Feasible Mitigation Measure(s)

**Mitigation Measure #12:** Additional impact analysis is requested to justify the DEIR conclusion that project impacts to golden eagle would not be significant. Due to shortcomings in the impact analysis, the DEIR should demonstrate how the required golden eagle nesting buffer of 4,000 feet will be met and how the Project will safeguard against golden eagle electrocution. The DEIR should include details on the design, construction, installation and maintenance of transmission poles and solar panels and demonstrate how these will minimize impacts to golden eagle.

A2-55

A2-56

**Mitigation Measure #13:** Project use of rodenticides that could result in direct or secondary poisoning to golden eagle and other raptor species should be avoided.

A2-57

### Comment #8: Impacts to Bats

**Issue:** The Pallid bat (*Antrozous pallidus*) is an SSC and County Group 2 species, and there is a known CNDDDB occurrence overlapping the eastern boundary of the Project site. The DEIR also states there are records of pallid bats roosting in a bridge in Jacumba in 2014. M-BI-6 of the DEIR makes provisions for bat surveys and roost avoidance and exclusion. The CDFW recommends (1) surveys to determine presence or absence of a maternity or night roost, and (2) specific information on proposed potential bat houses and location if species are impacted by the Project.

A2-58

**Specific impact:** Pallid bat and western small-footed myotis (*Myotis ciliolabrum*) have a high potential to roost in the abandoned buildings onsite, which would be demolished as part of the proposed Project. If there were a maternity roost in a building, impacts on that roost site would be significant. Indirect impacts to bats and roosts could result from increased noise disturbances, human activity, dust, vegetation clearing, ground disturbing activities (e.g., staging, access, mobilization, and grading), and vibrations caused by heavy equipment. Demolition, grading, and excavating activities may impact bats potentially using man-made structures or surrounding trees as roost sites.

A2-59

**Why impacts would occur:** Demolition of buildings occupied by bats would result in direct take of the species. Modifications to roost sites can have significant impacts on the bats' usability of the roost and can impact the bats' fitness and survivability (Johnston et al. 2004). Extra noise and vibration can lead to the disturbance of roosting bats which may have a negative impact on the animals. Human disturbance can also lead to a change in humidity, temperatures, or the approach to a roost that could force the animals to change their mode of egress and/or ingress to a roost. Although temporary, such disturbance can lead to the abandonment of a maternity roost (Johnston et al. 2004). Although free standing bat houses may be successful as mitigation for roost sites, sometimes the bats fail to use the free-standing bat boxes (Johnston et al. 2004).

A2-60

**Evidence impacts would be significant:** Bats are considered non-game mammals and are afforded protection by state law from take and/or harassment (Fish & G. Code, § 4150; Cal. Code of Regs, § 251.1). Pallid bat and western mastiff bat, including additional bat species, considered California Species of Special Concern (SSC) and meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15065). Take of SSC could require a mandatory finding of significance by the Lead Agency (CEQA Guidelines, § 15065).

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## Recommended Potentially Feasible Mitigation Measure(s)

**Mitigation Measure #14:** A biologist with expertise and experience with bats shall be retained as a Designated Bat Biologist. The Designated Bat Biologist shall have at least three years of experience in conducting bat habitat assessments, day roosting surveys, and acoustic monitoring, and have adequate experience identifying local bat species (visual and acoustic identification), type of habitat, and differences in roosting behavior and types (i.e., day, night, maternity).

CDFW recommends the Designated Bat Biologist conduct bat surveys within the Biological Study Area (plus a 100-foot buffer as access allows) to identify potential habitat that could provide daytime and/or nighttime roost sites, and any maternity roosts. CDFW recommends using acoustic recognition technology to maximize detection of bats. Night roosts are typically utilized from the approach of sunset until sunrise. Maternity colonies, composed of adult females and their young, typically occur from spring through fall.

A discussion of survey results, including negative findings, should be provided in the final environmental document. Depending on survey results (e.g., Species of Special Concern observed, roosts are detected, etc.), the DEIR should discuss potentially significant effects of the proposed Project on the bats and include species specific mitigation measures to reduce impacts to below a level of significance (CEQA Guidelines, § 15125).

A2-62

**Mitigation Measure #15:** CDFW recommends modifying M-BI-6 as follows (additions in bold and strikethrough for removal):

**M-BI-6 Bat Surveys and Roost Avoidance or Exclusion.** To determine whether there is an active maternity roost within the buildings and other structures to be demolished, a bat biologist shall conduct surveys prior to demolition of the buildings or any other areas that provide suitable roosting habitat for bats. If a potential maternity roost is present, the following measures shall be implemented to reduce the potential impact on special-status bat species to a less than significant level:

- a. **Maternity Roosting Season Avoidance.** All demolition activities, or bat roost exclusion, shall occur outside the general bat maternity roosting season of March through August to reduce any potentially significant impact to maternity roosting bats. Items b and c below will be required to ensure no impacts occur to roosting bats during the exclusion process.
- b. **Replacement Roost Installation.** If there is a potential or known maternity roost within a structure to be demolished, a replacement roost installation shall occur outside of the maternity roosting season within the biological open space easement. At least one month prior to the exclusion of bats from the roost(s), the project applicant will procure and install two bat boxes from a reputable vendor, such as Bat Conservation and Management, to allow bats sufficient time to acclimate to a new potential roost location. The bat boxes shall be installed in an area that is close to suitable foraging habitat as determined by a biologist who specializes in bats in consultation with County staff and CDFW. Additionally, the bat boxes will be oriented to the south or southwest, and the area chosen for the bat boxes must receive sufficient sunlight (at least 6 hours daily) to allow the bat boxes to reach an optimum internal temperature (approximately 90°F) to mimic the

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existing bat roost. The bat boxes will be suitable to house crevice-roosting bat species, and large enough to contain a minimum of 50 bats (e.g., Four Chamber Premium Bat House or Bat Bunker Plus). The bat boxes shall be installed on a 20-foot-tall steel pole. Should the bat boxes be required, maintenance of the boxes will be included in the RMP to ensure long-term use/functionality. Monitoring should be required each month during construction and quarterly thereafter until it can be established that the bat box is being used by bats and the species of bats using the box is determined. If the boxes are unsuccessful, Adaptive Management Measures will be in place.

A2-63  
 contd.

- c. Survey Report.** Following completion of the survey the bat biologist will complete a survey report which records the findings.

### **Comment #9: Impacts to Quino Checkerspot Butterfly**

**Issue:** Quino checkerspot butterfly (*Euphydryas editha quino*) is a federally endangered and County Group 1 species. This species is found only in western Riverside County, southern San Diego County, and northern Baja California, Mexico (USFWS 2003). Page 24 of the DEIR states that Quino checkerspot butterfly was observed during the 2019 rare plant survey in the southwestern portion of the Project site on a hilltop. The DEIR makes provisions to avoid the occupied hilltop; however, further discussion should be included in the final document to address indirect impacts to the species.

A2-64

**Specific impact:** Direct impacts to Quino checkerspot butterfly could result from Project construction and activities (e.g., equipment staging, mobilization, and grading); ground disturbance; vegetation clearing; and trampling or crushing from construction equipment, vehicles, and foot traffic and increased temperatures around the solar arrays. Indirect impacts could result from fugitive dust from construction activities on foraging habitat and other edge effects associated with landscaping and fencing.

A2-65

**Why impacts would occur:** Page 32 of the DEIR states that the Project is within 0.25 mile of federally designated Quino checkerspot butterfly critical habitat, and the species has been detected onsite and adjacent to the site. The DEIR does not clearly demonstrate how the Project will avoid and minimize both direct and indirect impacts to this federally listed species.

A2-66

**Evidence impacts would be significant:** CEQA provides protection for CESA- and ESA-listed species. Quino checkerspot butterfly is federally endangered and CDFW considers impacts to federally threatened species a significant direct and cumulative adverse effect without implementing appropriate avoidance and/or mitigation measures.

A2-67

**Recommendation #3:** CDFW appreciates the completion of focused protocol Quino surveys and the avoidance of the occupied hilltop. However, it is unclear (1) how far the occupied area is from the direct Project footprint, and (2) how these buffers will be maintained during construction and post construction. Furthermore, the impact analyses do not address indirect impacts to the Quino checkerspot butterfly. CDFW requests further provisions be made in the final document to address buffer requirements for this species during construction and operation of the facility, how this species will be monitored throughout the Project implementation and address mitigation for indirect impacts to this species.

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## **Comment #10: Impacts to Aquatic and Riparian Resources**

**Issue:** The DEIR acknowledges that direct or indirect impacts to aquatic and riparian resources may occur, warranting a Lake and Streambed Alteration (LSA) Notification. Page 61 states that “removal of vegetation; grading; obstruction or diversion of water flow; adverse change in velocity, siltation, volume of flow, or runoff rate; placement of fill; placement of structures; construction of a road crossing; placement of culverts or other underground piping; any disturbance of the substratum; and/or any activity that may cause an adverse change in native species composition, diversity, and abundance” within CDFW streams.

**Specific impact:** Hydrologic processes and waterbodies may be impacted by the Project. Vegetation removal and ground disturbing activities (e.g., excavating, demolition, grading, and infill) may increase the amount of sediment, debris, and pollutants in the landscape, which may be transported downstream and impair waterbodies. This may impact special status species directly or indirectly through habitat modifications or habitat loss.

**Why impacts would occur:** The Project would result in removal of vegetation associated with streambeds and ground disturbing activities that may affect hydrological processes.

**Evidence impacts would be significant:** The Project may impact aquatic and riparian resources, which absent specific mitigation, could result in substantial erosion or siltation onsite or downstream of the Project. As a Responsible Agency under CEQA, CDFW has authority over activities in streams and/or lakes that will divert or obstruct the natural flow; or change the bed, channel, or bank (including vegetation associated with the stream or lake) of a river or stream; or use material from a streambed. 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. As a Responsible Agency, CDFW may consider the CEQA document prepared by the local jurisdiction (Lead Agency) for the Program. To minimize additional requirements by CDFW pursuant to section 1600 et seq. and/or under CEQA, the DEIR should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for issuance of the LSA Agreement.

A2-69

## **Recommended Potentially Feasible Mitigation Measure(s)**

**Mitigation Measure #16:** CDFW has concluded that the Project may result in the alteration of streams. For any such activities, the Project applicant (or “entity”) must provide notification to CDFW pursuant to Fish and Game Code, section 1600 et seq. Based on this notification and other information, CDFW determines whether a Lake and Streambed Alteration (LSA) Agreement with the applicant is required prior to conducting the proposed activities. Please visit [CDFW's Lake and Streambed Alteration Program webpage](#) to for information about LSA

notification and online submittal through the Environmental Permit Information Management

CDFW's issuance of an LSA for a Project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document from the County for the Project. To minimize additional requirements by CDFW pursuant to Fish and Game Code, section 1600 et seq. and/or under CEQA, the CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA.

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Any LSA permit issued for the Project by CDFW may include additional measures protective of streambeds on and downstream of the Project site. The LSA may include further erosion and pollution control measures. To compensate for any onsite and offsite impacts to riparian resources, additional mitigation conditioned in any LSA may include the following: avoidance of resources, onsite or offsite creation, enhancement or restoration, and/or protection, and management of mitigation lands in perpetuity.

A2-70  
 contd.

#### **Comment #11: Wildlife Movement and Edge Effects**

**Issue:** CDFW is concerned that the DEIR does not recognize that this area may significantly contribute to regional wildlife movement and does not appropriately address fragmentation and edge effects of the Project. Page 31 of the DEIR states,

A2-71

“The Project site is included within a Core Wildlife Area as defined by the County based on its size and the surrounding undeveloped land (County of San Diego 1997). The Project site is currently undeveloped, except for dairy and ranch structures north of Old Highway 80, but the International border fence limits the ability of the Project site to function as a linear north–south wildlife corridor for large mammals. The Proposed Project vicinity is generally surrounded by undeveloped landscapes to the north (of I-8), east, and northwest.”

**Specific Impact:** The Project area will remove 643 acres of undeveloped land that currently serves as a wildlife movement area. The Project would consist of 300,000 photovoltaic modules that would effectively remove any wildlife movement functionality of the current habitat. The Project also includes security fencing and motion-sensor lighting that would impede wildlife movement through the area.

A2-72

**Why impact would occur:** If the County does not recognize this area as an important corridor for the movement of wildlife it is possible that future development in rural, desert areas may lead to further loss of these biological resources. Desert areas are commonly desired areas for alternative energy facilities, but the cumulative effect of these types of facilities being constructed inordinately in flat, desert areas may result in significant overall loss of the biological resources therein (Moore-O’Leary et al. 2017). This area is already vulnerable to local extirpations of wildlife species, such as the American badger, that require large areas of habitat to sustain viable populations.

A2-73

**Evidence impact would be significant:** The Project area contributes to regional wildlife movement east-west within the area, and The Project site supports the passage of large and small mammals as well as migrating birds and sensitive species foraging in the area. In addition, the habitat in the Project site supports the natural areas and the open space around the Project vicinity.

A2-74

#### **Recommended Potentially Feasible Mitigation Measure(s)**

**Mitigation Measure #17 – RMP:** The DEIR proposes mitigation measure M-BI-3 (Habitat Preservation) to mitigate for impacts to wildlife movement. Page 43 of the DEIR states,

A2-75

“The biological open space will preserve in perpetuity 435 acres of habitat, located immediately adjacent to existing preserve lands located west of the project site that play a vital role in reducing impacts to biological resources. The on-site mitigation area has

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been designed to maximize its biological function as part of a wildlife corridor and to sustain habitat connectivity,”

A2-75  
 contd.

However, CDFW is concerned that this measure does not adequately address the impacts to wildlife movement and edge effects caused by the Project. CDFW recommends that provisions be made in the future RMP to monitor habitat connectivity within the biological easement area, including the use of camera traps around the Project facility and the biological easement area to assess wildlife movement.

A2-76

**Mitigation Measure #18: Lighting** – CDFW appreciates that the Project makes provisions to reduce light pollution, but we further recommend removal of motion sensor lighting from the DEIR, as this type of lighting can deter wildlife and impede movement throughout the area. Night lighting can disrupt the circadian rhythms of many wildlife species. Therefore, if night lighting is required at entry points, we recommend low level lighting. All non-essential lighting should be eliminated. The Project should avoid or limit the use of artificial light during the hours of dawn and dusk, as these windows of time are when many wildlife species are most active.

A2-77

**Mitigation Measure #19: Fencing** – The Project site is located in a low-density area that could support wildlife movement across the broader landscape, sustaining both transitory and permanent wildlife populations. Accordingly, CDFW recommends that the County of San Diego consider permeable, wildlife friendly fencing. Wildlife impermeable fencing prevents or creates a barrier for the passage of wildlife from one side to the other. Chain link fences – a type of impermeable fencing - can create hazards and barriers for wildlife movement, seasonal migrations, and access to food and water. CDFW recommends reviewing A Landowner’s Guide to Wildlife Friendly Fences for additional information (Montana Fish, Wildlife and Parks 2012).

A2-78

#### **Comment #12: Mountain lion (*Puma concolor*)**

**Issue:** The DEIR did not identify the recent change in protection status of the mountain lion population and the potential for human-wildlife conflict during Project activities.

The mountain lion is a specially protected mammal in the State (Fish and Game Code, § 4800). In addition, on April 21, 2020, the California Fish and Game Commission (Commission) accepted a petition to list an evolutionarily significant unit (ESU) of mountain lion in southern and central coastal California as threatened under CESA. As a CESA-candidate, the species is granted full protection of a threatened species under CESA.

A2-79

Therefore, any new development project should analyze the potential for mountain lion. The discussion on the Habitat Connectivity and Wildlife Corridors mentions mountain lions. However, it unclear if surveys for this species were conducted.

**Specific Impact:** Due to mountain lion’s updated status, it is important for the final environmental document to analyze the impacts associated with human-wildlife conflicts that come with increases in human development and presence in potential wildlife corridor areas.

A2-80

**Why impact would occur:** Mountain lions potentially present in the Project vicinity may be impacted by Project activities such as increased human presence, increase in traffic causing vehicle strikes, as well as increased exposure to light and noise. Mountain lions rely on deer as a food source, so any impacts to deer should be considered. Mountain lion may also cause concern for public safety if they encounter people.

A2-81

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**Evidence impact would be significant:** Human interactions are one of the main drivers of mortality and increasing development and human presence (even temporary) in this area could increase the need for public safety removal and/or vehicle strikes of mountain lions. If “take” or adverse impacts to mountain lion cannot be avoided either during project development activities or over the life of the development project, the project proponent must consult CDFW to determine if a CESA Incidental Take Permit (ITP) is required (pursuant to Fish & Game Code, § 2080 et seq.).

A2-82

**Recommendation #4:** Impact analysis for mountain lion should be completed prior to Project implementation and included in the final EIR. A presence/absence survey should be completed, and results recorded in the final document.

A2-83

### **Additional Recommendations**

**Recommendation #5: Landscaping –** Habitat loss and invasive plants are a leading cause of native biodiversity loss. Invasive plant species spread quickly and can displace native plants, prevent native plant growth, and create monocultures. CDFW recommends that any landscaping (separate from mitigation for impacts to native vegetation communities) performed after the Project use native plants. The County should not plant, seed, or otherwise introduce invasive exotic plant species to landscaped areas that are adjacent and/or near native habitat areas.

CDFW recommends using native, locally appropriate plant species and drought tolerant, lawn grass alternatives to reduce water consumption. Information on alternatives for invasive, nonnative, or landscaping plants may be found on the California Invasive Plant Council’s, Don’t Plant a Pest webpage (Cal-IPC 2020). The Audubon Society’s Native Plants Database is a resource to identify native plants and trees that will attract and benefit birds. Birds may help to control and reduce insects, reducing the need for pesticides (National Audubon Society 2020). The California Native Plant Society’s Gardening and Xerces Society’s Pollinator-Friendly Native Plant Lists webpage has information on native plant species that invite insects and pollinators (CNPS 2020b; Xerces Society 2020). Pollinators are critical components of our environment and essential to our food security. Insects – and primarily bees – provide the indispensable service of pollination to more than 85% of flowering plants (Ollerton et al. 2011)

A2-84

**Recommendation #6: Project Alternatives –** CDFW recommends the Project consider alternative designs to alleviate the need to grade native habitat. CDFW recommends the County consider alternative areas or configurations for the placement of the two water tanks, engine generator enclosures, and engine coolers. Construction and grading activities should be relocated to already disturbed land and existing roads/trails. This could avoid or minimize potential impacts to native vegetation communities on the south-facing slopes that may support rare plants and special status wildlife species. Project alternatives should avoid or otherwise minimize direct and indirect impacts to sensitive biological resources. A project alternative should be considered even if an alternative would impede to some degree the attainment of the Project objectives or would be more costly (CEQA Guidelines, § 15126.6).

A2-85



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## CONCLUSION

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

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Questions regarding this letter or further coordination should be directed to Melanie Burlaza, Environmental Scientist at

Sincerely,

DocuSigned by:  
  
D700B4520375406...

David Mayer  
Environmental Program Manager I  
South Coast Region

Ec: CDFW

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## Attachment A

### Recommended Mitigation Measures:

Biological Resources			
Issue	Mitigation Measure	Timing	Responsible Party
<b>Impacts to Vegetation Communities:</b> The DEIR proposes to mitigate 96.09 acres of desert saltbush scrub out-of-kind. This habitat type is associated with a number of special status species such as glossy snake and burrowing owl, and a potential burrowing owl burrow was detected onsite within this habitat type.	<b>Mitigation Measure #1:</b> CDFW recommends that the project proponent restore or create habitat onsite or offsite at no less than 2:1 for permanent impacts to desert saltbrush scrub. For mitigation through participation in a mitigation bank, CDFW recommends no less than 3:1 for permanent impacts for this vegetation community.  CDFW's recommended ratio is higher to account for loss of seed bank and risk of failure. High attrition and low survivorship of native seedlings may occur. Moreover, the ratio is higher to account for the temporal loss of habitat. This may be multiple years, from the moment of impact to until the project proponent is able to restore/create self-sustaining habitat that is similar in species abundance, composition, density, and coverage to the habitat impacted. CDFW recommends habitat restoration or creation in areas suitable to support plant species found in desert saltbush scrub. Mitigation should not occur on where physical and/or biological factors (e.g., soils, slope) are not suitable to support desert saltbush scrub.	Prior to/After Project construction and activities	County of San Diego
<b>Impacts to Special Status Plants:</b>	<b>Recommendation #1:</b> CDFW generally does not support the	During and after Project	County of San Diego

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<p>CDFW does not consider transplanting or salvaging sensitive plants (pygmy lotus and sticky geraea) within a development as appropriate mitigation for rare plants, and moving it to a new location. The DEIR does not provide sufficient detail for the mitigation for these plants.</p>	<p>use of translocation or transplantation as the primary mitigation strategy for unavoidable impacts to species. Studies have shown that these efforts are experimental and the outcome unreliable (CNPS 1998). CDFW has found that permanent preservation and management of habitat capable of supporting these species is often a more effective long-term strategy for conserving sensitive plants. Furthermore, we recommend that the EIR include specific provisions for mitigation for these plants in the RMP, to include details on the use of a qualified restoration specialist, the dates restoration is to take place, and the exact locations for restoration. We recommend further research to determine the best conservation and restoration strategy for these plant species, as many plants have higher survivorship when seeded rather than transplanted. In addition, "suitable mitigation lands" should be specified within the EIR and future RMP.</p>	<p>construction and activities</p>	
<p><b>Impacts to Species of Special Concern:</b> Impacts to SSC are discussed in section 2.3.3.2, labeled Impact BI-W-1 and BI-W-2. The DEIR proposes mitigation measures M-BI-1 (biological monitoring), M-BI-2 (temporary construction fencing, M-BI-3</p>	<p><b>Mitigation Measure #2: Scientific Collecting Permit –</b> CDFW has the authority to issue permits for the take or possession of wildlife, including mammals; birds, nests, and eggs; reptiles, amphibians, fish, plants; and invertebrates (Fish &amp; G. Code, §§ 1002, 1002.5, 1003). Effective October 1, 2018, a Scientific Collecting Permit is required to monitor project impacts on wildlife resources, as required by environmental</p>	<p>Prior to and during Project construction and activities</p>	<p>County of San Diego</p>

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<p>(habitat preservation), M-BI-4 (RMP) and M-BI-5 (nesting bird survey) to avoid or minimize impacts to special status species. CDFW appreciates the intention behind these mitigation measures, but is concerned that the measures do not provide enough specificity to avoid or minimize impacts to special status species, specifically Species of Special Concern.</p>	<p>documents, permits, or other legal authorizations; and, to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with otherwise lawful activities (Cal. Code Regs., tit. 14, § 650). Please visit CDFW's Scientific Collection Permits webpage for information (CDFW 2020c).</p> <p>Pursuant to the California Code of Regulations, title 14, section 650, the County of San Diego/qualified biologist must obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities.</p> <p><b>Mitigation Measure #3:</b>  <b>Species surveys</b> – The County should retain a qualified biologist with experience surveying for southern California special status wildlife species. Prior to commencing any project construction and activities, including equipment and material staging, the qualified biologist should conduct surveys for where suitable habitat is present and directly impacted by project construction and activities, and construction equipment and vehicle access and parking. Surveys should place an emphasis towards identifying any Species of Special Concern (SSC) including (but not limited to) California glossy snake; loggerhead shrike; American badger; and San Diego desert woodrat. Focused surveys should</p>		
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	<p>consist of a minimum of three daytime surveys and one nighttime survey no more than 7 days from the start of any project construction and activities.</p> <p>If SSC are detected, the qualified biologist should use visible flagging to mark the location where SSC was detected. The qualified biologist should take a photo of each location, map each location, and provide the specific species detected at that location. Flagging should be maintained for the duration of the project. The qualified biologist should provide a summary report of herpetofauna surveys to the County before any demolition, paving, soil compaction, and vegetation clearing work occurs.</p> <p><b>Mitigation Measure #4: Relocation Plan</b> - The qualified biologist should prepare a species-specific list (or plan) of proper handling and relocation protocols and a map of suitable and safe relocation areas. The list (or plan) of protocols should be implemented during project construction and activities/biological construction monitoring. A qualified biologist may consult with CDFW to prepare species-specific protocols for proper handling and relocation procedures.</p> <p><b>Mitigation Measure #5: Worker Training and Field Protocols</b> - During project construction and activities, the</p>		
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	<p>qualified biologist should have prepared a map showing locations where SSC were detected and share this information to workers as part of the Worker Environmental Awareness Program (WEAP). The qualified biologist should communicate to workers that upon encounter with a SSC, work must stop, a qualified biologist must be notified, and work may only resume once a qualified biologist has determined that it is safe to do so. Any contractor or employee that inadvertently kills or injures a special-status animal, or finds one either dead, injured, or entrapped, should immediately report the incident to the qualified biologist and/or onsite representative identified in the WEAP.</p> <p>Monitoring by a qualified biologist will occur continuously during all ground disturbance work (i.e., demolition, paving, soil compaction, and grading), vegetation removal, and installation of the portion of the gas pipeline occurring in densely vegetated areas. Surveys for SSC should be conducted prior to the initiation of each day of vegetation removal activities in suitable habitat. Surveys for SSC should be conducted in the areas flagged in earlier surveys before construction and activities may occur in or adjacent to those areas. Work may only occur in these areas after a qualified biologist has determined it is safe to do so. Even so, workers should be</p>		
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	<p>advised to work with caution near flagged areas. Once all ground disturbance work, vegetation removal, and pipeline installation are complete, monitoring will occur periodically for the duration of the project. If SSC is encountered, qualified biologist should safely relocate the animal per relocation and handling protocols.</p> <p><b>Mitigation Measure #6:</b> <b>Injured or Dead Wildlife</b> - If any SSC are harmed during relocation or a dead or injured animal is found, work in the immediate area should stop immediately, the qualified biologist should be notified, and dead or injured wildlife documented immediately. The qualified biologist should contact the USFWS, CDFW, and the County by telephone by the end of the day, or at the beginning of the next working day if the agency office is closed. In addition, a formal report should be sent to the County, CDFW, and USFWS (as appropriate) within three calendar days of the incident or finding. The report should include the date, time of the finding or incident (if known), and location of the carcass or injured animal and circumstances of its death or injury (if known). Injured animals should be taken immediately to the nearest appropriate veterinary or wildlife rehabilitation facility. The qualified biologist should, immediately upon finding the remains or injured animal, coordinate with the onsite construction foreman to</p>		
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	<p>discuss the events that caused the mortality or injury, if known, and implement measures to prevent future incidents. Details of these measures should be included with the report. Work in the immediate area may only resume once the proper notifications have been made and additional mitigation measures have been identified to prevent additional injury or death. Species remains should be collected and frozen as soon as possible, and CDFW and USFWS, as appropriate, should be contacted regarding ultimate disposal of the remains.</p>		
<p><b>Impacts to Nesting Birds:</b> M-BI-5(a) uses buffers to minimize impacts rather than fully avoiding impacts to nesting birds.</p>	<p><b>Mitigation Measure #7:</b> CDFW recommends modifying Mitigation Measure M-BI5(a) to fully avoid impacts to nesting birds by conditioning the environmental document to provide the following language: "Project construction, equipment staging, mobilization, grading, ground disturbance activities, and vegetation removal shall be completed outside the avian breeding season. The County of San Diego will not perform any Project construction or activities or remove or otherwise disturb vegetation on the project site from February 15 to August 31, and as early as January 1, to avoid impacts to breeding/nesting birds and raptors."</p>	<p>Prior to Project construction and activities</p>	<p>County of San Diego</p>
<p><b>Impacts to Tricolored Blackbird:</b> Per the map provided in Figure 2.3.7 of the</p>	<p><b>Mitigation Measure #8:</b> Permanent impacts to occupied and adjacent foraging habitat should be offset by setting aside</p>	<p>Prior to Project construction and activities</p>	<p>County of San Diego</p>

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<p>DEIR, tricolored blackbirds are observed within the direct project footprint. It is unclear what indirect impacts the Project may have on this species.</p>	<p>replacement habitat to be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity, that should include an appropriate non-wasting endowment to provide for the long-term management of mitigation lands. CDFW recommends that the County require a tricolored blackbird mitigation plan to be submitted to CDFW for review and comment prior to Project implementation.</p> <p><b>Recommendation #2:</b> CDFW recommends monitoring for the tricolored blackbird within the easement area to ensure its intended habitat functionality. We also recommend that the final document includes an impact analysis to address the effect of heat from solar panels on tricolored blackbird.</p>		
<p><b>Impacts to Burrowing Owl:</b>          The DEIR states that burrowing owl was detected onsite, with one active burrow onsite and a second potential burrow onsite. Direct, indirect and cumulative impacts to burrowing owl are not fully discussed within the DEIR.</p>	<p><b>Mitigation Measure #9:</b> To reduce impacts to burrowing owl, CDFW recommends that the Project adhere to CDFW's March 7, 2012, Staff Report on Burrowing Owl Mitigation. All survey efforts should be conducted prior to any project activities that could result in habitat disturbance to soil, vegetation or other sheltering habitat for burrowing owl. In California, the burrowing owl breeding season extends from 1 February to 31 August with some variances by geographic location and climatic conditions. Survey protocol for breeding season owl surveys states to conduct four survey visits: 1) at least one site visit between 15 February and 15</p>	<p>Prior to and during Project construction and activities</p>	<p>County of San Diego</p>

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	<p>April, and 2) a minimum of three survey visits, at least three weeks apart, between 15 April and 15 July, with at least one visit after 15 June.</p> <p><b>Mitigation Measure #10:</b>          Permanent impacts to occupied owl burrows and adjacent foraging habitat should be offset by setting aside replacement habitat to be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity, that should include an appropriate non-wasting endowment to provide for the long-term management of mitigation lands. CDFW recommends that the County require a burrowing owl mitigation plan be submitted to CDFW for review and comment prior to Project implementation.</p> <p><b>Mitigation Measure #11:</b>          Project use of rodenticides that could result in direct or secondary poisoning to burrowing owl should be avoided.</p>			<p>A2-97 contd.</p> <p>A2-98</p> <p>A2-99</p>
<p><b>Impacts to Golden Eagle:</b> Golden eagle are documented onsite. The DEIR also states that it does not appear that golden eagles utilize the BSA regularly; however, recent data from USGS indicates that this area has frequent documented presence of golden</p>	<p><b>Mitigation Measure #12:</b>          Additional impact analysis is requested to justify the DEIR conclusion that project impacts to golden eagle would not be significant. Due to shortcomings in the impact analysis, the DEIR should demonstrate how the required golden eagle nesting buffer of 4,000 feet will be met and how the Project will safeguard against golden eagle electrocution. The DEIR should include details on the design,</p>	<p>Prior to Project construction and activities</p>	<p>County of San Diego</p>	<p>A2-100</p>

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<p>eagle. Additionally, the DEIR states that impacts to this species is unlikely due to their wide ranges; however, that statement is unsubstantiated and should therefore not be included in the impact analysis. Currently, the impact analysis for golden eagle is incomplete.</p>	<p>construction, installation and maintenance of transmission poles and solar panels and demonstrate how these will minimize impacts to golden eagle.</p> <p><b>Mitigation Measure #13:</b>          Project use of rodenticides that could result in direct or secondary poisoning to burrowing owl should be avoided</p>			<p>A2-100 contd.</p>
<p><b>Impacts to Bats:</b>          The Pallid bat is an SSC and County Group 2 species, and there is a known CNDDDB occurrence overlapping the eastern boundary of the Project site. The DEIR also states there are records of pallid bats roosting in a bridge in Jacumba in 2014. M-BI-6 of the DEIR makes provisions for bat surveys and roost avoidance and exclusion. CDFW recommends further specificity to ensure protection of sensitive bat species.</p>	<p><b>Mitigation Measure #14:</b> A biologist with expertise and experience with bats shall be retained as a Designated Bat Biologist. The Designated Bat Biologist shall have at least 3 years of experience in conducting bat habitat assessments, day roosting surveys, and acoustic monitoring, and have adequate experience identifying local bat species (visual and acoustic identification), type of habitat, and differences in roosting behavior and types (i.e., day, night, maternity).</p> <p>CDFW recommends the Designated Bat Biologist conduct bat surveys within the Biological Study Area (plus a 100-foot buffer as access allows) in order to identify potential habitat that could provide daytime and/or nighttime roost sites, and any maternity roosts. CDFW recommends using acoustic recognition technology to maximize detection of bats. Night roosts are typically utilized from the approach of sunset until sunrise. Maternity</p>	<p>Prior to and during Project construction and activities</p>	<p>County of San Diego</p>	<p>A2-101</p> <p>A2-102</p>

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	<p>colonies, composed of adult females and their young, typically occur from spring through fall.</p> <p>A discussion of survey results, including negative findings, should be provided in the final environmental document. Depending on survey results (e.g., Species of Special Concern observed, roosts are detected,), the DEIR should discuss potentially significant effects of the proposed Project on the bats and include species specific mitigation measures to reduce impacts to below a level of significance (CEQA Guidelines, § 15125).</p> <p><b>Mitigation Measure #15:</b>        Update M-BI-6 language as stated above.</p>			<p>A2-102          contd.</p> <p>A2-103</p>
<p><b>Impacts to Quino Checkerspot Butterfly:</b> Quino checkerspot butterfly is a federally endangered and County Group 1 species. This species is found only in western Riverside County, southern San Diego County, and northern Baja California, Mexico (USFWS 2003). Page 24 of the DEIR states that Quino checkerspot butterfly was observed during the 2019 rare plant survey in the southwestern</p>	<p><b>Recommendation #3:</b> CDFW appreciates the completion of focused protocol Quino surveys and the avoidance of the occupied hilltop. However, it is unclear how far the occupied area is from the direct Project footprint, how these buffers will be maintained during construction and maintenance and impact analyses do not address indirect impacts to the Quino checkerspot butterfly. CDFW requests further provisions be made in the final document to address buffer requirements for this species during construction and operation of the facility, how this species will be monitored throughout the Project implementation and address mitigation for indirect impacts to this species.</p>	<p>Prior to Project and construction activities</p>	<p>County of San Diego</p>	<p>A2-104</p>

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<p>portion of the Project site on a hilltop. The DEIR makes provisions to avoid the occupied hilltop; however, further discussion should be included in the final document to address indirect impacts to the species.</p>			
<p><b>Impacts to Aquatic and Riparian Resources:</b> The DEIR acknowledges that direct or indirect impacts to aquatic and riparian resources may occur, warranting an LSA notification. Page 61 states that “removal of vegetation; grading; obstruction or diversion of water flow; adverse change in velocity, siltation, volume of flow, or runoff rate; placement of fill; placement of structures; construction of a road crossing; placement of culverts or other underground piping; any disturbance of the substratum; and/or any activity that may cause an adverse change in native species composition, diversity, and abundance” within CDFW streams.</p>	<p><b>Mitigation Measure #16:</b>          CDFW has concluded that the Project may result in the alteration of streams. For any such activities, the Project applicant (or “entity”) must provide notification to CDFW pursuant to Fish and Game Code, section 1600 et seq. Based on this notification and other information, CDFW determines whether a Lake and Streambed Alteration Agreement (LSA) with the applicant is required prior to conducting the proposed activities. Please visit CDFW’s Lake and Streambed Alteration Program webpage to for information about LSA notification and online submittal through the Environmental Permit Information Management System (EPIMS) Permitting Portal (CDFW 2020b).           CDFW’s issuance of an LSA for a Project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document from the County for the Project. To minimize additional requirements by</p>	<p>Prior to Project construction and activities</p>	<p>County of San Diego</p>

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	<p>CDFW pursuant to Fish and Game Code, section 1600 et seq. and/or under CEQA, the CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA.</p> <p>Any LSA permit issued for the Project by CDFW may include additional measures protective of streambeds on and downstream of the Project site. The LSA may include further erosion and pollution control measures. To compensate for any onsite and offsite impacts to riparian resources, additional mitigation conditioned in any LSA may include the following: avoidance of resources, onsite or offsite creation, enhancement or restoration, and/or protection, and management of mitigation lands in perpetuity.</p>		
<p><b>Wildlife Movement and Edge Effects:</b>          CDFW is concerned that the DEIR does not recognize that this area may significantly contribute to regional wildlife movement and does not appropriately address fragmentation and edge effects of the Project.</p>	<p><b>Mitigation Measure #17: RMP-</b> The DEIR proposes mitigation measure M-BI-3 (Habitat Preservation) to mitigate for impacts to wildlife movement. Page 43 of the DEIR states,</p> <p>“The biological open space will preserve in perpetuity 435 acres of habitat, located immediately adjacent to existing preserve lands located west of the project site that play a vital role in reducing</p>	<p>Prior to Project construction and activities</p>	<p>County of San Diego</p>

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	<p>impacts to biological resources.          The on-site mitigation area has been designed to maximize its biological function as part of a wildlife corridor and to sustain habitat connectivity,”</p> <p>However, CDFW is concerned that this measure does not adequately address the impacts to wildlife movement and edge effects caused by the Project. CDFW recommends that provisions be made in the future RMP to monitor habitat connectivity within the biological easement area, including the use of camera traps around the Project facility and the biological easement area to assess wildlife movement.</p> <p><b>Mitigation Measure #18: Lighting-</b> CDFW appreciates that the Project makes provisions to reduce light pollution, but we further recommend removal of motion sensor lighting from the DEIR, as this type of lighting can deter wildlife and impede movement throughout the area. Night lighting can disrupt the circadian rhythms of many wildlife species. Therefore, if night lighting is required at entry points, we recommend low level lighting. All non-essential lighting should be eliminated. The Project should avoid or limit the use of artificial light during the hours of dawn and dusk, as these windows of time are when many wildlife species are most active.</p>		
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	<p><b>Mitigation Measure #19:</b>  <b>Fencing-</b> The Project site is located in a low-density area that could support wildlife movement across the broader landscape, sustaining both transitory and permanent wildlife populations. Accordingly, CDFW recommends that the County of San Diego consider permeable, wildlife friendly fencing. Wildlife impermeable fencing prevents or creates a barrier for the passage of wildlife from one side to the other. Chain link fences – a type of impermeable fencing - can create hazards and barriers for wildlife movement, seasonal migrations, and access to food and water. CDFW recommends reviewing A Landowner's Guide to Wildlife Friendly Fences for additional information (Montana Fish, Wildlife and Parks 2012).</p>		
<p><b>Impacts to Mountain Lion:</b>          The DEIR did not identify the recent change in protection status of the mountain lion population and the potential for human-wildlife conflict during Project activities.</p>	<p><b>Recommendation #4:</b> Impact analysis for mountain lion should be completed prior to Project implementation and included in the final EIR. A presence/absence survey should be completed, and results recorded in the final document.</p>	<p>Prior to Project construction and activities</p>	<p>County of San Diego</p>
<p><b>Landscaping</b></p>	<p><b>Recommendation #5:</b> CDFW recommends that any landscaping (separate from mitigation for impacts to native vegetation communities) performed after the Project use native plants. The County</p>	<p>Prior to Project construction and activities</p>	<p>County of San Diego</p>

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	<p>should not plant, seed, or otherwise introduce invasive exotic plant species to landscaped areas that are adjacent and/or near native habitat areas.</p> <p>CDFW recommends using native, locally appropriate plant species and drought tolerant, lawn grass alternatives to reduce water consumption. Information on alternatives for invasive, nonnative, or landscaping plants may be found on the California Invasive Plant Council's, Don't Plant a Pest webpage (<a href="#">Cal-IPC 2020</a>). The Audubon Society's Native Plants Database is a resource to identify native plants and trees that will attract and benefit birds. Birds may help to control and reduce insects, reducing the need for pesticides (<a href="#">National Audubon Society 2020</a>). The California Native Plant Society's Gardening and Xerces Society's Pollinator-Friendly Native Plant Lists webpage has information on native plant species that invite insects and pollinators (<a href="#">CNPS 2020b</a>; <a href="#">Xerces Society 2020</a>). Pollinators are critical components of our environment and essential to our food security. Insects – and primarily bees – provide the indispensable service of pollination to more than 85% of flowering plants (Ollerton et al. 2011).</p>		
<b>Project Alternatives</b>	<b>Recommendation #6:</b> CDFW recommends the Project consider alternative designs to alleviate the need to grade native habitat. CDFW	Prior to Project construction and activities	County of San Diego

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	recommends the County consider alternative areas or configurations for the placement of the two water tanks, engine generator enclosures, and engine coolers. Construction and grading activities should be relocated to already disturbed land and existing roads/trails. This could avoid or minimize potential impacts to native vegetation communities on the south-facing slopes that may support rare plants and special status wildlife species. Project alternatives should avoid or otherwise minimize direct and indirect impacts to sensitive biological resources. A project alternative should be considered even if an alternative would impede to some degree the attainment of the Project objectives or would be more costly (CEQA Guidelines, § 15126.6).		
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## **Response to Comment Letter A2**

### **California Department of Fish and Wildlife**

- A2-1** The comment is a cover email to the attached Draft EIR comment letter. In response, the comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.
- A2-2** The commenter states that the California Department of Fish and Wildlife (CDFW) has reviewed the Draft EIR for the JVR Energy Park. The comment also thanks the County for the opportunity to provide comments and recommendations regarding Project activities that may affect California fish and wildlife. The comment further states CDFW also appreciates the opportunity to provide comments on those aspects of the Project “that the 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.” In response, the comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.
- A2-3** The commenter summarizes the CDFW’s role as a California Trustee Agency for fish and wildlife resources, which CDFW holds those resources in trust by statute for all the people of the state of California. In response, the comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.
- A2-4** The commenter states CDFW is also a Responsible Agency under CEQA. The comment also states may need to exercise regulatory authority as provided by the Fish and Game Code and provides examples of the CDFW’s lake and streambed alteration authority, as well as take authorization. In response, the comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.
- A2-5** The commenter states CDFW administers the Natural Community Conservation Planning (NCCP) program. The comment also states the County participates in the NCCP program by implementing its approved Multiple Species Conservation Program (MSCP) and the planning agreement for the draft East County Plan, of which the Mountain Empire Subregion Plan is a part. In response, the comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.
- A2-6** The commenter provides a brief description of the Proposed Project. The comment also states the Project would require a General Plan Amendment, a Rezone, and a Major

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- Use Permit. In response, for clarification, Sections 1.2 and 1.2.1 of Chapter 1 of the Draft EIR state that the Proposed Project's energy storage system will store up to 90 MW (or 180 MWh), and the Proposed Project's development footprint would be approximately 643 acres. Also, subsequent to the Notice of Preparation, the applicant withdrew the application for a General Plan Amendment and Rezone, as discussed in Section 1.5.1 of the Draft EIR. The comment does not address an issue regarding the adequacy of the Draft EIR; therefore, no further response is required.
- A2-7** The commenter provides a brief description of the Proposed Project location. In response, the comment does not address an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.
- A2-8** The commenter provides an introduction to the comments that follow. In response, the comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.
- A2-9** The commenter summarizes the Draft EIR's proposal to mitigate 96.09 acres of desert saltbush scrub out-of-kind through preservation of desert sink scrub (12.43 acres), mesquite bosque (24.46 acres), and Sonoran mixed woody and succulent scrub (59.20 acres). The commenter also states desert salt brush scrub is associated with a number of special status species such as glossy snake, burrowing owl, and loggerhead shrike, and that a potential burrowing owl burrow was detected onsite within the desert saltbush scrub habitat type. The commenter further states impacts to special status plants and wildlife species may occur through habitat loss or modification, resulting in reduced reproductive capacity, population declines, or local extirpation of a sensitive or special status plant or wildlife species.

In response, the Proposed Project will result in impacts to 50.39 acres of the 77.39 acres of desert saltbush scrub within the Biological Study Area. Per the County's guidelines, impacts to desert saltbush scrub require a 2:1 mitigation ratio which is 100.78 acres of mitigation. To fulfill the 100.78 acres of required mitigation, 4.69 acres of desert saltbush scrub and 96.09 acres of out-of-kind vegetation communities (12.43 acres of desert sink scrub, 24.46 acres of mesquite bosque, and 59.20 acres of Sonoran mixed woody and succulent scrub) will be included within the Biological Open Space easement. It was not feasible to include more acreage of desert saltbush scrub within the Biological open space easement because it is either within the development footprint or scattered in smaller patches within the Biological Study Area. These smaller areas of desert saltbush scrub (22.31 acres) outside of the development footprint would be impact neutral.



The use of these desert sink scrub, mesquite bosque, and Sonoran mixed woody and succulent scrub to mitigate impacts to desert saltbush scrub is in accordance with the County's Guidelines for Determining Significant, Biological Resources. Table 5 of the Guidelines states that "out of kind" habitat may be appropriate where the biological function and value of the habitat used for mitigation is similar to that which was impacted (i.e., shrublands, riparian scrub, etc.). In addition to desert salt scrub, the desert scrub modeled habitat used for the analysis of impacts to special-status wildlife includes desert sink scrub, Sonoran mixed woody and succulent scrub, and Sonoran mixed woody scrub vegetation communities, which have similar values to wildlife as desert saltbush scrub (Thomson et al. 2016<sup>1</sup>, eBird 2021<sup>2</sup>, Zeiner et al. 1988-1990<sup>3</sup>). Section 2.3.7 of Section 2.3, Biological Resources, the Draft EIR notes that "[b]oth desert sink scrub and desert saltbush scrub vegetation communities have similar species composition and are both classified as Chenopod Scrub (36000) and therefore desert sink scrub is a suitable replacement vegetation for desert saltbush scrub. Sonoran mixed woody and succulent scrub have the same habitat structure as desert saltbush scrub and all of the special-status wildlife species present or with a high potential to occur, which would utilize desert saltbush scrub would also utilize Sonoran mixed woody and succulent scrub (see Table 2.3-3)." The proposed Biological Open Space easement includes a total of 76.32 acres of desert scrub modeled habitat, which is comprised of desert saltbrush scrub (4.69 acres), desert sink scrub (12.43 acres), and Sonoran mixed woody and succulent scrub (59.20 acres). The remaining out-of-kind mitigation for desert saltbrush scrub to be dedicated to the Biological Open Space easement includes 24.46 acres of mesquite bosque. Section 2.3.7 of Section 2.3, Biological Resources, of the Draft EIR notes that "[t]he mesquite bosque provides habitat for several wildlife species which may also utilize desert saltbush scrub such as San Diegan tiger whiptail, Blainville's horned lizard, Cooper's hawk and mule deer (see Table 2.3-3)." The Draft EIR has been revised to include mesquite bosque as suitable habitat for the following special-status wildlife species (see Table 2.3-3): California glossy snake (*Arizona elegans occidentalis*), San Diego banded gecko (*Coleonyx variegatus abbotti*), red diamond rattlesnake (*Crotalus ruber*), Southern California rufous-crowned sparrow (*Aimophila ruficeps canescens*), Costa's hummingbird (*Calypte costae*), turkey vulture (*Cathartes aura*), Vaux's swift (*Chaetura vauxi*), loggerhead shrike (*Lanius ludovicianus*), Lawrence's goldfinch (*Spinus lawrencei*), Brewer's sparrow (*Spizella breweri*), yellow-headed blackbird (*Xanthocephalus xanthocephalus*), Northwestern

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<sup>1</sup> Thomson, R.C., A.N. Wright, and H.B. Shaffer. 2016. California Amphibian and Reptile Species of Special Concern. California Department of Fish and Wildlife. Oakland, California: University of California Press.

<sup>2</sup> eBird. 2021. "Explore Species". The Cornell Lab of Ornithology. <https://ebird.org/explore>. Accessed January 2021.

<sup>3</sup> Zeiner, D.C. et al 1988-1990. California's Wildlife. California Wildlife Habitat Relationships (CWHR) Program. <https://wildlife.ca.gov/Data/CWHR/Life-History-and-Range>

San Diego pocket mouse (*Chaetodipus fallax fallax*), Pallid San Diego pocket mouse (*Chaetodipus fallax pallidus*), San Diego black-tailed jackrabbit (*Lepus californicus bennettii*), western small-footed myotis (*Myotis ciliolabrum*), San Diego desert woodrat (*Neotoma lepida intermedia*), and Jacumba pocket mouse (*Perognathus longimembris internationalis*). These species use a variety of herbaceous, scrub, and/or forest habitat types and the models are based on the available literature (CDFW 2019a) and known occurrences within these habitat types. Mesquite bosque has similar characteristics to plant species associated with habitat suitable for the special-status wildlife species listed above; the understory, open areas and edges of the mesquite bosque are dominated by quailbush (*Atriplex lentiformis*) and fourwing saltbush (*Atriplex canescens*) which are characteristic species of desert saltbush scrub and desert sink scrub. Therefore, mesquite bosque is included in the modeled habitat for those species.

In regard to burrowing owl, although desert saltbush scrub occurs in the vicinity of the potential burrowing owl burrow onsite, the fallow agriculture and more open scrub on-site likely provides better suitable habitat. Restoration of fallow agriculture or open scrub areas would not necessarily make these areas more suitable for burrowing owl, so none is proposed. Please also refer to Response to Comments A2-47 through A2-50 for a discussion of burrowing owl.

With respect to California glossy snake, this species occurs in a variety of open and scrub habitats, including the desert saltbush scrub, desert sink scrub, mesquite bosque, Sonoran mixed woody and succulent scrub, fallow agriculture, and disturbed habitat preserved in the open space easement. Loggerhead shrike suitable habitat includes the same as those listed above for California glossy snake which are preserved in the open space easement. The long-term management of these suitable habitat types would reduce any potential effects to the long-term survival of these species in the region.

In summary, the out-of-kind habitat types function similarly for wildlife as desert saltbush scrub habitat, as described above. Therefore, the mitigation measure for impacts to sensitive vegetation communities would reduce impacts to less than significant after mitigation.

- A2-10** The commenter recommends that the Proposed Project proponent restore or create habitat on or off site at no less than 2:1 for permanent impacts to desert saltbush scrub, or no less than 3:1 for mitigation through participation in a mitigation bank. As stated in mitigation measure **M-BI-3** (Habitat Preservation) in Section 2.3.6 of the Draft EIR, permanent impacts to desert saltbush scrub would be mitigated at a 2:1 ratio in accordance with the County of San Diego (2010a) requirements and would be satisfied through onsite mitigation of comparable habitat (refer to Response to Comment A2-9).

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- In regard to comments regarding burrowing owl above in A2-9, creation of saltbush scrub on site may not be beneficial as suitable habitat. While burrowing owl was observed in the vegetation community mapped as desert saltbush scrub, restoring areas of fallow agriculture to desert saltbush scrub would not necessarily make the habitat more suitable, particularly for nesting. The burrowing owls observed on site were considered wintering or dispersing individuals who use a wider variety of habitat types during those periods and creating a scrub habitat does not necessarily make that more suitable for burrowing owl than what already exists. Therefore, mitigation measure **M-BI-3** satisfies CEQA and County requirements, and the Proposed Project is not required to restore or create any additional habitat on or offsite.
- A2-11** The commenter states that CDFW’s recommended higher mitigation ratio of desert saltbush scrub is to account for loss of seed bank, risk of failure and temporal loss. In response, as stated in Response to Comment A2-10, permanent impacts to desert saltbush scrub would be mitigated at a 2:1 ratio in accordance with the County of San Diego (2010a) requirements. Off-site habitat restoration and creation are not proposed.
- A2-12** The commenter summarizes the statuses of pygmy lotus (*Acmispon haydonii*) and sticky geraea (*Geraea viscida*) as well as summarizes Impact BI-SP-2 of the Draft EIR regarding direct impacts and proposed mitigation to pygmy lotus and sticky geraea. In response, the comment provides an introduction to the following comments. The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.
- A2-13** The commenter states that the CDFW does not consider transplanting or salvaging rare plants within a development as appropriate mitigation for rare plants. The commenter further states that translocation and transplantation are the process of moving an individual plant from the Project site permanently to a new location. Transplantation has been shown to be very effective for many different native perennial species, including species adapted to the dry desert conditions, and species that are considered sensitive and rare. (Piehel, et. al, 2015<sup>4</sup>; McMillan, et. al., 2017<sup>5</sup>; McMillan, et. al. 2018<sup>6</sup>) In response, please refer to Response to Comments A2-14 through A2-17.

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<sup>4</sup> McMillan, S., S. Prahbu, L. Robb, and C. Benitez. 2017. *Desert Habitat Restoration on SCE’s Eldorado to Ivanpah Transmission Project*. Presented at the Society for Ecological Restoration, Southwest, 2017 Conference

<sup>5</sup> McMillan, S., L. Robb, S. Prahbu, and B. Hanson. 2018. *Special Status Plant Propagation: Mojave and Colorado Desert Species*. Presented at the California Society for Ecological Restoration, 2018 Conference. Sacramento, CA.

<sup>6</sup> Piehel, E., M. Doalson, C. Meyer-Lovell, and J. Prine. 2015. *Restoring Special Status Plants for SDGE’s Sunrise Powerlink Transmission Project*. Presented at the California Society for Ecological Restoration, 2018 Conference. Sacramento, CA.

- A2-14** The commenter states that the Draft EIR does not provide sufficient detail for the mitigation for pygmy lotus and sticky geraea. In response, mitigation for pygmy lotus and sticky geraea is provided in mitigation measure **M-BI-3(b)**, which states: “Mitigation for these plants shall be achieved through a combination of (1) salvaging the plants located in proposed impact areas and replanting in suitable mitigation lands, and (2) establishment of additional plants to meet the mitigation requirements. The Resource Management Plan (RMP) for the biological open space easement shall include the required measures to ensure viability of the transplanted and established individuals. The RMP (see **M-BI-4**) will include the locations of the plant restoration. The RMP will be the basis for monitoring and mitigation activities for the entire biological open space, including locations of plant mitigation.” The RMP, a draft of which is appended to this Final EIR’s Biological Resources Technical Report as Appendix I, defines the methods, implementation procedures, rationale for expecting project success, and performance criteria for salvaging and planting these plant species. The Proposed Project will result in impacts to one (1) pygmy lotus for which the County requires a mitigation ratio of 3:1, and to 21 sticky geraea which requires a 1:1 mitigation ratio. The proposed Biological Open Space easement contains 20 sticky geraea but does not currently support any pygmy lotus individuals. Therefore, in order to mitigate for impacts to these species, the Project applicant is required to mitigate for one (1) pygmy lotus individual and 21 sticky geraea individuals by transplanting them to suitable habitat within the Biological Open Space easement and to supplement those plantings with seeding in order to establish three (3) pygmy lotus individuals and 21 sticky geraea individuals within the Biological Open Space easement. In addition to transplanting the individuals from the impact area to the Biological Open Space, seed has been collected from the site and will be used to re-seed these species within the Biological Open Space. Based on the known success of re-seeding both of these species and to comply with the mitigation measures in the Draft EIR, in November 2020, restoration specialists collected 239 sticky geraea seeds and 358 pygmy lotus fruits to aid in the restoration of these species (Piehel, et. al., 2015). An additional seed collection will take place in 2021 in later summer.
- A2-15** The commenter states that “suitable mitigation lands” should be specified within the Final EIR and future Resources Management Plan (RMP). The location of the “suitable mitigation lands” is identified on Figure 5 of the RMP, which is subject to County approval. Further, Section 4.2.3 of the RMP describes the rationale for the selection of the biological open space easement: “The close proximity of the receptor sites to a natural population with appropriate soils, hydrology, elevation, and slope exposure will help ensure that the plants experience the same environmental conditions in which the natural population presently exists. The physical and chemical similarities

of the environmental conditions at these sites increase the probability for success of the proposed mitigation.” (See Appendix I to the Biological Resources Technical Report )

- A2-16** The commenter states that the CDFW generally does not support the use of translocation or transplantation as the primary mitigation strategy for unavoidable impacts to plant species. The commenter states that studies (CNPS 1998) have shown that translocation and transplantation efforts are experimental and the outcome unreliable. The commenter states that permanent preservation and management of habitat capable of supporting these species is often a more effective long-term strategy for conserving sensitive plants.

In response, there are numerous examples of successful translocation of desert species, including sensitive status plants (see citations above in A2-13). This includes those species proposed for translocation on this project. Even with these examples of successful translocation, the Proposed Project will not rely solely on the translocation of these two species, but will also hand broadcast collected seeds/fruits as required in mitigation measure **M-BI-3(b)**. Please refer to Response to Comment A2-14. Mitigation measure **M-BI-3(b)** requires the RMP to include “the required measures to ensure viability of the transplanted and established individuals.” Further, as stated in the RMP: “Performance criteria are based on the requirements as stated in **M-BI-3**, which require a 3:1 replacement of pygmy lotus and 1:1 replacement of sticky geraea. Therefore, if one pygmy lotus and 21 sticky geraea are transplanted, then success of this Mitigation Program will be achieved when at least three pygmy lotus plants and 21 sticky geraea individuals are documented within the reception site during one or more years during the 3-year monitoring period. All target species individuals within the reception site will count toward the performance criteria whether established through transplantation or seeding.” Therefore, in order for this mitigation measure to be satisfied, the restoration site must successfully meet those criteria and ensure viability of the plant species. In addition, mitigation measure M-BI-3 requires habitat preservation of 435 acres which will be provided through on-site open space which already supports known populations of sticky geraea and Palmer’s grapplehook (*Harpagonella palmeri*; County List D). Therefore, permanent preservation and management of habitat capable of supporting the impacted species, including pygmy lotus and sticky geraea will be provided through implementation of mitigation measures.

- A2-17** The commenter recommends that the Final EIR include specific provisions for mitigation for pygmy lotus and sticky geraea in the RMP, to include details on the use of a qualified restoration specialist, the dates restoration is to take place, and the exact locations for restoration. In response, the Draft EIR includes mitigation measure **M-**

**BI-4**, which requires a County-approved resource manager to provide for the long term management of the on-site biological open space. The draft RMP (see Appendix I of the Biological Resources Technical Report) further specifies that any revegetation/restoration activities will be the responsibility of the “restoration entity,” and that the restoration entity’s responsibility will not transfer to the resource manager until approved by the County. The draft RMP further states that the restoration entity will be a qualified restoration specialist, as requested by the commenter. The restoration entity will be responsible for implementing the measures to mitigate impacts to pygmy lotus and sticky geranium, as discussed in Response to Comment A2-14 to A2-16. Further, since sticky geranium occurs within the biological open space easement, the translocated individuals will be planted within occupied sticky geranium habitat within 25 feet of an existing sticky geranium individual. This area is also suitable in habitat, topography, and soils for establishment of pygmy lotus.

The commenter recommends further research to determine the best conservation and restoration strategy for pygmy lotus and sticky geranium, as many plants have higher survivorship when seeded rather than transplanted. In order to support re-seeding efforts, Dudek restoration ecologists Scott McMillan and Charles Adams collected sticky geranium seeds and pygmy lotus fruits on November 5, 2020 to aid in the restoration of these species. Further, the RMP includes dates for the restoration in Section 4.2.3.1: “The salvage and reseeded efforts are planned for spring or summer 2021.”

The RMP clarifies that re-seeding will be used to achieve the required establishment of these species in addition to the translocation.

**A2-18** The commenter summarizes special-status wildlife species that have been observed or have a high potential to occur within the BSA. In response, the comment is an introduction to comments that follow. The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

**A2-19** The commenter summarizes the mitigation measures in the Draft EIR proposed to address impacts to Species of Special Concern (SSC). The commenter then states concern that these mitigation measures do not provide enough specificity to avoid or minimize impacts to special-status species, specifically those which are SSC. The comment is an introduction to comments that follow. Please refer to Responses to Comments A2-20 and A2-21.

**A2-20** The commenter states that direct impacts to SSC could result from Project construction and activities; ground disturbance; vegetation clearing; trampling or crushing from construction equipment, vehicles, and foot traffic; and increased temperatures around the solar arrays. In addition, the commenter states that indirect impacts could result



from temporary or permanent loss of suitable habitat. In response, the Draft EIR identified that the Proposed Project would have potential significant direct impacts to SSC species (**Impacts BI-W-1, BI-W-2, BI-W-3 and BI-W-4**) and indirect impacts (**Impacts BI-W-5 and BI-W-6**). Implementation of mitigation measures to reduce these impacts to less than significant include: **M-BI-1** (biological monitoring), **M-BI-2** (temporary construction fencing), **M-BI-3** (habitat preservation), **M-BI-4** (RMP), **M-BI-5** (nesting bird survey, including burrowing owl take avoidance survey), **M-BI-6** (bat surveys and roost avoidance or exclusion), **M-BI-7** (biological monitoring of SWPPP), **M-BI-8** (prevention of chemical pollutants), **M-BI-9** (prevention of invasive plant species), **M-BI-10** (O&M signage), **M-BI-11** (noise reduction), **M-AQ-2** (fugitive dust control plan), and **M-WF-1** (FPP). Please refer to Global Response GR-2 which discusses photovoltaic heat island effects.

**A2-21** The commenter states that biological construction monitoring may be ineffective for detecting SSC without appropriate species-specific avoidance measures and may result in trampling or crushing of SSC. The commenter also states that demolition and paving after false negative conclusions may trap wildlife hiding under refugia and burrows. In response, the commenter does not state which SSC species would require additional species-specific mitigation measures. The mitigation measures recommended by CDFW to address this concern are discussed in Responses to Comments A2-25, A2-26, A2-27, A2-28 and A2-29. As stated in Response to Comment A2-20, the Draft EIR identifies several mitigation measures to reduce impacts to SSC species to a less than significant level, including **M-BI-1** (biological monitoring during grading, clearing, grubbing, trenching, and construction activities), **M-BI-2** (temporary construction fencing), **M-BI-5** (nesting bird surveys, burrowing owl surveys, and reptile/small mammal surveys), and **M-BI-6** (bat surveys and roost avoidance or exclusion). In particular, **M-BI-1(a)(1)(k)** requires the Project biologist to “oversee the construction site so that cover and/or escape routes for wildlife from excavated areas are provided on a daily basis.” The mitigation measure further provides protocols for avoiding impacts to SSC.

**A2-22** The commenter states that large solar panel arrays are known to emit levels of heat that can harm birds (Walston et al. 2016). The study by Walston et al. (2016) states that solar flux-related mortality (mortality resulting from the burning/singeing effects of exposure to concentrated sunlight) has been observed only at facilities employing power tower technologies (Walston et al. 2016, Page 406). The Proposed Project design does not employ power tower technologies, and thus this impact does not apply to the Proposed Project, and Walston et al. (2016) identified no other heat-related impacts to birds. Please also refer to Global Response GR-2 which discusses photovoltaic heat island effects.

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- A2-23** The commenter summarizes the legal requirements of CEQA and states that the commenter considers impacts to SSC to be a significant direct and cumulative adverse effect without implementing appropriate avoidance and/or mitigation measures. All impacts were disclosed and appropriate mitigation required per Response to Comment A2-20. The commenter further states take of SSC would require a mandatory finding of significance by the lead agency. Impacts to SSC have been determined to be potentially significant but are mitigated to less than significant (see Response to Comment A2-20). Incidental take applies to threatened or endangered species; no incidental take will occur for threatened or endangered species.
- A2-24** The commenter states that the CDFW recommends the Final EIR include SSC-specific mitigation measures. The comment provides an introduction to comments that follow. Please refer to Responses to Comments A2-25 through A2-29.
- A2-25** The commenter summarizes CDFW’s authority to issue permits for the take or possession of wildlife. The commenter states that the County of San Diego/qualified biologist must obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities. In response, the County requires that all biologists who conduct biological monitoring be approved by the County. The County does not require that biological monitors obtain Scientific Collecting Permits. However, in accordance with applicable regulations, the Project’s biologists will obtain a Scientific Collecting Permit for any activity that requires the capture, temporary possession, or relocation of wildlife.
- A2-26** The commenter recommends a mitigation measure for Species Surveys. The commenter states the County should retain a qualified biologist with experience surveying for southern California special-status wildlife species. The commenter states that prior to any construction or activities, the qualified biologist should conduct species surveys for SSC including (but not limited to) California glossy snake, loggerhead shrike, burrowing owl, American badger, and San Diego desert woodrat. The commenter also states the focused surveys should consist of a minimum of three daytime surveys and one nighttime survey no more than 7 days from the start of any Project construction and activities. The commenter further states that locations of SSC species should be flagged and mapped and that “a summary report of herpetofauna surveys” should be provided to the County.

In response, of the species listed by the commenter which should be the focus of the surveys, only one, California glossy snake, would be categorized as a herpetofauna. Mitigation measure **M-BI-1** provides for a preconstruction sweep of the Project site and states the following: “Flush special-status species (i.e., avian or other mobile species) from occupied habitat areas immediately prior to brush-clearing and

earthmoving activities. If brush-clearing and earth-moving activities take place within the bird breeding season, flushing shall not occur in an area identified as having an active nest and thus resulting in a potential take of a species.” Similarly, mitigation measures **M-BI-5** and **M-BI-6** require preconstruction surveys and avoidance measures for nesting birds, burrowing owls and bats. As concluded in the Draft EIR, these mitigation measures would reduce potential significant impacts to SSC to less than significant. Therefore, the request to survey for the loggerhead shrike and the burrowing owl would not provide additional mitigation as to what is already proposed.

However, to further mitigate for the other species requested to be surveyed by the commenter, mitigation Measure **M-BI-5** has been revised in the Final EIR to include pre-construction surveys for special-status reptiles, San Diego desert woodrat, and American badger and to prepare a relocation plan if found as follows:

**“Special-Status Species Preconstruction Surveys and Relocation Plan.**

Prior to construction, the applicant shall develop a relocation plan for special-status terrestrial reptiles (i.e., California legless lizard, California glossy snake, San Diegan tiger whiptail, and Blainville’s horned lizard), American badger, and San Diego desert woodrat with the potential to occur on site. The plan shall at minimum include: the timing and locations where surveys should be conducted; the habitat and conditions in the proposed relocation site(s); the methods that would be used for trapping and relocating the individual species; and the method for documentation/recordation of the species and number of animals relocated. The Plan shall be submitted to the County by a qualified biologist prior to any ground disturbing activities within potentially occupied habitat.

*Pre-Construction Surveys.* No more than 7 days prior to construction, a qualified biologist shall conduct a preconstruction survey within areas of suitable habitat for special-status species wildlife (i.e., California legless lizard, California glossy snake, San Diegan tiger whiptail, Blainville’s horned lizard, San Diego desert woodrat, and/or American badger). The biologist shall look for special-status species that may be located within or immediately adjacent to the project work areas, as permitted by access. If determined by the qualified biologist that based on the construction activities, time of year and special-status wildlife species and location of the special-status wildlife species relocation is necessary to occur; relocation will occur to nearby undisturbed areas within suitable habitat in the open space preserve as specified in the Plan and a California scientific collecting permit (SCP) (if applicable), but as close to their origin as possible (consistent with the approved Plan). If an American

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badger maternity den(s) is identified within the Project’s disturbance limits, then the den would be avoided until the young have left the den. Once the young have left the den, the American badger will be relocated in accordance with this measure. The biologist relocating the species shall possess a California SCP to handle these species if required by applicable CDFW regulations.

Monitoring. A qualified biologist shall be present during initial ground-disturbing activities (i.e. vegetation removal) immediately adjacent to or within the vegetation communities and/or disturbed habitats that could support populations of special-status wildlife species to monitor vegetation removal and topsoil salvaging and stockpiling, where applicable. If special-status species reptiles or woodrats are detected in the work area during biological monitoring, the individual(s) will be documented and relocated as per the approved Plan and in accordance with the SCP conditions as applicable.”

**A2-27** The commenter recommends a mitigation measure for a relocation plan. The commenter states that a qualified biologist should prepare a species-specific list (or plan) of proper handling and relocation protocols and a map of suitable and safe relocation areas. In response, please refer to Response to Comment A2-26. Further, mitigation measure **M-BI-5** has been revised in the Final EIR to include preparation of a relocation plan.

**A2-28** The commenter recommends a mitigation measure for Worker Training and Field Protocols. The commenter states that a qualified biologist should prepare a map of detected SSC locations and share this information with workers as part of the Workers Environmental Awareness Program (WEAP). The commenter states this information will be provided to the contractor and construction personnel during the WEAP training and as needed during monitoring. The commenter further states that monitoring “will occur continuously during all ground disturbance work . . . vegetation removal, and installation of the portion of the gas pipeline occurring in densely vegetated areas.” The commenter recommends further protocols for surveys of construction areas.

In response, for clarification, the Proposed Project does not propose construction of a gas pipeline in a densely vegetated area. Further, the Draft EIR includes mitigation measure **M-BI-1**, which requires biological monitoring during construction activities. The mitigation measure requires the biological monitor to attend the preconstruction meeting, conduct meetings with construction personnel to discuss areas prior to clearing, grubbing, or grading, discuss procedures with construction personnel regarding wildlife, supervise and monitor vegetation clearing, grubbing, and grading, flush special status species immediately prior to brush clearing and earth-moving activities, and oversee the construction site to ensure cover and/or escape routes for

wildlife, among other things. The Draft EIR concluded that implementation of **M-BI-1** would reduce impacts to biological resources during construction activities to less than significant. However, in an excess of caution, mitigation measure **M-BI-1(a)(1)(d)** has been revised as follows: “Discuss procedures/and provide Worker Environmental Awareness Program training for minimizing harm to or harassment of wildlife encountered during construction with the contractor and other key construction personnel prior to clearing, grubbing, or grading.”

Finally, the recommended mitigation measure in the comment letter also includes that surveys for SSC species should be conducted each day of vegetation removal. These surveys would be conducted in areas flagged as discussed in the mitigation measure recommended by the commenter in A2-26. Although mitigation measure **M-BI-1** does not include specific surveys for SSC species, it does provide for a preconstruction sweep of the Project site for SSC species to flush them prior to brush-clearing and earthmoving activities. Further, **M-BI-5** has been revised to include additional preconstruction surveys of specified SSC species. (See Response to Comment A2-26 for the full text of the revised **M-BI-5**.)

**A2-29** The commenter recommends a mitigation measure for Injured or Dead Wildlife. The commenter states that if any SSC are harmed during relocation or a dead or injured animal is found, work in the immediate area should stop immediately, the qualified biologist should be notified, and dead or injured wildlife documented immediately. In response, mitigation measure **M-BI-1** requires the Project Biologist to attend the pre-construction meetings, make clear that the Project Biologist has the authority to halt work that could harm or harass a protected species, and discuss procedures/training for minimizing harm to or harassment of wildlife encountered during construction. **M-BI-1** also requires the Project Biologist to submit a report to the County to confirm that biological monitoring occurred and that the report “confirm that grading or construction activities did not impact any additional areas or other sensitive biological resources.” Accordingly, mitigation measure **M-BI-1** includes all the requested features of the commenter’s recommended mitigation, with the exception of rapid reporting to the commenter and other agencies, and transferring any injured animals found to a veterinary or wildlife rehabilitation facility. This information would be provided in the daily monitoring report. The information from the daily monitoring reports will be compiled in a final report, which is submitted to PDS for review and approval.

**A2-30** The commenter states that mitigation measure **M-BI-5(a)** uses buffers to minimize impacts rather than fully avoiding impacts to nesting birds. In response, mitigation measure **M-BI-5(a)**, Nesting Bird Survey, is consistent with the County’s Condition of Approval regarding nesting birds and is designed to prevent direct loss of active nests

- and indirect disturbance to active nests. The buffers are meant to fully avoid impacts to nesting birds.
- A2-31** The commenter states that the Proposed Project could result in increased nesting mortality due to nest abandonment or decreased feeding frequency as a result of Project construction and activities. In response, please refer to Response to Comment A2-30. Mitigation measure **M-BI-5(a)**, Nesting Bird Survey, includes the application of a standard buffer width to avoid the potential for Project-related nest abandonment and failure of fledging and to minimize any disturbance to the nesting behavior. The Draft EIR concludes the Proposed Project would have a less than significant impact to nesting birds with the implementation of this mitigation measure.
- A2-32** The commenter states that construction during the breeding season for nesting birds could result in the loss of fertile eggs or nestlings or otherwise lead to nest abandonment. The commenter then states impacts could result from noise disturbances, increased human activity, dust, vegetation clearing, ground disturbing activities (e.g., staging, access, excavation, grading), and vibrations cause by heavy equipment. The commenter further summarizes the protection of nests of all birds and raptors under State laws and regulations. In response, these potential impacts have been fully evaluated in the Draft EIR (see Section 2.3.3.2, **Impact BI-W-2** and **Impact BI-W-5**). To address direct and indirect impacts to nesting birds, the following mitigation measures would be implemented to reduce these impacts to less than significant: **M-BI-1** (biological monitoring), **M-BI-2** (temporary construction fencing), **M-BI-3** (habitat preservation), **M-BI-4** (RMP), **M-BI-5** (nesting bird survey), **M-BI-7** (biological monitoring of SWPPP), **M-BI-10** (O&M signage), **M-BI-11** (noise reduction), and **M-AQ-2** (fugitive dust control plan).
- A2-33** The commenter recommends modifying mitigation measure **M-BI-5(a)** to fully avoid impacts to nesting birds by conditioning the environmental document to provide the following language: “Project construction, equipment staging, mobilization, grading, ground disturbance activities, and vegetation removal shall be completed outside the avian breeding season. The County of San Diego will not perform any Project construction or activities or remove or otherwise disturb vegetation on the project site from February 15 to August 31, and as early as January 1, to avoid impacts to breeding/nesting birds and raptors.” In response, please refer to Response to Comment A2-30 through A2-32. As discussed in Section 2.3, Biological Resources, the Draft EIR concludes that mitigation measure **M-BI-5** will reduce impacts to nesting birds during or outside of the avian breeding season to less than significant preventing direct loss of and indirect disturbance to active nests. The commenter has not provided any evidence that this conclusion is incorrect. The mitigation measure is consistent with the



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County’s Condition of Approval regarding nesting birds, and is designed to prevent direct loss of active nests and indirect disturbance to active nests.

**A2-34** The commenter summarizes 2019 observations of tricolored blackbird within the Project site. In response, the comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

**A2-35** The commenter states that it is unclear what indirect impacts the Proposed Project may have on tricolored blackbirds. In response, temporary indirect impacts to avian foraging, and nesting species, including tricolored blackbirds, were evaluated in the Draft EIR. The potential significant short-term indirect impacts to avian foraging and wildlife access to foraging or nesting would primarily result from construction activities, such as noise producing activities (Impact BI-W-5). Indirect impacts to sensitive bird species may also occur if clearing of vegetation is conducted during the nesting season for MBTA protected species (generally January 15 through August 31). Implementation of the following mitigation measures would reduce these impacts to less than significant: **M-BI-1** (biological monitoring), **M-BI-2** (temporary construction fencing), **M-BI-5** (nesting bird survey), **M-BI-7** (biological monitoring of SWPPP), **M-BI-10** (O&M signage), **M-BI-11** (noise reduction), and **M-AQ-2** (fugitive dust control plan). Thus, the Draft EIR addressed indirect impacts to tricolored blackbird and provides mitigation measures to reduce those impacts to less than significant.

**A2-36** The commenter summarizes impacts to potential tricolored blackbird foraging habitat within the Project site. In response, the comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided. These impacts were addressed in the Draft EIR with appropriate mitigation measures provided to reduce these impacts to less than significant. The impacts described in this comment are not new impacts from what the EIR discloses.

**A2-37** The commenter states that there are no provisions made to avoid direct impacts to tricolored blackbird onsite during demolition grading and other construction activities. In response, please refer to Response to Comment A2-35, which discusses indirect impacts to tricolored blackbird, and Response to Comment A2-32, which discusses direct impacts to nesting birds, including tricolored blackbird. Direct and indirect impacts to tricolored blackbird were adequately evaluated in the Draft EIR under Impacts BI-W-2 and BI-W-5. Mitigation measures discussed above would reduce those impacts to less than significant.

**A2-38** The commenter states the Proposed Project provides mitigation measures **M-BI-3** (Habitat Preservation) and **M-BI-4** (RMP) to mitigate for direct impacts to tricolored blackbird. The commenter then states further clarification should be included in the

Draft EIR to assess indirect impacts to the species due to loss of foraging habitat and the effect of increased ambient heat around the solar arrays. In response the Proposed Project's potential direct impacts (**Impact BI-W-2**) and indirect impacts (**Impact BI-W-5**) to tricolored blackbird were evaluated in the Draft EIR. In Section 2.3.3.2 of Section 2.3, Biological Resources, the Draft EIR states that tricolored blackbirds were observed foraging, but not nesting, in the southern portion of the Project site. The Draft EIR also states that tricolored blackbirds nest occasionally at the pond in Jacumba Hot Springs, 0.5 miles west of the Project site. According to a study cited in the Draft EIR, tricolored blackbirds typically forage within 3 miles (approximately 5 kilometers) of a colony site. Vegetation data for a 3-mile radius of the Jacumba pond was reviewed to determine the amount of suitable foraging habitat available within a 3-mile radius of the pond. As disclosed in the Draft EIR, this review determined that there are approximately 2,100 acres of suitable foraging habitat within the United States and an additional 4,400 acres in Mexico.

The Draft EIR then states that the Proposed Project would impact 593.5 acres of potential foraging habitat, approximately half of which is in the northern portion of the Project site where tricolored blackbirds were not observed. The Draft EIR finds this impact potentially significant. Implementation of mitigation measures **M-BI-3** (habitat preservation) and **M-BI-4** (RMP) would reduce the impact to less than significant. For clarification, Section 2.3.3 of Section 2.3, Biological Resources, and Section 6.2.1 of Appendix D have been revised in the Final EIR to include additional information regarding foraging habitat within a 3-mile radius of the pond in Jacumba Hot Springs where tricolored blackbirds nest. Clarifying information has also been added regarding the Proposed Project's impacts to suitable tricolored blackbird foraging habitat and the amount of suitable foraging habitat preserved in on-site open space. Further, as discussed in Response to Comment A2-35, the Draft EIR includes mitigation to reduce indirect impacts to tricolored blackbird due to loss of foraging habitat. Indirect impacts to foraging habitat would primarily result from construction activities, such as noise producing activities, and if clearing of vegetation is conducted during the nesting seasons for MBTA protected species (generally January 15 through August 31).

With respect to impacts as a result of an increase in ambient heat, please refer to Response to Comment A2-22 and Global Response GR-2 which discusses photovoltaic heat island effects. While studies have shown an increase in ambient temperature which dissipates with distance, as discussed in Global Response GR-2, these studies did not analyze impacts to avian species as a result of temperature increases. A study by Walston et al. (2016) states solar flux-related bird mortality has been observed only at solar energy facilities employing power tower technologies. The Proposed Project design does not employ power tower technologies, and thus this heat-related bird

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- mortality does not apply to this Proposed Project, and Walston et al. (2016) does not identify other heat-related impacts to birds. Therefore, based on the review conducted for the Proposed Project's EIR, there are no known studies that show an increase in ambient temperature due to photovoltaic heat island effect would adversely affect avian species.
- A2-39** The commenter states the Proposed Project will remove 593.5 acres of suitable foraging habitat for tricolored blackbird. In response, the comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.
- A2-40** The commenter states that the installation and presence of large solar arrays are known to result in increased bird mortalities due to the increased heat surrounding the solar panels. In response, as discussed in Response to Comment A2-38, bird mortality has been observed only at solar energy facilities employing power tower technologies. The Proposed Project design does not employ power tower technologies, and thus this heat-related bird mortality does not apply to this Proposed Project. Regarding increases in ambient temperature as a result of photovoltaic heat island effects from solar facilities, the commenter has not cited any evidence this would result in increased bird mortalities. Please also refer to Global Response GR-2 regarding photovoltaic heat island effects.
- A2-41** The commenter states that inadequate avoidance and mitigation measures will result in the Project continuing to have a substantial adverse direct and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or USFWS. In response, please refer to Responses to Comments A2-35 through A2-40.
- A2-42** The commenter recommends a mitigation measure of setting aside replacement habitat to be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that should include an appropriate non-wasting endowment to provide for the long-term management of mitigation lands. The commenter then recommends that the County require a tricolored blackbird mitigation plan to be submitted to CDFW for review and comment prior to Project implementation. In response, mitigation measure **M-BI-3** in the Draft EIR requires preservation of habitat to reduce impacts to less than significant. A total of 435 acres of on-site habitat would be placed in biological open space easement. Minor changes in the Proposed Project design would reduce the area of disturbance, as described in Chapter 1 of the Final EIR; however, the Project applicant would preserve 435 acres as discussed in the Draft EIR. Mitigation measure **M-BI-4** requires a Resource

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Management Plan for the on-site open space and a non-wasting endowment for management. Tricolored blackbird has been observed within the proposed on-site open space. Please also refer to Response to Comment A2-43 regarding the commenter's recommended mitigation. Further, clarifying text has been added to the Final EIR regarding impacts to tricolored blackbird foraging habitat. Please refer to Section 2.3.3.2 of the Final EIR, Impact **BI-WL-2** Impacts to Tricolored Blackbird.

- A2-43** The commenter recommends a mitigation measure to monitor for tricolored blackbird within the easement area to ensure its intended habitat functionality. The commenter also recommends that final document include an impact analysis to address the effect of heat from solar panels on tricolored blackbird. In response, tricolored blackbird was observed in the Biological Open Space easement. The Resource Management Plan, included as Appendix I to the Biological Resources Technical Report (Appendix D) of the Final EIR, includes the following statement:

“Protective measures to monitor and manage these species should be implemented, as necessary, to help ensure the persistence of preserved biological resources in the Open Space Preserve. These measures may include nesting bird surveys if any management tasks, such as exotic plant control, are required. The resource manager will confirm the presence of sensitive species during regular site visits at the appropriate time of year. Field notes and maps will be updated following each visit.”

Therefore, the RMP has a condition for monitoring special-status species, including tricolored blackbird. Regarding heat effects from solar panels, please refer to Response to Comment A2-38 and Global Response GR-2 which discuss photovoltaic heat island effects.

- A2-44** The commenter states that burrowing owl was detected onsite, with one active burrow onsite and a second potential burrow onsite. In response, the comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

- A2-45** The commenter states that burrowing owl presence and potential burrows indicate that Project activities may result in direct and/or indirect burrowing owl mortality or injury; the disruption of natural burrowing owl breeding behavior; and loss of breeding, wintering and foraging habitat for the species. The commenter further states Project impacts would contribute to statewide population declines for burrowing owl. In response, the Draft EIR identifies indirect and direct impacts to burrowing owl. The Draft EIR considers the portions of the BSA where burrowing owls were observed as occupied habitat and identifies impacts to 14.2 acres of occupied burrowing owl habitat

(**Impact BI-W-2**). Temporary indirect impacts (**Impact BI-W-5**) and permanent indirect impacts (**Impact BI-W-6**) are also identified in the Draft EIR. Implementation of the following mitigation measures would reduce indirect and direct impacts to burrowing owl to less than significant: biological monitoring to avoid unintentional impacts on species and habitat (**M-BI-1**), temporary construction fencing (**M-BI-2**) which requires installation of fencing wherever the limits of grading are adjacent to sensitive biological resources, including areas where special-status species may occur, and prohibits inadvertent clearing, grubbing, and grading to areas outside of the limits, habitat preservation (**M-BI-3**), which requires a biological open space easement to conserve habitat for burrowing owl at a 1:1 ratio, and a RMP (**M-BI-4**), which provides the long-term management of the proposed on-site open space preserve to conserve sensitive biological resources, including habitat for special-status wildlife species. The preservation and management of suitable habitat in open space reduces the population declines for burrowing owl by providing habitat for this species. In addition, **M-BI-5** requires avoidance of burrowing owl burrows, requires appropriate buffers as defined in CDFG 2012, and requires a burrowing owl management plan if burrowing owls are detected. With avoidance of habitat and active owl burrows, impacts would be less than significant with mitigation.

**A2-46** The commenter states that burrowing owls are known to occur onsite with at least one active burrow. The commenter states that nests and roost burrows are commonly dug by ground squirrels or other species. The commenter also states that these associated species have been observed or are expected to occur on site. The commenter further states that Project disturbance activities may result in crushing or filling of active owl burrows, causing death or injury of adults, eggs, and young. The commenter then states that the Project may remove burrowing owl foraging habitat by eliminating native vegetation that supports essential prey, such as rodents, insects, and reptiles, for burrowing owl. The commenter further states that rodent control activities could result in direct and secondary poisoning of burrowing owl ingesting treated rodents. In response, as stated in the Draft EIR under **Impact BI-W-2**, permanent direct impacts to occupied burrowing owl habitat would be reduced to less than significant through implementation of mitigation measure **M-BI-5**, which will avoid burrowing owl burrows, requires appropriate buffers as defined in CDFG 2012, and requires a burrowing owl management plan if burrowing owls are detected. This mitigation measure also requires take avoidance surveys during the non-breeding season, and implementation of avoidance and minimization measures. Further, mitigation measure **M-BI-3(c)**, requires 1:1 mitigation for impacts to occupied burrowing owl habitat and requires a biological open space easement to conserve habitat for special-status species. Lastly, as stated in mitigation measure **M-BI-8** (prevention of chemical pollutants), use of rodenticides shall not be allowed.

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- A2-47** The commenter summarizes information regarding take of individual burrowing owls and their nests as defined by Fish and Game Code Section 86. The commenter then states without appropriate take avoidance surveys prior to Project operations, adverse impacts to burrowing owl may occur because species presence/absence has not been verified. The commenter also states that the burrowing owl qualifies for enhanced consideration afforded to species under CEQA that can be shown to meet the criteria for listing as endangered, rare or threatened. In response, the Draft EIR identifies permanent direct impacts to occupied burrowing owl habitat (**Impact BI-W-2**). This impact would be reduced to less than significant through implementation of mitigation measures **M-BI-5**, which requires take avoidance surveys, and implementation of avoidance and minimization measures. The County's guidelines require that burrowing owl be addressed under Guideline 4.1.I, which requires additional analysis specific to burrowing owl occupied habitat. As discussed under this guideline, the Draft EIR and supporting biological technical report quantify and address impacts to occupied burrowing owl habitat.
- A2-48** The commenter states that inadequate avoidance and mitigation measures will result in the Project continuing to have a substantial adverse direct and cumulative effect on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or USFWS. In response, as discussed in Responses to Comments A2-45, A2-46 and A2-47, the Draft EIR identifies potential significant direct and indirect impacts to burrowing owl. Implementation of mitigation measures would reduce those impacts to less than significant.
- A2-49** The commenter recommends a mitigation measure that adheres to CDFW's Staff Report on Burrowing Owl Mitigation to reduce impacts to burrowing owl. The commenter also summarizes information regarding burrowing owl breeding season and survey protocol. In response, as stated in the Draft EIR, Dudek biologists conducted surveys in 2018 pursuant to the survey guidelines outlined in Appendix C and D of the Staff Report on Burrowing Owl Mitigation (CDFG 2012). Per County guidelines, the occupied burrowing owl habitat is considered sensitive habitat lands. Thus, the impacts to occupied burrowing owl habitat would be potentially significant (**Impact BI-W-2**). Mitigation measure **M-BI-3** includes conservation of suitable burrowing owl habitat and requires 1:1 mitigation for impacts to occupied burrowing owl habitat. **M-BI-5(b)** requires burrow take avoidance surveys, and implementation of avoidance and minimization measures should occupied burrows occur within the Project site. This mitigation measure requires appropriate buffers around occupied burrows as defined in CDFG 2012 and requires a burrowing owl management plan if burrowing owls are detected. Per the mitigation measure, this plan must be approved by CDFW before construction can commence. With preservation of habitat and avoidance of active owl

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- burrows, impacts would be less than significant. Thus, with results from previous surveys and burrowing owl take avoidance surveys prior to initiating ground disturbance activities, the Draft EIR adequately addresses impacts to burrowing owl. Additional surveys or mitigation are not necessary.
- A2-50** The commenter recommends a mitigation measure that should offset permanent impacts to occupied owl burrows and adjacent foraging habitat by setting aside replacement habitat to be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that should include an appropriate non-wasting endowment to provide for the long-term management of mitigation lands. The commenter then recommends that the County require a burrowing owl mitigation plan to be submitted to CDFW for review and comment prior to Project implementation. In response, as stated in the Draft EIR, mitigation measure **M-BI-3(c)** requires the project to provide 1:1 mitigation ratio, per the County guidelines, for impacts to occupied burrowing owl habitat. Therefore, the Proposed Project would mitigate impacts to 14.2 acres of occupied habitat by dedicating 28.4 acres of suitable burrowing owl habitat in an on-site biological open space easement. This acreage is included in the overall 435-acre biological open space easement. The easement will be granted to the County and operated pursuant to an endowment. Further, as stated in the Draft EIR under **M-BI-5(b)**, a Burrowing Owl Management Plan will be written and approved by the County and the CDFW before construction continues if burrowing owls are detected during the breeding season surveys. Thus, the Draft EIR adequately addresses mitigation for burrowing owl. Additional mitigation is not necessary.
- A2-51** The commenter recommends a mitigation measure that states Project use of rodenticides that could result in direct or secondary poisoning to burrowing owl should be avoided. In response, as stated in the Draft EIR indirect impacts to special-status wildlife species (**Impact BI-W-6**), including burrowing owl, would be reduced to less than significant with implementation of mitigation measures, including **M-BI-8** (prevention of chemical pollutants), which states that use of rodenticides shall not be allowed. Thus, the Draft EIR adequately addresses this issue.
- A2-52** The commenter summarizes golden eagle observations in 2019 as stated in the Draft EIR. The commenter then states that the Draft EIR states that it does not appear that golden eagles utilize the BSA regularly; however, recent data from USGS indicates that this area has frequent documented presence of golden eagle. The commenter further states that the Draft EIR states that impacts to golden eagle is unlikely due to their wide range; however, that statement is unsubstantiated and should therefore not be included in the impact analysis. In response, as stated in the Draft EIR in Section



2.3.3.2, golden eagles are known to nest in the region, including at Table Mountain approximately 2 miles northeast of the BSA (USFWS 2019). Additionally, the Draft EIR states that there is a golden eagle nest record on the northern side of Round Mountain in 2012 (USFWS 2019). The nest site was surveyed in April 2018 and February 2019, and no golden eagles or golden eagle nesting activity was observed at this location or elsewhere near the Project site. The consulting biologists from Dudek preparing the EIR reviewed the USGS biotelemetry data currently available and there was one golden eagle recorded flying over the southeast corner of the Project site on March 22, 2016. There are no other records from the 2015-2017 data. Section 2.3 Biological Resources (Section 2.3.1.6) of the Final EIR has been revised to include the following statement: “Additionally, a review of USGS data from 2015 to 2017 for golden eagles recorded only one individual flying over the site on March 22, 2016 (Tracey et al. 2016; 2017).” The Draft EIR analyzes potential impacts to golden eagles and concludes that permanent direct impacts to golden eagle foraging habitat (**Impact BI-W-2**) would be potentially significant. With implementation of mitigation measures **M-BI-3** (habitat preservation), **M-BI-4** (RMP), and **M-BI-5** (nesting bird survey), impacts to golden eagle foraging habitat would be less than significant., the Draft EIR does not base its significance conclusion on the golden eagles’ range.

**A2-53** The commenter summarizes information regarding the Proposed Project’s transmission poles and overhead transmission lines, as described in Section 1.2.1 of the Draft EIR. The commenter then states that electrocution from transmission poles remains a major cause of mortality for golden eagle. The commenter also states the construction of the solar array will remove foraging habitat for golden eagle. The commenter further states the DEIR does not analyze any indirect, direct or cumulative species. In response, the overhead transmission lines components of the Proposed project include a 220-foot-long, 65-foot-high overhead slack span transmission line to connect the on-site collector substation to the switchyard, and two 550-foot-long (1,100 feet total) 80-foot-high overhead transmission lines (gen-tie) to loop the switchyard into the existing SDG&E transmission line. The transmission lines were designed as overhead lines to avoid impacts to Carrizo Creek located within the SDG&E easement. A Project Design Feature (**PDF-BIO-1**) has been added to the Final EIR which requires the overhead transmission lines to meet Avian Power Line Interaction Committee (APLIC) standards, which are designed to reduce electrocution of eagles (see APLIC, 2012. Reducing Avian Collisions with Power Lines: State of the Art in 2012. Edison Electric Institute and APLIC. Washington, D.C.). Based on the infrequent use of the site by golden eagles, new transmission line construction meeting APLIC standards, and the limited length of new transmission lines, electrocution or collision impacts to golden eagle would be less than significant. Section 2.3.3.2 of the Final EIR was revised to add the following statement: There is a potential for golden eagles to collide with the

gen-tie line during foraging and/or migration, but that risk was assessed to be low due to the minimal overhead line. The Proposed Project design shall incorporate Avian Power Line Interaction Committee (APLIC) standards to reduce or avoid the potential for impacts to avian species (PDF-BIO-1). Therefore, the chance for collisions/electrocution is very low and potential permanent direct impacts to golden eagle individuals would be **less than significant**.

As stated in the Draft EIR in Section 2.3.3.2, the only suitable nesting habitat (i.e., large trees or cliffs) within the Project site is Round Mountain. All of Round Mountain within the BSA was surveyed in April 2018 and February 2019 with particular focus on the north-facing side where the previous golden eagle nest was recorded. No nesting was observed, indicating that this territory has been abandoned seven or more years since the USFWS (2019) detection. Additionally, two golden eagles were observed flying over the Project site; however, the golden eagles did not circle, forage, or land on any part of the Project site. This data suggests that the BSA and surrounding area (i.e., 10-mile buffer around the Project Site) receives little use by eagles and is not the core territory of any eagles, therefore the chance for electrocution is low and considered less than significant.

The Draft EIR identifies 643.1 acres of suitable golden eagle foraging habitat would be directly impacted as a result of the Proposed Project. Impacts to golden eagle foraging are included under Guideline 4.1.F (raptor foraging habitat). Potential significant impacts to raptor foraging habitat would be reduced to less than significant through implementation of mitigation measures, including habitat preservation (**M-BI-3**), and management of suitable habitat for foraging raptors through an RMP (**M-BI-4**). The Proposed Project will conserve 435 acres of suitable golden eagle foraging habitat. The Draft EIR Section 2.3 includes an analysis of indirect, direct and cumulative impacts to golden eagle.

**A2-54** The commenter summarizes the state, federal, and regional status and coverage of the golden eagle. The commenter also states that golden eagle is known to nest in the East County MSCP Plan Area. The commenter then summarizes the County Biological Guidelines' on substantial adverse effect to long-term survival of golden eagle pairs, and the California Fish and Game Code's take of a fully protected bird. In response, the comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

**A2-55** The commenter states additional impact analysis is requested to justify the Draft EIR conclusion that Project impacts to golden eagle would not be significant. The commenter states that the Draft EIR should demonstrate how the required golden eagle nesting buffer of 4,000 feet will be met. In response, as stated in Section 2.3.3.2 of the

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- Draft EIR and in Response to Comment A2-52, the Round Mountain nest location is not considered an active golden eagle nest based on the lack of golden eagles nesting in it since prior to 2012. Therefore, this nest is not considered an active golden eagle nest and does not meet the County's requirement for a golden eagle nesting buffer. Thus, there would be no impacts within 4,000 feet of an active golden eagle nest. No further impact analysis or mitigation is required.
- A2-56** The commenter states that the Draft EIR should demonstrate how the Project will safeguard against golden eagle electrocution. The commenter then states that the Draft EIR should include details on the design, construction, installation and maintenance of transmission poles and solar panels and demonstrate how these will minimize impacts to golden eagle. In response, please refer to Response to Comment A2-53 with respect to transmission poles. The solar panels do not pose an electrocution risk to birds.
- A2-57** The commenter states project use of rodenticides that could result in direct or secondary poisoning to golden eagles and other raptors species and should be avoided. In response, as stated in the Draft EIR mitigation measure **M-BI-8** (prevention of chemical pollutants) states that use of rodenticides shall not be allowed. Thus, the Draft EIR adequately addresses this issue.
- A2-58** The commenter states the pallid bat is a SSC and County Group 2 species, and there is a known CNDDB occurrence overlapping the eastern boundary of the Project site. The commenter also states the Draft EIR states there are records of pallid bats roosting in a bridge in Jacumba in 2014. The commenter also states mitigation measure **M-BI-6** makes provisions for bat surveys and roost avoidance and exclusion. The commenter further states the CDFW recommends (1) surveys to determine presence or absence of a maternity or night roost, and (2) specific information on proposed potential bat houses and location if species are impacted by the Project. In response, additional bat surveys were conducted in February 2021. The bat survey consisted of a daytime roost assessment, emergence survey at dusk, and nighttime acoustic monitoring to record the echolocation calls of flying bats. Please refer to the bat survey results in Appendix B to the Biological Resources Technical Report (Appendix D to the Final EIR). No bat roosts or signs of bats were found within the BSA. The acoustic monitoring detected two bats – Mexican free-tailed bat (*Tadarida brasiliensis*) and canyon bat (*Parastrellus hesperus*); however, based on the absence of roosts or visual detections of bats during the nighttime emergence survey, these bats were concluded to forage, but not roost, on site. No pallid bats were detected during the February 2021. Mitigation measure **M-BI-6** has been revised in the Final EIR as described in Response to Comment A2-63. Please also refer to refer Section 2.3.6 of the Final EIR for the revised mitigation measure.

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- A2-59** The commenter states pallid bat and western small-footed myotis have a high potential to roost in abandoned buildings onsite, which would be demolished. The commenter then states that if there were a maternity roost in a building, impacts on that roost site would be significant. The commenter states that indirect impacts to bats and roosts could result from increased noise disturbances, human activity, dust, vegetation clearing, ground disturbing activities, and vibrations caused by heavy equipment. Additionally, the commenter states that demolition, grading, and excavating activities may impact bats potentially using man-made structures or surrounding trees as roost sites. In response, as discussed in Response to Comment A2-58, additional bat surveys were conducted in February 2021 which consisted of a daytime roost assessment, emergence survey at dusk, and nighttime acoustic monitoring. No bat roosts were found within the BSA, which includes the buildings proposed to be demolished on the Project site. The acoustic monitoring detected two bats – Mexican free-tailed bat and canyon bat; however, based on the absence of roosts or visual detections of bats during the nighttime emergence survey, these bats were concluded to forage, but not roost, on site. No pallid bats or western small-footed myotis were detected during the February 2021 surveys. In accordance with mitigation measure **M-BI-6**, another bat roost survey will be conducted prior to the demolition of the buildings on site. Implementation of mitigation measures **M-BI-6** would avoid potential impacts on a maternity roost; therefore, impacts would be less than significant with mitigation.
- A2-60** The commenter states that demolition of buildings occupied by bats would result in direct take of the species. The commenter cites Johnston et al (2004) and summarizes impacts on bats due to modifications of roost sites, noise and vibration, and human disturbance. The commenter also states that although bat houses may be successful as mitigation, sometimes bats fail to use free-standing bat boxes. In response, as discussed in Response to Comment A2-59, based on the results of the February 2021 bat survey no bats are currently roosting within the abandoned buildings. Another survey of the buildings will be required prior to demolition. If no bats are detected during future surveys prior to the building demolition, no bat houses will be required. Please refer to Response to Comment O7-75 regarding bat exclusions and bat houses. Please also refer to Response to Comment A2-63 regarding revisions to mitigation measure **M-BI-6**.
- A2-61** The commenter summarizes the protection of bats by state law, state status of pallid and western mastiff bat, and take of SSC that requires mandatory finding of significance by the Lead Agency. In response, the comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.

**A2-62** The commenter recommends a biologist and with expertise and experience with bats shall be retained as a Designated Bat Biologist. The commenter also recommends the experience the Designated Bat Biologist should have. The commenter also recommends the Designated Bat Biologist conduct bat surveys within the BSA to identify potential habitat that could provide daytime and/or nighttime roost sites, and any maternity roost sites. The commenter also recommends using acoustic recognition technology to maximize detection of bats. The commenter further recommends a discussion of survey results should be provided in the final environmental document and include species specific mitigation measure to reduce impacts to below a level of significance, depending on the survey results. In response, as discussed in Response to Comment A2-58, additional bat surveys were conducted in February 2021. The bat survey consisted of a daytime roost assessment, emergence survey at dusk, and nighttime acoustic monitoring to record the echolocation calls of flying bats. The acoustic monitoring detected two bats – Mexican free-tailed bat (*Tadarida brasiliensis*) and canyon bat (*Parastrellus hesperus*); however, based on the absence of roosts or visual detections of bats during the nighttime emergence survey, these bats were concluded to forage, but not roost, on site. Please refer to the bat survey results in Appendix B to the Biological Resources Technical Report (Appendix D to the Final EIR).

**A2-63** The commenter recommends modifying **M-BI-6**, as is indicated in ~~strikeout~~ and underline in the comment. However, the comment did not include any ~~strikeout~~ and underline edits of the existing mitigation measure. From a comparison of the existing mitigation measure and the edited measure as is included in the comment, it appears that the following edits have been suggested: removal of text allowing roost exclusion outside of the maternity roosting season; addition of CDFW to the bat box location consultation; and monitoring of the bat boxes. Based on CDFW's recommendation to avoid impacts to a maternity roost during the maternity roost season and provide replacement roosts if day roosts of special-status bats are found, mitigation measure **M-BI-6** has been revised in the Final EIR, as shown below in ~~strikeout~~/underline. The mitigation measure has been revised to state the project applicant will avoid demolition of the buildings between March and August if a maternity roost is found during the pre-construction survey.

**M-BI-6 Bat Surveys and Roost Avoidance or Exclusion.** To determine whether there is an active maternity roost within the buildings and other structures to be demolished, a bat biologist shall conduct surveys within the maternity roosting season prior to demolition of the buildings or any other areas that provide suitable roosting habitat for bats. If a potential maternity roost is present, ~~the following measures shall be implemented to reduce the potential impact on special status bat~~

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species to a less than significant level: **Maternity Roosting Season Avoidance.** ~~All~~ demolition activities, or bat roost exclusion, shall occur outside the general bat maternity roosting season of March through August to reduce any potentially significant impact to maternity roosting bats. ~~If the maternity roosting season cannot be avoided, then roost exclusion can occur outside the maternity roosting season (September through February) to exclude bats from the demolition area prior to the start of demolition during the maternity roosting season. Items b and c below will be required to ensure no impacts occur to roosting bats during the exclusion process.~~

**Replacement Roost Installation.** Although no special status bat species are expected to roost within the structures on the Project site. If there is a potential or known day maternity roost (i.e., non-maternity roost) of a special-status bat within a structure to be demolished, a replacement roost installation shall be installed outside of the maternity roosting season within the biological open space easement. The land east of the structures shall be added to the open space easement if replacement roosts are required. The size of land to be added shall be determined by a bat biologist. At least one month prior to the exclusion of bats from the roost(s) structure, the project applicant bat biologist will procure and install at least two bat boxes houses built specifically for the species that occur on site, or purchased from a reputable vendor if suitable for species that occur on site, such as Bat Conservation and Management, to allow bats sufficient time to acclimate to a new potential roost location. The bat boxes houses shall be installed in an area that is close to suitable foraging habitat as determined by a biologist who specializes in bats in consultation with County staff. Additionally, the bat boxes houses will be oriented to the south or southwest, and the area chosen for the bat boxes houses must receive sufficient sunlight (at least 6 hours daily) to allow the bat boxes houses to reach an optimum internal temperature (approximately 90°F) to mimic the existing bat roost. The bat boxes houses will be suitable to house crevice-roosting bat species, and large enough to contain a minimum of 50 bats (e.g., Four Chamber Premium Bat House or Bat Bunker Plus). The bat boxes houses shall be installed on a 20-foot-tall steel pole with a concrete base. Should the bat boxes be required, Maintenance of the boxes houses will be included in the RMP to ensure long-term use/functionality. Quarterly monitoring shall be required after installation until it can be established that the bat house is being used by bats and which bat species are using the houses. A report shall be submitted to the County after 1 year of monitoring documenting if bat houses are being used and by what species. The report will include any necessary repairs or maintenance to the bat houses, if needed.

**Roost Exclusion.** ~~Roost exclusion must only occur September through February to increase the potential to exclude all bats from roosts and minimize the potential for a significant impact to occur by avoiding the maternity roosting season.~~ A minimum of one month after bat boxes have been installed, exclusion of the existing roost within the buildings will occur. The primary exit points for roosting bats will be identified, and all secondary ingress/egress locations on the buildings will be covered with a tarp or wood planks to prevent bats from leaving from other locations. The primary exit point will remain uncovered to allow exclusion devices to be installed. Exclusion devices will consist of a screen plastic sheeting or similar material (e.g., poly netting, window screen, or fiberglass screening) with mesh 1/6 of an inch or smaller, installed at the top of the roost location and sealed and passing 2 feet below the bottom of the primary exit point. The exclusion devices will be installed at night to increase the potential that bats will have already left the roost and are less likely to return. Exclusion devices will be left in place for one week to ensure that any remaining bats in the roost(s) are excluded. A passive acoustic monitoring detector will also be deployed during the exclusion period in order to verify excluded species and monitor whether bat activity has decreased during the exclusion period. Periodic monitoring should also be conducted during the exclusion period to observe whether any bats are still emerging from additional areas within the impact footprint, and an active monitoring survey should be conducted on the final night of exclusion to ensure that no bats are emerging from the buildings excluded roost and determine whether exclusion has been successful. Any continued presence of roosting bats will require an adjustment to the exclusion devices and schedule. The exclusion devices may remain in place until the start of demolition activities. If any bats are found roosting in any proposed demolition areas prior to demolition, additional exclusion will be required and follow the same methodology described in this mitigation measure. This will occur until all bats are excluded.

**Survey Report.** Following completion of the survey the bat biologist will complete a survey report which records the findings. ~~If active roosts are observed, and the maternity roosting season cannot be avoided, and bats must be removed, the report will also document the replacement roost installation and roost exclusion.~~

**Documentation:** The Project Biologist shall prepare ~~the~~ a final report and submit it to the PDS for review and approval. The final report shall document the replacement roost installation, including mapped locations and photographs, species using the bat houses, and roost exclusion.



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**Timing:** If the bat houses are occupied, ~~Prior~~ prior to final grading release, or use of the premises in reliance of this permit, the final report shall be approved by the County. If the bat houses are not being used prior to final grading release, or use of premises in reliance of this permit, the annual monitoring report will document the vacancy of the bat houses and hypothesize as to why.

**Monitoring:** The PDS shall review the final report for compliance with this condition and the report format guidelines. Upon approval of the report, PDS shall inform the applicant that the requirement is complete and the bond amount can be relinquished.

**A2-64** The commenter summarizes the status and range of Quino checkerspot butterfly. The commenter also states the Draft EIR states the Quino checkerspot butterfly was observed during the 2019 rare plant survey in the southwest portion of the site on a hilltop. The commenter then states that the Draft EIR makes provisions to avoid the hilltop; however, further discussion should be included in the Final EIR to address indirect impacts to this species. In response, the Draft EIR analyzes indirect impacts to Quino checkerspot butterfly in Section 2.3.3.2. The analysis determined that due to the lack of host plants near the Quino checkerspot butterfly sighting, and the distance of the proposed solar facility from the hill (approximately 150 feet), no significant indirect impacts (such as dust, construction noise, lighting, etc.) to this species are anticipated. No work will be conducted within this area, and the hill is situated at an elevation higher than the impact area, which provides an additional buffer. Based on this analysis, the Proposed Project would not reduce the likelihood of survival or recovery of Quino checkerspot butterfly in the wild. Therefore, the Proposed Project would have no impacts (direct or indirect) on Quino checkerspot butterfly, including host plants. It is important to note that no Quino checkerspot butterflies were observed during the focused protocol surveys in 2019. The individual observed during the rare plant survey was likely using the site for nectar while traveling between locations and/or investigating the hilltop (see Section 2.3.3.2), but also may have been blown on site from Jacumba Peak west of the site (see Response to Comment A2-65). With the absence of host plants in close proximity to the Quino checkerspot butterfly observation, females would not stay and males would not stake out a territory. Any future use of this hilltop by Quino checkerspot butterflies would likely have the same result (nectar, investigate, and continue to another location). Since the known populations are located west of the Project site, travel is assumed to be between the western side of the BSA and west to suitable habitat and known populations.

**A2-65** The commenter states that direct impacts to Quino checkerspot butterfly could result from Project construction and activities; ground disturbance; vegetation clearing; and

trampling or crushing from construction equipment, vehicles, and foot traffic and increased temperatures around the solar arrays. The commenter then states that indirect impacts could result from fugitive dust from construction activities on foraging habitat and other edge effects associated with landscaping and fencing. In response, as stated in Section 2.3.3.2 of the Draft EIR, the Proposed Project is designed to avoid the location where the Quino checkerspot butterfly was observed as well as the two locations of Chinese houses (i.e., host plants). Further, the Quino checkerspot butterfly observed in April 2019 is the easternmost record (USFWS 2020) and the individual was observed after an unusually windy day. This individual may have been blown to the east from the more commonly known occupied area near Jacumba Peak west of the site. There are no other records to the east and the Project area east of the 2019 record lacks host plants and habitat typically occupied by this species. Based on this information, it is unlikely Quino checkerspot would fly across the site, at least past the 2019 hilltop. Therefore, there are no permanent direct impacts to Quino checkerspot butterfly. As discussed in Response to Comment A2-64, no significant indirect impacts (such as dust, construction noise, lighting, etc.) to this species is anticipated.

**A2-66** The commenter states that the Draft EIR states the Project is within 0.25 miles of federally designated Quino checkerspot butterfly critical habitat, and the species has been detected onsite and adjacent to the site. The commenter then states that the Draft EIR does not clearly demonstrate how the Project will avoid and minimize both direct and indirect impacts to this species. In response, as stated in Section 2.3.3.6 of the Draft EIR, the Proposed Project is designed to avoid the location where the Quino checkerspot butterfly was observed as well as the two locations of Chinese houses (i.e., host plants). Additionally, the Draft EIR states that due to the lack of host plants near the Quino checkerspot butterfly sighting, and the distance of the proposed solar facility from the hill (approximately 150 feet), no significant indirect impacts (such as dust, construction noise, lighting, etc.) to this species is anticipated. No work will be conducted within this area, and the hill is situated at an elevation higher than the impact area, which provides an additional buffer. Additionally, while the schedule may fluctuate, the Proposed Project is scheduled to begin in October 2021 and all clearing and grubbing should be completed by February 2022 (i.e., outside the flight season). Based on this analysis, the Proposed Project would not reduce the likelihood of survival or recovery of Quino checkerspot butterfly in the wild. Please also refer to Responses to Comments A2-64 and A2-65.

**A2-67** The commenter summarizes CEQA protection for CESA- and ESA-listed species, and federal status of Quino checkerspot butterfly. The commenter then states that CDFW considers impacts to federally threatened species a significant direct and cumulative adverse effect without implementing appropriate avoidance and/or mitigation

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- measures. In response, the comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.
- A2-68** The commenter states CDFW appreciates the completion of focused Quino protocol surveys and avoidance of the occupied hilltop; however, CDFW believes it is unclear (1) how far the occupied area is from the direct Project footprint, and (2) how these buffers will be maintained during construction and post construction. The commenter further states impact analyses do not address indirect impacts to Quino checkerspot butterfly. The commenter requests further provisions be made in the final document to address buffer requirements during construction and operation and how this species will be monitored. In response, the hilltop is approximately 280 feet from the top of the hill to the limits of grading and both the hilltop and buffer would be entirely located within the onsite biological open space easement (mitigation measure **M-BI-3**). Please refer to Responses to Comments A2-64, A2-65, and A2-66. Temporary construction fencing and biological monitoring is included as part of mitigation measure **M-BI-1**. The RMP has been updated to include permanent fencing and signage around the southwest portion of the open space (where the hill is located).
- A2-69** The commenter states that the Draft EIR acknowledges that direct or indirect impacts to aquatic and riparian resources may occur, warranting a Lake and Streambed Alteration Notification. The commenter also states the Project would result in removal of vegetation associated with streambeds and ground disturbed activities that may affect hydrological processes. The commenter further states the Project may impact aquatic and riparian resources and that the EIR should fully identify all impacts. In response, the Proposed Project was specifically designed to avoid impacts to all aquatic and riparian resources potentially regulated by CDFW. The Proposed Project would not result in direct impacts to aquatic and riparian resources. The commenter does not identify any specific areas regulated by CDFW that are being impacted by the Proposed Project. As stated in Section 2.3.3.3 of the Draft EIR, the Proposed Project would not result in impacts to potential ACOE and RWQCB non-wetland waters or CDFW streambed. Additionally, ACOE issued an Approved Jurisdictional Determination on September 16, 2020 concluding there were no waters of the U.S. within the “review area,” which refers to the Proposed Project area. Therefore, this comment is not addressed further.
- A2-70** The commenter states CDFW has concluded that the Project may result in the alteration of streams. The commenter recommends a mitigation measure for the Project for impacts may result in alteration of streams. In response, the Proposed Project would result in the alteration of streams. The Proposed Project was specifically designed to avoid impacts to all features potentially regulated by these regulatory agencies. The

comment does not identify any specific areas regulated by CDFW that are being impacted by the Proposed Project. Please also see Response to Comment A2-69.

**A2-71** The commenter states that the CDFW is concerned that the Draft EIR does not recognize that this area may significantly contribute to regional wildlife movement and does not appropriately address fragmentation and edge effects of the Project. The commenter then summarizes the habitat connectivity and wildlife corridors discussion on page 2.3-31 of the Draft EIR. In response, the Draft EIR identifies the Project site as included within a Core Wildlife Area. Regarding the Proposed Project's impacts to wildlife movement, please refer to Responses to Comments A2-72 through A2-78.

**A2-72** The commenter states that the Project area would remove 643 acres of undeveloped land that currently serves as a wildlife movement area. The commenter also states the Project would consist of 300,000 photovoltaic modules that would effectively remove any wildlife movement functionality of the current habitat. The commenter further states the Project includes security fencing and motion-sensor lighting that would impede wildlife movement through the area. In response, the Proposed Project's impacts to wildlife movement are analyzed in Section 2.3 of the Draft EIR. The Draft EIR identifies potential significant temporary direct impacts (**Impact BI-WLC-1**), permanent direct impacts (**Impact BI-WLC-2**), and temporary indirect impacts (**Impact BI-WLC-3**) to wildlife movement and corridors. Implementation of the following mitigation measures would reduce these impacts to less than significant: **M-BI-1** (biological monitoring), **M-BI-2** (temporary construction fencing), **M-BI-3** (habitat preservation and wildlife corridor access), **M-BI-4** (RMP), **M-BI-5** (nesting bird survey), **M-BI-7** (biological monitoring of SWPPP), and **M-BI-11** (noise reduction).

Further, the Proposed Project perimeter fencing would still allow small reptiles, amphibians, and mammals to pass through, but would not provide movement for larger species. The undeveloped SDG&E easement which transects the Project site would allow uninterrupted movement from Boundary Creek, along the western portion of the site, to the undeveloped land to the east. This easement is approximately 700 to 1,100 feet between fence lines and more than 4,000 feet in length. The Draft EIR further explains that the "mesquite-dominated floodplain along the western portion of the Project site may serve as a wildlife movement area between the Project site and the north side of I-8 for a variety of wildlife species, including mammals, birds, reptiles, and invertebrates. The western portion of the floodplain (i.e., Boundary Creek) narrows, but larger wildlife may still move through the area at night if they are traveling to the west. In addition, please refer to Response to Comment A2-77 with respect to

lighting and wildlife movement. Please also refer to Global Response GR-3 regarding wildlife movement.

- A2-73** The commenter states that if the County does not recognize this area as an important corridor for the movement of wildlife it is possible that future development in rural, desert areas may lead to further loss of these biological resources. The commenter then states that desert areas are commonly desired areas for alternative energy facilities, but the cumulative effect of these types of facilities being constructed may result in significant overall loss of biological resources. The commenter further states that this area is already vulnerable to local extirpations of wildlife species, such as the American badger that requires large areas of habitat to sustain viable populations. In response, the Draft EIR analyzes the Proposed Project's cumulative impact to wildlife movement in Section 2.3.4.3 of Section 2.3, Biological Resources. The Draft EIR includes a discussion of the completed projects in the cumulative study area, as well as projects that are either under review, approved, or under construction. The Draft EIR states that reasonably foreseeable projects that occur in the cumulative analysis area could potentially inhibit wildlife movement, and that several of the larger reasonably foreseeable projects, including wind energy projects, could block wildlife movement (particularly for avian species). To reduce impacts to wildlife movement, the Proposed Project has been designed to maintain movement corridors through the Project site. In addition, the cumulative analysis area is largely undeveloped, and wildlife movement through and around the reasonably foreseeable cumulative project areas would still be possible. Additionally, the total acreage of vegetation communities analyzed in the biological cumulative analysis study area is approximately 499,048 acres and the Proposed Project combined with reasonably foreseeable cumulative projects would only impact approximately 0.91% of the total acreage. Therefore, the Draft EIR concludes that impacts from the Proposed Project combined with the reasonably foreseeable cumulative projects would be less than significant for habitat linkages and wildlife movement corridors. It should also be noted that this Proposed Project will be in operation for 35 years at which time it will be decommissioned. In regard to American badger, as discussed in Section 2.3.1.6 of the Draft EIR, American badger has high potential to occur within the Project site, and one potential badger den was observed during focused Quino checkerspot butterfly protocol surveys. Long-term or permanent direct impacts on special-status wildlife species (**Impact BI-W-2**), including American badger, are discussed in the Draft EIR. As shown in Table 2.3-3, approximately 10,086.6 acres of modeled American badger habitat occurs within the biological cumulative study area. Given the large amount of habitat within the region, the Proposed Project's impacts to suitable habitat for American badger would be less than significant.

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- A2-74** The commenter states that the Project area contributes to regional wildlife movement east-west within the area, and the Project site supports the passage of large and small mammals as well as migrating birds and sensitive species foraging in the area. The commenter also states that the habitat in the Project site supports the natural areas and the open space around the Project vicinity. In response, the comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.
- A2-75** The commenter summarizes mitigation measure **M-BI-3** (habitat preservation) in the Draft EIR to mitigate for impacts to wildlife movement. In response, the comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.
- A2-76** The commenter states that the CDFW is concerned that the measure does not adequately address the impacts to wildlife movement and edge effects caused by the Project. The commenter also states that the CDFW recommends that provisions be made in the future RMP to monitor habitat connectivity within the biological easement area, including the use of camera traps around the Project facility and the biological easement area to access wildlife movement. In response, as discussed in Response to Comment A2-72 and Global Response GR-3, the biological open space easement and other measures would provide for wildlife movement. Additionally, the RMP has been updated to include one year of camera studies.
- A2-77** The commenter recommends the removal of motion sensor lighting from the mitigation measure in the Draft EIR, stating that this type of lighting can deter wildlife and impede movement throughout the area. The commenter recommends low level lighting, all non-essential lighting to be eliminated, and avoiding or limiting the use of artificial light during the hours of dawn and dusk. In response, the Proposed Project design has been revised to include low-level lighting instead of motion sensor lighting. Revisions have been made to the Final EIR.
- A2-78** The commenter states that the Project site is located within a low-density area that could support wildlife movement across the broader landscape, sustaining both transitory and permanent wildlife populations. The commenter then recommends that the County consider permeable, wildlife friendly fencing. The commenter states that wildlife impermeable fencing prevents or creates a barrier for the passage of wildlife from one side to the other. The commenter recommends reviewing A Landowner's Guide to Wildlife Friendly Fences for additional information (Montana Fish, Wildlife and Parks 2012). In response, the Proposed Project perimeter fencing would serve as security fencing. The fencing would meet the National Electrical Safety Code for protective arrangements in electrical supply stations. Thus, the type of fencing that can

be installed is limited. The Proposed Project has been designed to provide for wildlife movement outside of the perimeter fencing. As described in Response to Comment A2-73, due to the open flat nature of most of the development footprint, large mammals are not expected to travel through the fallow agriculture and disturbed habitat areas due to lack of shrub, tree or topographic cover. Small mammals and reptiles are expected to use the entire Project site. These small wildlife would be able to access the solar facility beneath the fence. Since large mammals are not likely to use the solar site for movement either before or after project construction, and small wildlife will be able to continue to move freely throughout the site, wildlife permeable fencing is not required. Also, A Landowner's Guide to Wildlife Friendly Fences (Montana Fish, Wildlife and Parks 2012) is meant to guide fencing for wildlife that travel or migrate through fenced ranches and farmland. The fencing guide is focused on large ungulates and grouse, neither of which currently travel through the proposed solar site.

**A2-79** The commenter states that the Draft EIR did not identify the recent change in protection status of the mountain lion population and the potential for human conflict during Project activities. The commenter then summarizes the status of mountain lion under the State Fish and Game Code, California Fish and Game Commission, and CESA. The commenter states that any new development project should analyze the potential for mountain lion. The commenter states the discussion on the Habitat Connectivity and Wildlife corridors mentions mountain lions; however, it is unclear if surveys for this species were conducted. In response, focused surveys for mountain lions (cougars) were not conducted for the Proposed Project as there are no defined survey requirements or protocols yet established for this species. Please refer to Response to Comment A2-83 for additional information regarding focused surveys. Section 6.2.1 of the Biological Resources Technical Report, and Section 2.3.3 has been updated in the Final EIR to address the recent changes in the protection status for mountain lions as well as to include a specific discussion of the Project-related impacts to this species.

**A2-80** The commenter states that, due to the mountain lion's updated status, it is important for the Final EIR to analyze the impacts associated with human-wildlife conflicts that come with increases in human development and presence in potential wildlife corridor areas. In response, the Draft EIR describes that mountain lion (referred to as "cougar" in the Draft EIR) has potential to occasionally occur within the Project site, particularly along the western edge where the terrain and vegetation provide more cover. However, this species has lower potential to occur in the flatter areas on the Project site due to lack of cover. Further, mountain lions are nocturnal and construction would be during daylight hours only. The solar facility would not be manned full-time; therefore, human-wildlife conflicts are not anticipated.



**A2-81** The commenter states that mountain lions potentially present in the Project vicinity may be impacted by Project activities such as increased human presence, increase in traffic causing vehicle strikes, as well as increased exposure to light and noise. The commenter then states that impacts to deer should be considered since mountain lions rely on deer as a food source. The commenter states that mountain lion may also cause concern for public safety if they encounter people. In response, the Draft EIR analyzes potential direct and indirect impacts to wildlife movement of large mammals, including mountain lions and mule deer (**Impacts WLC-1, WLC-2 and WLC-3**). As stated in the EIR, the Project site has the potential to occasionally support movement of mountain lions, particularly along the western edge where the terrain and vegetation provide more cover. There is a lower potential for this species to occur in the flatter areas on the Project site due to lack of cover. Given that mountain lions are not likely to utilize the area which will be directly impacted by the Proposed Project, there are no direct or indirect impacts to this species. There is potential for the movement patterns of this species to be disrupted by Project-related activities, primarily during grading (**Impact WLC-1 and WLC-3**). These impacts would be reduced to less than significant with implementation of mitigation measures. Regarding increased human presence, please refer to Response to Comment A2-80.

**A2-82** The commenter states that human interactions are one of the main drivers of mortality and increasing development and human presence (even temporary) in this area could increase the need for public safety removal and/or vehicle strikes of mountain lions. The commenter then states if take or adverse impacts to mountain lion cannot be avoided either during project development activities or over the life of the development project, the project proponent must consult CDFW to determine if a CESA Incidental Take Permit is required. In response, as discussed in Response to Comment A2-81, mountain lions are not likely to utilize the area which will be directly impacted by the Proposed Project. The perimeter fencing would be installed in the earlier phase of construction. During operations, the Proposed Project would not have full-time staffing. Thus, there would be very minimal human presence during Project operation. Neither development activities nor Project operation is expected to result in direct impacts to mountain lions, and consequently, no CESA Incidental Take Permit is required. The Draft EIR acknowledges that the Proposed Project has the potential to create a “dead-end” for wildlife traveling west to east along the northern portion of the site. This could funnel wildlife towards I-8 and result in increased mortality of wildlife forced to cross at grade. To ensure that wildlife traversing that area are directed towards the SDG&E easement, the Propose Project will provide a 50 to 100-foot opening in the fence north of the easement (see mitigation measure **M-BI-3**). This opening will allow for wildlife, which may be moving along the northern portion of the site, to enter into the easement corridor and move through the site to habitat located on either side of the

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Proposed Project. In addition, the existing SDG&E easement which transects the Project site provides for east-west wildlife movement. Therefore, with implementation of mitigation measure **M-BI-3** and, the Proposed Project would provide for natural movement corridors and impacts to mountain lion movement would be less than significant.

**A2-83** The commenter states an impact analysis for mountain lion should be completed prior to Project implementation and included in the Final EIR. The commenter also states a presence/absence survey should be completed, and results recorded in the Final EIR. In response, the Draft EIR includes an impact analysis for mountain lion; however, revisions have been made in the Final EIR to emphasize where the analysis is discussed and to provide a specific significance determination for the species. Please refer to Sections 2.3.3.2, 2.3.5 and 2.3.7 of the Final EIR. Focused surveys for mountain lions were not conducted for the Proposed Project as there are no defined survey requirements or protocols yet established for this species. The potential for mountain lions to occur within the BSA was evaluated as a part of the environmental review for the Proposed Project. This evaluation was based on the ability of the Project site to be used as a movement corridor, known occurrences and habitat preferences of the species and surrounding landscape constraints such as the border fence and I-8. Based on this analysis it was determined that mountain lions may utilize the western portion of the Project site along Boundary Creek where the terrain and vegetation provide more cover. This area would be placed in a biological open space easement. There is a lower potential for this species to occur in the flatter areas due to lack of cover. The flatter areas would be encompassed in the development footprint. Therefore, species specific surveys are not required.

**A2-84** The commenter states that habitat loss and invasive plants are a leading cause of native biodiversity loss. The commenter recommends that any landscaping (separate from mitigation for impacts to native vegetation communities) performed after the Project use native plants. The commenter further states that the County should not plant, seed, or otherwise introduce invasive exotic plant species to landscaped areas that are adjacent and/or near native habitat areas. The commenter then recommends using native, locally appropriate plant species and drought tolerant, lawn grass alternatives to reduce water consumption. In response, as stated in mitigation measure **M-BI-9**, no invasive plant species, as included on the most recent version of the California Invasive Plant Council's California Invasive Plant Inventory for the project region, shall be included, and the plant palette shall be composed of native species that do not require high irrigation rates. Therefore, the Draft EIR addresses this issue.

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- A2-85** The commenter recommends the Proposed Project consider alternative designs to alleviate the need to grade native habitat. The commenter then recommends the County consider alternative areas of configurations for the placement of the two water tanks, engine generator enclosures, and engine coolers. The commenter states that construction and grading activities should be relocated to already disturbed land and existing roads/trails. The commenter states that the Project alternatives should avoid or otherwise minimize direct and indirect impacts to sensitive biological resources and should be considered even if an alternative would impede to some degree the attainment of the Project objectives or would be more costly. In response, for clarification, while the Proposed Project includes water tanks for firefighting, engine generator enclosures and engine coolers are not part of the Project’s components. Accordingly, it is not clear what alternative design the commenter is proposing. Also, the Proposed Project development footprint would primarily be located within, fallow agriculture, disturbed habitat, and developed areas to the extent feasible. All impacts to sensitive biological resources have been identified and mitigated in accordance with the County’s guidelines; therefore, further avoidance is not required.
- A2-86** The commenter states CDFW appreciates the opportunity to comment on the Draft EIR to assist the County in identifying and mitigating Project impacts on biological resources. In response, the comment provides a concluding statement. The comment does not raise an issue regarding the adequacy of the Draft EIR; therefore, no further response is required or provided.
- A2-87** The commenter summarizes the Proposed Project’s impacts to desert saltbrush and CDFW’s recommended Mitigation Measure #1. In response, please refer to Responses to Comments A2-10 and A2-11.
- A2-88** The commenter states that CDFW does not consider transplanting or salvaging sensitive plants (pygmy lotus and sticky geraea). The comment also includes CDFW’s Recommendation #1 for impacts to special status plants. In response, please refer to Responses to Comments A2-16 and A2-17.
- A2-89** The commenter summarizes recommended Mitigation Measure #2, Scientific Collecting Permit, for impacts to Species of Special Concern. In response, please refer to Response to Comment A2-25.
- A2-90** The commenter summarizes recommended Mitigation Measure #3, Species Surveys, for impacts to Species of Special Concern. In response, please refer to Response to Comment A2-26.

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- A2-91** The commenter summarizes recommended Mitigation Measure #4, Relocation Plan, for impacts to Species of Special Concern. In response, please refer to Response to Comment A2-27.
- A2-92** The commenter summarizes recommended Mitigation Measure #5, Worker Training and Field Protocols, for impacts to Species of Special Concern. In response, please refer to Response to Comment A2-28.
- A2-93** The commenter summarizes recommended Mitigation Measure #6, Injured or Dead Wildlife, for impacts to Species of Special Concern. In response, please refer to Response to Comment A2-29.
- A2-94** The commenter summarizes recommended Mitigation Measure #7 for impacts to nesting birds. In response, please refer to Response to Comment A2-33.
- A2-95** The commenter summarizes recommended Mitigation Measure #8 for impacts to tricolored blackbird. In response, please refer to Response to Comment A2-42.
- A2-96** The commenter summarizes Recommendation #2 for impacts to tricolored blackbird. In response, please refer to Response to Comment A2-43.
- A2-97** The commenter summarizes recommended Mitigation Measure #9 for impacts to burrowing owl. In response, please refer to Response to Comment A2-49.
- A2-98** The commenter summarizes recommended Mitigation Measure #10 for impacts to burrowing owl. In response, please refer to Response to Comment A2-50.
- A2-99** The commenter summarizes recommended Mitigation Measure #11 for impacts to burrowing owl. In response, please refer to Response to Comment A2-51.
- A2-100** The commenter summarizes recommended Mitigation Measure #12 for impacts to golden eagle. In response, please refer to Responses to Comments A2-55 and A2-56.
- A2-101** The commenter summarizes recommended Mitigation Measure #13 for impacts to golden eagle. The commenter states burrowing owl is included in this recommended mitigation measure. In response, the mitigation measure is addressing golden eagle, not burrowing owl. Please refer to Response to Comment A2-57.
- A2-102** The commenter summarizes recommended Mitigation Measure #14 for impacts to bats. In response, please refer to Response to Comment A2-62.
- A2-103** The commenter summarizes recommended Mitigation Measure #15 for impacts to bats. In response, please refer to Response to Comment A2-63.

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- A2-104** The commenter summarizes Recommendation #3 for impacts to Quino checkerspot butterfly. In response, please refer to Response to Comment A2-68.
- A2-105** The commenter summarizes recommended Mitigation Measure #16 for impacts to aquatic and riparian resources. In response, please refer to Response to Comment A2-70.
- A2-106** The commenter summarizes recommended Mitigation Measure #17, RMP, for wildlife movement and edge effects. In response, please refer to Responses to Comments A2-75 and A2-76.
- A2-107** The commenter summarizes recommended Mitigation Measure #18, Lighting, and Mitigation Measure #19, Fencing, for wildlife movement and edge effects. In response, please refer to Responses to Comments A2-77 and A2-78.
- A2-108** The commenter summarizes Recommendation #4 for impacts to mountain lions. In response, please refer to Response to Comment A2-83.
- A2-109** The commenter summarizes Recommendation #5, Landscaping. In response, please refer to Response to Comment A2-84.
- A2-110** The commenter summarizes Recommendation #6, Project Alternatives. In response, please refer to Response to Comment A2-85.