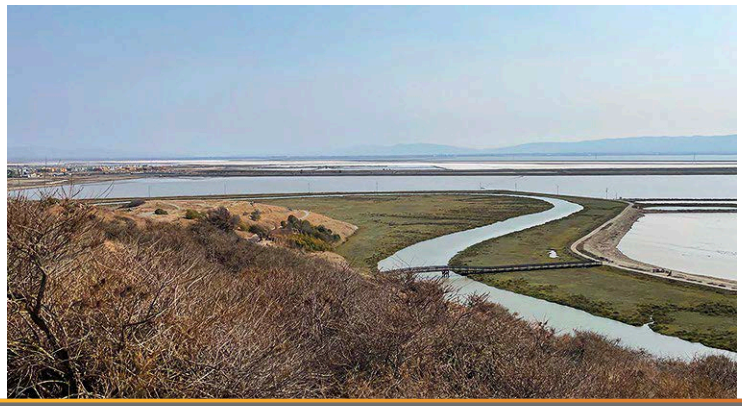

ADDENDUM TO THE ENVIRONMENTAL IMPACT REPORT FOR THE

Cargill Mixed Sea Salts Processing and Brine Discharge Project

SCH No. 2022050436

Prepared for:

EBDA
EAST BAY DISCHARGERS AUTHORITY

July 2025

ADDENDUM TO THE ENVIRONMENTAL IMPACT REPORT FOR THE

Cargill Mixed Sea Salts Processing and Brine Discharge Project

SCH No. 2022050436

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LIST OF ABBREVIATIONS

Bay	San Francisco Bay
CEQA	California Environmental Quality Act
EBDA	East Bay Dischargers Authority
EIR	Environmental Impact Report
MSS	Mixed Sea Salts
NPDES	National Pollutant Discharge Elimination System
Project Proponent	Cargill, Incorporated
Project	Cargill Mixed Sea Salts Processing and Brine Discharge Project

1 INTRODUCTION

This document constitutes an addendum to the Environmental Impact Report (EIR) for the Cargill Mixed Sea Salts Processing and Brine Discharge Project (project) (State Clearinghouse No. 2022050436), certified by the East Bay Dischargers Authority (EBDA) Commission on June 15, 2023 (EBDA 2023a; 2023b). In accordance with the California Environmental Quality Act (CEQA), this first Addendum for the EIR describes and evaluates minor technical changes and additions based on new information since the EBDA Commission's certification of the Final EIR in 2023 and demonstrates that all of the potential environmental impacts associated with these minor technical changes and additions would be within the envelope of impacts already evaluated in the 2023 Final EIR.

This section provides background information relevant to the project, describes the project location, identifies the project objectives, provides a summarized description of the project, describes the project history related to CEQA compliance, and describes the purpose and rationale for this addendum.

1.1 BACKGROUND

EBDA is a Joint Powers Public Agency consisting of five local agencies (City of San Leandro, Oro Loma Sanitary District, Castro Valley Sanitary District, City of Hayward, and Union Sanitary District). EBDA owns and operates three effluent pump stations, a dechlorination facility, and combined effluent pipeline/force main and outfall system to manage treated effluent from its Member Agencies' wastewater treatment plants and discharge the effluent through its common outfall and diffuser into a deep-water portion of the central San Francisco Bay (Bay) under a National Pollutant Discharge Elimination System (NPDES) permit.

Cargill, Incorporated (Cargill) operates a solar sea salt production facility (Solar Salt Facility) in Newark, California. The Solar Salt Facility produces sodium chloride (NaCl, i.e., table salt) and liquid bittern (concentrated magnesium chloride brine) from Bay water. Bay water is evaporated in a series of salt ponds along the margin of the Bay, thereby concentrating the salts until they become saturated and precipitate from solution. The majority of the NaCl is crystalized and then processed and packaged to individual customer's specifications. The remaining brine is further evaporated through a series of ponds to achieve the concentrated magnesium chloride brine product also known as liquid bittern, which is harvested to produce additional commercial products used for road de-icing, dust suppression, animal feed, and other uses. The additional evaporation of the brine also results in crystallization of other salts in sea water, which are not marketed. These salts are referred to as mixed sea salts (MSS). The MSS are stored in ponds adjacent to the Bay at the Solar Salt Facility. Currently, there are approximately 6 million tons of MSS stored in these ponds.

Facing the potential long-term threat of sea level rise, which along with wave action could compromise berms between the ponds and the Bay, exposing the Bay to highly concentrated brine, Cargill proposes to implement innovative technology to enhance extraction of additional salts from the MSS inventory and then dissolve residual MSS in Bay water to produce a brine that could be pumped into EBDA's combined effluent conveyance system. Once in EBDA's conveyance system, the brine would be blended with and further diluted by EBDA Member Agency effluent and then discharged back into the Bay in accordance with EBDA's NPDES permit. Through this process, the volume of brine and precipitated salts stored in ponds closest to the Bay at the Solar Salt Facility in Newark would be reduced. Therefore, with implementation of the project, Cargill would be accelerating and enhancing the recovery of commercial product from the MSS inventory and proactively addressing the threat of sea level rise at the same time.

1.2 PROJECT LOCATION

Proposed project features are in the eastern San Francisco Bay Area, including portions of San Lorenzo, an unincorporated community in Alameda County, and portions of the cities of Hayward, Union City, Fremont, and Newark. Specifically, proposed project improvements would be constructed at Cargill's Solar Salt Facility, located at 7220 Central Avenue in Newark, California, and primarily within roadway rights-of-way between the Solar Salt Facility and the Oro Loma Sanitary District/Castro Valley Sanitary District Water Pollution Control Plant in San Lorenzo (Figure 1-1). The MSS are situated primarily in Ponds 12 and 13 of Cargill's Solar Salt Facility, which are located within the US Fish and Wildlife Service's Don Edwards San Francisco Bay National Wildlife Refuge.

1.3 PROJECT OBJECTIVES

The project has the following objectives:

- Provide wastewater disposal capacity and services to Cargill in a manner that provides economic advantage to EBDA Member Agencies, with emphasis on offsetting and reducing expenses to EBDA and its ratepayers and furthers the purpose and goals of EBDA's Joint Powers Agreement.
- Further EBDA's sustainability objectives, including those in support of reclamation and reuse of wastewater, by creating or facilitating the creation of permanent infrastructure available for future regional water recycling efforts by EBDA and/or EBDA Member Agencies.
- Balance any impacts due to disruption to local jurisdictions with impacts to sensitive environments.
- Develop new infrastructure to process MSS brine with minimal exposure to disruptions, including connecting with and optimizing existing EBDA infrastructure to use EBDA's excess capacity for processing and blending MSS brine.
- Utilize strategic connection to an existing deep-water outfall to minimize impacts to water quality and aquatic resources in receiving waters associated with the discharge of residual MSS brine.
- Facilitate the timely harvest of liquid bittern from the MSS in Cargill's Solar Salt Facility on-site ponds and ensure that MSS brine is efficiently, sustainably, and responsibly handled at all stages, including collection, transmission, and disposal.
- Prevent operational and environmental impacts of Bay water overtopping the berms surrounding MSS ponds due to sea level rise.

1.4 SUMMARY DESCRIPTION OF THE PROJECT

The Cargill Solar Salt Facility is located at 7220 Central Avenue in Newark, California, in the South Bay, and the project proposed by Cargill would enable the enhanced processing and removal of MSS in existing ponds at this facility by allowing Cargill to harvest additional liquid bittern from the MSS matrices in these ponds as commercial product, dissolving the residual MSS solids in the ponds using Bay water, and transferring the resulting brine to EBDA's combined effluent pipeline for discharge into the Bay under EBDA's NPDES permit. Harvesting the liquid bittern and final disposition of the residual MSS brine would not require the introduction of any chemicals.

Cargill estimates that approximately 6 million tons of MSS are stored in ponds adjacent to the Bay at the Solar Salt Facility and that its existing operations increase the MSS inventory by approximately 60,000 tons annually. It is anticipated that the MSS brine would be discharged to the EBDA system at a rate of up to 2.0 million gallons per day. Based on this estimated flow rate, the harvesting and discharge of the inventory of MSS, including existing annual accumulations, is projected to require a 10- to 15-year timeframe. Discharge of the MSS brine by Cargill to the EBDA system would be subject to an agreement between EBDA and Cargill. Because EBDA's Joint Powers Agreement term expires on June 30, 2040, the project either would terminate on or before that date or could continue under a renegotiated agreement.

The project has an on-site component of pipelines and pumping facilities in the existing Solar Salt Facility and an off-site component that would require construction of approximately 15.6 miles of new underground pipeline primarily within roadway rights-of-way to connect the Solar Salt Facility with EBDA's system just downstream of the Oro Loma Sanitary District/Castro Valley Sanitary District Water Pollution Control Plant in San Lorenzo (Figure 1-1).

Source: Data received from AECOM and Jacobs in 2021 and 2022; adapted by Ascent in 2023.

Figure 1-1 Project Location

The project consists of the following components:

- Dissolution Water Pond and Plummer Creek Pump Station. A new pump station would be installed to pump water indirectly from Plummer Creek to a new dissolution water pond.
- Dissolution Water Pump Station and Distribution System. A new dissolution water pump station would be constructed as a cast-in-place slab-on-grade facility located at the dissolution water pond. It would be connected to an on-site high-density polyethylene piping distribution system installed above grade along the internal slope of the existing berms to deliver dissolution water to micro-trenches excavated in the crystallized salt layer above the Bay mud in Ponds 12 and 13 for MSS processing.
- Two MSS Brine Pump Stations. New MSS brine pump stations would be constructed at Ponds 12 and 13 as cast-in-place slab-on-grade pump stations to pump the resultant brine out of the processing ponds and into the off-site brine discharge pipeline.
- Liquid Bittern Recovery Pumps. During the processing of Pond 12, sections of the pond would be temporarily isolated using vinyl sheet piling to enable liquid bittern recovery. Two new pipelines would be installed along the internal slope of the berm on the northern shore of Pond 12: (1) a 12-inch header pipe to deliver dissolution water to Pond 12 and (2) a 4-inch pipe to transfer liquid bittern from Pond 12 to Pond 13, where it would be further processed and harvested as commercial product. After Pond 12 processing is complete, MSS processing would be initiated in Pond 13, and Pond 12 would be converted back to a site used for liquid bittern harvesting. To facilitate Pond 13 processing, two new pipelines like the ones described for Pond 12 would be installed along the internal slope of the berm on the southern side of Pond 13 to transfer liquid bittern from Pond 13 to Pond 12.
- Rainwater Decanting. A new weir box structure, which includes a weir plate (barrier) to control the flow of water, and a pipe would be installed at the northeastern corner of Pond 13 to enable decanting of rainwater from the surface of Pond 13 to supplement dissolution water for Pond 12.
- MSS Brine Transport Pipeline. An 18-inch (outside diameter) MSS brine transport pipeline would be constructed and would extend north primarily along roadway rights-of-way for approximately 15.6 miles, from the Solar Salt Facility to the Oro Loma Effluent Pump Station, located at the Oro Loma Sanitary District/Castro Valley Sanitary District Water Pollution Control Plant in San Lorenzo. Based on current design, the MSS brine transport pipeline would be located within portions of Thornton Avenue, Paseo Padre Parkway, Ardenwood Boulevard, Union City Boulevard, Hesperian Boulevard, Eden Shores Boulevard, Marina Drive, Industrial Boulevard, Baumberg Avenue, Arden Road, Corporate Avenue, Investment Boulevard, Production Avenue, Clawiter Road, West Winton Avenue, and Corsair Boulevard.
- MSS Brine Discharge to the EBDA System. The MSS brine transport pipeline would tie into EBDA's combined effluent conveyance system immediately downstream of the Oro Loma Sanitary District/Castro Valley Sanitary District Water Pollution Control Plant in San Lorenzo by connection to the pump discharge manhole approximately 75 feet north and downstream of the Oro Loma Effluent Pump Station. The MSS brine would then be combined with the treated wastewater effluents from the other agencies that discharge into the EBDA system before being discharged back to the Bay.

Refer to Chapter 2, "Project Description," of the Draft EIR (EBDA 2023a), as modified by Chapter 2, "Project Updates," of the Final EIR (EBDA 2023b), for a detailed description of the project.

1.5 PROJECT HISTORY AND EIR CERTIFICATION

EBDA is the lead agency under CEQA for the project, for which an environmental impact report (EIR) was prepared pursuant to CEQA (California Public Resources Code Section 21000 et seq.) and certified by the EBDA Commission on June 15, 2023. EBDA and Cargill are now seeking to enter into a Project Approval Agreement.

1.6 PURPOSE OF THIS ADDENDUM

Once an EIR or other CEQA document has been prepared and certified for a project, no additional environmental review is required unless certain conditions are met, at which point subsequent review under CEQA may be necessary. CEQA establishes the type of environmental documentation required when changes occur after an EIR is certified. Sections 15162-15164 of the CEQA Guidelines define the standards for determining the appropriate level of subsequent environmental review. Specifically, Section 15164(a) of the CEQA Guidelines states that: "The lead agency or responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred."

If new significant impacts beyond those addressed in the certified EIR or a substantial increase in the severity of impacts would result, then preparation and circulation of a Subsequent or Supplemental EIR for additional public review is required. However, when it can be determined that neither the proposed changes to the project, changed circumstances, nor new information result in the identification of new significant unmitigated impacts or the substantial unmitigated increase in the severity of significant impacts identified in the certified EIR, an addendum to the EIR may be prepared. An addendum does not need to be circulated for public review, but it can be included in or attached to the certified EIR.

EBDA has determined that, in accordance with Section 15164 of the State CEQA Guidelines, minor technical changes and additions to the certified EIR are necessary in response to new information that became known after the EIR was certified. Crotch's bumble bee (*Bombus crotchii*) and burrowing owl (*Athene cunicularia*) were designated as candidates for listing as endangered under the California Endangered Species Act (CESA) by the California Fish and Game Commission. The listing occurred on September 30, 2022, and October 10, 2024, respectively. Although the Crotch's bumble bee listing was prior to certification of the EIR, because of legal actions over its listing, its status as a listed species was not addressed in the EIR. As evaluated further in Section 2 of this Addendum, "Environmental Analysis," EBDA has now determined that the project would result in potentially significant effects on Crotch's bumble bee and burrowing owl; however, these effects can be clearly reduced such that they would not constitute new significant effects or substantially more severe significant effects than shown in the certified EIR. Mitigation measures would substantially reduce the effects on Crotch's bumble bee and burrowing owl to less-than-significant levels. Accordingly, EBDA determined that none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have been triggered and an addendum to the certified EIR is the appropriate environmental documentation to address new information that became known after the EIR was certified. This addendum was prepared pursuant to CEQA Guidelines Section 15164.

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2 ENVIRONMENTAL ANALYSIS

EBDA has determined that, in accordance with CEQA Guidelines Sections 15164, an addendum is appropriate to address new information that became known after the EIR was certified. The analysis of environmental effects below demonstrates that none of the conditions in CEQA Guidelines Section 15162 requiring the preparation of a subsequent EIR have occurred.

2.1 ISSUES NOT ANALYZED FURTHER IN THIS ADDENDUM

As discussed in Section 3.1.1, "Effects Found Not to Be Significant," of the certified EIR, the following environmental issue areas were dismissed from detailed review in the certified EIR because EBDA determined that no significant effects would occur: aesthetics, agriculture and forestry resources, energy, land use and planning, population and housing, public services, transportation, utilities and service systems, and wildfire (EBDA 2023a; 2023b). The certified EIR evaluated the following environmental issue areas:

- air quality;
- biological resources;
- cultural and tribal cultural resources;
- geology, soils, mineral resources, and paleontological resources;
- greenhouse gas emissions and climate change;
- hazards and hazardous materials;
- hydrology and water quality;
- noise and vibration; and
- recreation.

As stated in Section 1.5, "Project History," Cargill does not propose any changes to the project as previously defined and evaluated in the certified EIR. In addition, there is no new information of substantial importance that would require revisions to the environmental analysis or mitigation measures identified in the certified EIR or further analysis for all environmental issue areas in general, except for changes in listing status for Crotch's bumblebee and burrowing owl discussed further in Section 2.2, "Biological Resources." No new significant environmental effects or substantially more severe significant environmental effects would result with respect to any environmental issue areas other than Biological Resources; therefore, no other environmental issue areas are analyzed further in this addendum.

2.2 BIOLOGICAL RESOURCES

Section 3.3, "Biological Resources," in the certified EIR evaluated the common and sensitive resources that could be affected by implementation of the approved project (pages 3.3-1 through 3.3-91 of the certified EIR). The certified EIR identified that impacts related to special-status species (Impact 3.3-1), riparian habitat and sensitive natural communities (Impact 3.3-2), wetlands and other waters (Impact 3.3-3), wildlife movement and nursery sites (Impact 3.3-4), conflicts with local polices or ordinances related to biological resources (Impact 3.3-5), and conflicts with adopted habitat conservation plans (Impact 3.3-6) were potentially significant. Mitigation measures were adopted to reduce impacts to these biological resources to a less-than-significant level.

This analysis updates and refines the analysis of the certified EIR pertaining to special-status species to address the listing of Crotch's bumble bee and burrowing owl as candidate species under CESA.

2.2.1 Crotch's Bumble Bee

Impacts on special-status invertebrates were discussed under Impact 3.3-1 in the certified EIR (pages 3.3-54 through 3.3-73 of the certified EIR); however, impacts on Crotch's bumble bee as a listed species were not considered. The table in Appendix C of the certified EIR is revised as follows to identify the potential for Crotch's bumble bee to occur in the project area, with new text underlined.

Special-Status Species Potential for Occurrence in the Biological Study Area

Species	Listing Status[1] Federal	Listing Status[1] State	Habitat	Potential for Occurrence[2]
Crotch's bumble bee *Bombus crotchii*	—	SC	Coastal California east to the Sierra-Cascade crest and south into Mexico. Suitable foraging habitats include grasslands and scrub. Constructs nest colonies in small mammal burrows and similar underground structures. Food plant genera include *Antirrhinum, Phacelia, Clarkia, Dendromecon, Eschscholzia,* and *Eriogonum.*	May occur. The project area is within the current range of this species (CDFW 2023). The Solar Salt Facility does not contain habitat suitable for this species. Habitat marginally suitable for the species may be present within urban parks and other areas along the MSS brine transport pipeline.

1 Legal Status Definitions

State:

SC State Candidate for listing (legally protected)

2 Potential for Occurrence Definitions

May occur: Suitable habitat is available and there have been nearby recorded occurrences of the species.

Sources: CDFW 2023.

The Solar Salt Facility improvements would occur within salt ponds and salt pond berms, which are not foraging habitat for Crotch's bumble bees due to a lack of substantial floral resources. Annual grasslands that could support substantial floral resources are approximately 1.4 miles from the Solar Salt Facility improvements. While some bumble bees have been known to forage up to 2.5 miles from nest colonies (Osbourne et al. 2008), most foraging likely occurs closer (within 1.24 miles) to colonies (CDFW 2023). Given the distance to these annual grasslands and the intervening development and disturbed habitats, which are not likely to contain sufficient flowering plants for foraging, the presence of Crotch's bumble bee nest colonies within the area of the Solar Salt Facility improvements is unlikely.

While most of the MSS brine transport pipeline alignment would occur along existing roadways, portions of the pipeline alignment would encroach on small areas of annual grassland and open fields that may provide marginal potential foraging and nesting habitat for Crotch's bumble bee. Impacts from the MSS brine transport pipeline on Crotch's bumble bee habitat would consist of temporary impacts from trenching and small permanent above ground components, such as air release valves taking up 36 square inches, that would have negligible impacts (i.e., small loss of marginal habitat). Crotch's bumble bee queens form nest colonies in burrows and similar structures where they lay eggs and new queens (gynes) are produced to form new colonies the following year. Crotch's bumble bee colonies are active approximately March 15 to August 15, after which the new gynes depart and the colony is no longer active. Ground disturbing activities associated with construction of the MSS transport pipeline (e.g., trenching, grubbing, heavy equipment operations), if conducted during the colony active period (March 15 to August 15), could result in the destruction of underground nest colonies of Crotch's bubble bee, if any are present within the construction footprint. The destruction of nest colonies and loss of that reproductive effort would have a potentially substantial effect on the local and regional population of the species and would be a potentially significant impact.

The potentially significant impact on Crotch's bumble bee would not change the significance determination for special-status species in the certified EIR, which was determined to be potentially significant. To address these

potential impacts to Crotch's bumble bee, revisions are required to Mitigation Measure 3.3-12: Implement Avoidance Measures for Monarch Overwintering Colonies.

Revisions to Mitigation Measure 3.3-12 consist of revisions to the text to provide detailed measures to reduce potential impacts to Crotch's bumble bee. With these changes incorporated, Mitigation Measure 3.3-12 is revised as follows, with new text underlined.

Mitigation Measure 3.3-12: Implement Avoidance Measures for Monarch Overwintering Colonies and Crotch's Bumble Bee Nest Colonies

The project will implement the following measures to avoid and minimize potential impacts on monarch butterfly overwintering colonies:

- To minimize the potential for loss of monarch overwintering colonies, project activities that include vegetation removal within suitable overwintering habitat (e.g., eucalyptus or other large trees) will be conducted from April through September to avoid the overwintering season (October through March), if feasible. If project activities are conducted outside of the overwintering season, no further mitigation will be required.
- Within 14 days before the onset of project activities that include vegetation removal between October 1 and March 31, a qualified biologist familiar with monarchs and monarch overwintering habitat will conduct focused surveys for monarch colonies within habitat suitable for the species in the project site and will identify any colonies found within the project site.
- Monarch overwintering colonies that are identified within a project site will be demarcated with flagging or high-visibility construction fencing to prevent removal of the stand of trees containing the overwintering colony and encroachment by heavy machinery, vehicles, or personnel. Removal of the tree or stand of trees that contains the overwintering colony will not occur until the monarchs have left the area, as determined by a qualified biologist.
- If modification or removal of a stand that contains an identified overwintering colony is required for a project and cannot be delayed, a site-specific management plan will be prepared and implemented for the stand with the goal of maintaining habitat function for the monarch overwintering colony, following feasible recommendations from *Protecting California's Butterfly Groves Management Guidelines for Monarch Butterfly Overwintering Habitat* (Xerces Society 2017). Examples of management strategies that could be considered to maintain habitat function include:
  - remove or trim hazard trees;
  - selectively remove or trim trees to create a heterogeneous habitat that provides access to sunlight and shade for monarchs;
  - maintain suitable wind protection in the stand; and
  - replace removed trees with native trees in strategic locations to provide additional wind protection.

The project will implement the following measures to avoid and minimize potential impacts on Crotch's bumble bee nest colonies:

- Initial ground-disturbing work (e.g., grading, trenching vegetation removal, staging) for the MSS brine transport pipeline outside of the Solar Salt Facility shall take place between August 15 and March 15, if feasible, to avoid impacts on Crotch's bumble bees potentially nesting in this area. No such restriction is necessary for improvements within the Solar Salt Facility owing to the absence of habitat suitable for this species.
- If completing initial ground-disturbing work for any portion of the MSS brine transport pipeline (outside of the Solar Salt Facility) between August 15 and March 15 is not feasible, then prior to the start of any ground-disturbing activities, a qualified biologist approved by CDFW that is familiar with bumble bees of California and experienced using survey methods for bumble bees shall conduct a habitat assessment

and focused survey for Crotch's bumble bee within vegetated portions of the project site due to be constructed within that year's colony active period. The survey shall follow the methods in *Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species* (CDFW 2023) or any subsequent adopted or recommended CDFW guidance. The following measures shall be implemented:

- The project proponent, with EBDA oversight, shall submit a survey report to CDFW within one month of survey completion and prior to initial ground-disturbing work, and shall notify CDFW within 24 hours if Crotch's bumble bees are detected.
- If Crotch's bumble bees are detected during the focused survey, appropriate avoidance measures shall be implemented as determined by a qualified biologist. Avoidance measures may include protective buffers that shall be implemented around active nesting colonies until these sites are no longer active.
- If Crotch's bumble bee is still a candidate or becomes a listed species under CESA at the time of initial ground-disturbing work for the MSS brine transport pipeline, impacts on Crotch's bumble bee cannot be avoided, and take may occur during project activities, the project proponent, with EBDA oversight, shall obtain an Incidental Take Permit (ITP) from CDFW and shall implement all avoidance measures included in the ITP, including compensation for loss of nest colonies.

Implementation of the revised Mitigation Measure 3.3-12 would not result in new significant impacts because it includes protections for Crotch's bumble bee, including specific requirements for potential mitigation, and would not result in new ground disturbing activities.

Implementation of Mitigation Measure 3.3-12 requires seasonal avoidance, or implementation of a habitat assessment and focused survey for Crotch's bumble bee, and protective buffers around nests. The mitigation measure also requires compensation for loss of nest colonies when avoidance is not feasible and take occurs. These actions reduce the potentially significant impacts on special-status species to a less than significant level. Therefore, with the application of the mitigation measures from the certified EIR and the revised Mitigation Measure 3.3-12, the project would not result in new or more severe impacts on special-status species beyond those identified in the analysis provided in the certified EIR and does not alter the conclusions of the certified EIR.

2.2.2 Burrowing Owl

As discussed under Impact 3.3-1 in the certified EIR (pages 3.3-54 through 3.3-73 of the certified EIR), construction of the Solar Salt Facility improvements and MSS brine transport pipeline as part of the approved project would occur in habitats suitable for burrowing owl; however, permanent impacts to burrowing owl habitat would be negligible and limited to the small loss of marginal habitat from installation of the Solar Salt Facility improvements. Similarly, the MSS brine transport pipeline would include only small above ground components, such as air release valves taking up 36 square inches, that would have negligible impacts on burrowing owl habitat (i.e., small loss of marginal habitat).

The use of construction equipment or presence of workers in burrowing owl nesting or overwintering habitat could result in direct disturbance, mortality, or injury to burrowing owl. Indirect disturbance of burrowing owl nesting and overwintering burrows may also result when construction occurs adjacent to habitat for the species. The status of burrowing owl has changed since preparation of the certified EIR, and the species is now a candidate for listing under CESA, which affords legal protection against take of the species, and requires revisions to Mitigation Measure 3.3-3: Conduct Focused Surveys for Nesting Special-Status Bird Species, Nesting Raptors, and Other Native Nesting Birds and Implement Protective Buffers.

Revisions to Mitigation Measure 3.3-3 consist of revisions to the text to provide detailed measures to reduce impacts on burrowing owl. With these changes incorporated, Mitigation Measure 3.3-3 is revised as follows, with removed text in strikethrough and new text underlined.

Mitigation Measure 3.3-3: Conduct Focused Surveys for Nesting Special-Status Bird Species, Nesting Raptors, and Other Native Nesting Birds and Implement Protective Buffers

Prior to any planned construction activities occurring during the nesting season (approximately February 1 to August 31, as determined by a qualified biologist), a qualified biologist familiar with birds of California and with experience conducting nesting bird surveys will conduct focused surveys for special-status birds, other nesting raptors, and other native birds and will identify active nests. Preconstruction nesting bird surveys will be conducted within 14 days prior to when construction activities are initiated in each of the areas of suitable nesting habitat for northern harrier, salt-marsh common yellowthroat, California black rail, Alameda song sparrow, tricolored blackbird, ~~burrowing owl,~~ and yellow rail that are within 500 feet of the project footprint. In addition, nesting bird surveys will be conducted for all other common raptor species (within a 500-foot buffer) and passerine species (100-foot buffer) protected by the MBTA. Pre-construction surveys for white-tailed kite will occur within a 0.25-mile area of the construction area.

Impacts on nesting birds will be avoided by establishing appropriate buffers around active nest sites identified during focused surveys to prevent disturbance to the nest. Project activity will not commence within the buffer areas until a qualified biologist has determined that the young have fledged, the nest is no longer active, or reducing the buffer will not likely result in nest abandonment. An avoidance buffer of 500 feet will be implemented for white-tailed kite, in consultation with CDFW. For other species, a qualified biologist will determine the size of the buffer for nonraptor nests after a site- and nest-specific analysis. Initial work buffers typically will be 150 feet for raptors (other than special-status raptors) and 50 feet for nonraptor species (unless otherwise specified in other mitigation measures). Factors to be considered for determining buffer size will include presence of natural buffers provided by vegetation or topography, nest height above ground, baseline levels of noise and human activity, species sensitivity, and project activities. The size of the buffer may be adjusted if a qualified biologist determines that such an adjustment would not be likely to adversely affect the nest. Any reduction to the avoidance buffer described herein for white-tailed kite (500 feet) or the typical initial work buffers for raptor and nonraptor species (150 feet and 50 feet respectively) will require consultation with CDFW. Periodic monitoring of the nest by a qualified biologist during project activities will be required if the activity has potential to adversely affect the nest, the buffer has been reduced, or if birds within active nests are showing behavioral signs of agitation (e.g., standing up from a brooding position, flying off the nest) during project activities, as determined by the qualified biologist.

Where proposed ground-disturbing activities (e.g., grading, trenching vegetation removal, staging) are implemented within or adjacent to habitats suitable for burrowing owls, a qualified biologist shall conduct surveys for burrowing owls in areas of habitat suitable for the species within 1,640 feet (500 meters) of the proposed activities. Inaccessible areas (e.g., adjacent private property) will not be surveyed directly, but the biologist may use binoculars or a spotting scope to survey these areas. A minimum of four surveys shall be conducted prior to initiation of ground-disturbing activities to determine whether burrowing owls occupy the site. Surveys shall be conducted according to Appendix D of the *2012 Staff Report on Burrowing Owl Mitigation prepared by the California Department of Fish and Game* (now CDFW) (CDFW 2012), or any subsequent updated guidance adopted or recommended by CDFW. If feasible, at least one survey should be conducted between February 15 and April 15 (i.e., the beginning of the breeding season when nests are being established) and the remaining surveys should be conducted between April 15 and July 15 (i.e., the peak of the breeding season when most burrowing owls have active nests), at least three weeks apart, as recommended in CDFW's 2012 guidance. Because burrowing owls may recolonize a site after only a few days, one of the surveys, or an additional survey, shall be conducted within 14 days before initiating ground disturbance activities to verify that take of burrowing owl would not occur.

- If no burrowing owls are found, no further mitigation shall be required.
- If a burrow occupied by a burrowing owl is found during the surveys, the project applicant shall establish and maintain a buffer around the occupied burrow and any identified satellite burrows (i.e., non-nesting burrows that burrowing owls use to escape predators or move young into after hatching) to prevent take of the burrowing owls. Burrow buffers shall be implemented as follows:

(a) During the non-breeding season (September 1 through January 31), the minimum buffer distance shall be 164 feet (50 meters). During the breeding season (February 1 through August 31), the minimum buffer distance shall be increased to 1,640 feet (500 meters).

(b) The buffer may be adjusted if, in consultation with CDFW, a qualified biologist determines that an alternative buffer shall not result in take of burrowing owl adults, young, or eggs because of particular site features (e.g., topography, natural line-of-sight barriers), level of project disturbance, or other considerations. If the buffer is reduced, a qualified biologist shall monitor the behavior of the burrowing owls during all project activities within 1,640 feet of the burrow. If the owls exhibit disturbed or agitated behaviors (e.g., vocalizations, bill snaps, fluffing feathers to increase body size appearance, drooping wings and rotating them forward, crouching and weaving back and forth) in response to the project activities, the biologist shall have the authority to halt the activities and re-establish a buffer consistent with item (a) until the agitated behavior ceases and normal behavior resumes.

(c) The buffer shall remain in place around the occupied burrow and associated satellite burrows until a qualified biologist has determined through noninvasive methods that the burrows are no longer occupied by burrowing owls. A previously occupied burrow will be considered unoccupied if surveys demonstrate that no owls have used the burrow for seven consecutive days.

- Locations of burrowing owls detected during surveys shall be reported to the California Natural Diversity Database.
- If implementation of a buffer to prevent take of burrowing owls is not feasible, the applicant shall consult with CDFW and obtain an Incidental Take Permit (ITP) pursuant to CESA prior to commencing project-related ground-disturbing activities. As required under CESA, the impacts of taking burrowing owls shall be minimized and fully mitigated via appropriate compensatory or other measures, as determined by CDFW.

Implementation of the revised Mitigation Measure 3.3-3 would not result in new significant impacts, because it increases protections for burrowing owl, including specific requirements for potential mitigation, and would not result in new ground disturbing activities.

Implementation of the revised Mitigation Measure 3.3-3 requires nesting season avoidance, survey for nests and burrowing owl burrows, no-disturbance buffers around nests and burrows, and requires compensation for loss of burrowing owl burrows when avoidance to prevent take is not feasible. These actions reduce the potentially significant impacts on special-status species to a less-than-significant level. Therefore, with the application of the mitigation measures from the certified EIR and the revised Mitigation Measure 3.3-3, the project would not result in new or more severe impacts on special-status species beyond those identified in the analysis provided in the certified EIR and does not alter the conclusions of the certified EIR.

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