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March 13, 2026

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**Subject: Cornucopia Hybrid Solar Project (Project)
Unclassified Conditional Use Permit Application No. 3777 & EIR No.
8511 Draft Environmental Impact Report (DEIR)
SCH No.: 2024050219**

Dear Jeremy Shaw:

The California Department of Fish and Wildlife (CDFW) received a DEIR from Fresno County for the above-referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under Fish and Game Code.

CDFW ROLE

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

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

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projects and related activities that have the potential to adversely affect fish and wildlife resources.

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

Fully Protected Species: CDFW has jurisdiction over fully protected species of birds, mammals, amphibians and reptiles, and fish, pursuant to Fish and Game Code sections 3511, 4700, 5050, and 5515. Fully protected species may not be taken or possessed at any time and no licenses or permits may be issued for their take except as follows:

- Take is for necessary scientific research,
- Efforts to recover a fully protected, endangered, or threatened species, live capture, and relocation of a bird species for the protection of livestock, or
- They are a covered species whose conservation and management is provided for in a Natural Community Conservation Plan (Fish & G. Code, §§ 3511, 4700, 5050, & 5515)

Additionally, specified types of infrastructure projects may be eligible for an Incidental Take Permit (ITP) for unavoidable impacts to fully protected species if certain conditions are met (see Fish & G. Code §2081.15). Project proponents should consult with CDFW early in the project planning process if an ITP may be pursued for the Project.

Nesting Birds: CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include, sections 3503 (regarding unlawful take, possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

Unlisted Species: Species of plants and animals need not be officially listed as Endangered, Rare, or Threatened (E, R, or T) on any State or federal list to be considered E, R, or T under CEQA. If a species can be shown to meet the criteria for E, R, or T, as specified in the CEQA Guidelines section 15380, CDFW recommends it be fully considered in the environmental analysis for the Project.

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PROJECT DESCRIPTION SUMMARY

Proponent: BayWa r.e. Solar Projects LLC

Objective: The Project proposes to construct, operate, maintain, and ultimately deconstruct a solar energy generation facility capable of generating approximately 300 MW of energy, an approximately 300 MW of alternating current (MWac) battery storage system (BESS), and associated infrastructure and buildings. The solar energy generation facility would consist of photovoltaic (PV) solar modules, a substation and switching station, a BESS, and two prefabricated structures to be used for maintenance and operation services and for control services. The generated energy would then be transferred from the inverters to a Pacific Gas and Electric (PG&E) switching station, to ultimately transfer the power to the local electrical grid. The substation would include an electrical control building and would tie to the PG&E switching station via a new transmission line. The BESS would consist of a battery storage system comprising of lithium-ion, flow, or sodium sulfur batteries and would be able to store approximately 300 MWac of electricity. The BESS would be located adjacent to the substation, with a footprint of approximately 12 acres in size.

Location: The proposed Project would be located on approximately 2,446 acres of private land within portions of Assessor Parcel Numbers (APNs) 090-030-06S, 090-030-04S, 090-030-02S, 090-030-03, 090-040-01, 085-110-23S, 085-110-12S, and 085-110-13S, in western Fresno County. The site is located approximately 11 miles southeast of the City of Coalinga in Fresno County, 2.75 miles northwest of the City of Avenal in Kings County, and 4 miles west of Interstate 5 (I-5). The Project site is intersected north to south by State Route (SR) 33 (South Lost Hills Road) and east to west by Sutter Avenue. The Project site is located within Township 21 South, Range 16 East, Sections 34, 35, and 36; Township 22 South, Range 16 East, Sections 1, 2; and Range 17 East, Section 6 of the Avenal, California United States Geological Survey (USGS) 7.5-minute Topographical Quadrangle Map.

Timeline: Project construction is anticipated to begin in late 2026 and would be completed by the fourth quarter of 2029.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist Fresno County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the CEQA document prepared for this Project.

Aerial imagery of the Project site and its surroundings show the area contains several natural and agricultural habitats including tilled row crops and fallow fields. Annual grassland habitat is also present within portions of the Project site. These habitats are

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suitable for several special status species. The DEIR acknowledges that the Project is within the geographic range of several special-status plant and animal species and proposes specific mitigation measures [including Applicant Proposed Measures (APMs)] to reduce impacts for these species to a less than significant level. CDFW has concerns about the ability of some of the proposed mitigation measures to reduce impacts to less than significant and avoid unauthorized take for several special-status animal species including, the State and federally endangered giant kangaroo rat (*Dipodomys ingens*); the State endangered and fully protected and federally endangered blunt-nosed leopard lizard (*Gambelia sila*); the State threatened San Joaquin [Nelson's] antelope squirrel (*Ammospermophilus nelsoni*); the State threatened and federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*); the State threatened Swainson's hawk (*Buteo swainsoni*); the State candidate western burrowing owl (*Athene cunicularia hypugaea*), Temblor legless lizard (*Anniella alexanderae*), and Crotch's bumblebee (*Bombus crotchii*); and the State species of special concern and federally proposed threatened western spadefoot (*Spea hammondi*).

Giant Kangaroo Rat

The Project site is within the known geographic range of giant kangaroo rat (GKR). GKR are known to inhabit grassland and scrub communities with sandy-loam soils and gentle slopes vegetated with annual grasses and scattered shrubs. Given there is high quality habitat adjacent to the Project site, the idling of agricultural activities may have allowed for the recolonization of the Project site by GKR, which has been documented in other locations. Additionally, the conversion of agricultural lands to solar facilities is likely to enhance the habitat within the Project site over the life of the Project and potentially support suitable habitat for GKR. General habitat assessments are not sufficient to determine absence of GKR from the Project site; given the presence of suitable habitat adjacent to the Project site and the lack of specific measures to prevent impacts to GKR, CDFW recommends that focused burrow/precinct surveys be conducted and protocol-level live trapping surveys be conducted in areas with suitable burrows and that a trapping plan for determining presence of GKR be submitted to and approved by CDFW prior to trapping efforts. If surveys indicate the presence or potential presence of GKR, consultation with CDFW is recommended for guidance on the development of mitigation measures such as take avoidance, minimization, and mitigation. If take cannot be avoided, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA.

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Blunt-nosed Leopard Lizard

The Project site is within the known geographic range of blunt-nosed leopard lizard (BNLL), and a historical occurrence was documented directly adjacent to the Project site (CDFW 2026). Suitable BNLL habitat includes all areas of grassland and shrub habitat that contains required habitat elements, such as small mammal burrows and open areas for basking. According to the BRTR, there is no suitable habitat due to intensive agricultural use within the Project site. However, in Figure 2-3 (Project Site Plan) of the DEIR, there are sections that are considered part of the Project boundary that were not evaluated according to the map in Exhibit 2 (Local Vicinity Map) of the BRTR. The unevaluated sections are foothill habitat sections to the east and west, which are suitable habitat for BNLL in the area. Given there is high quality habitat adjacent to and on the periphery of the Project site, the idling of agricultural activities may have allowed for BNLL presence within the Project site. Additionally, the conversion of agricultural lands to solar facilities is likely to enhance the habitat within the Project site over the life of the Project and potentially support suitable habitat for BNLL. General habitat assessments are not sufficient to determine absence of BNLL from the Project site; and presence is likely given the presence of suitable habitat adjacent to the Project site and the lack of specific measures to prevent impacts to BNLL.

As BNLL have the potential to occupy the Project site and have been documented within the Project vicinity, it does not appear that focused surveys were conducted for the species, and no species-specific measures are incorporated in the DEIR. CDFW recommends that a qualified biologist conduct focused protocol surveys within areas of suitable habitat in accordance with the "Approved Survey Methodology for the Blunt-nosed Leopard Lizard" (CDFW 2019), and that these surveys be conducted the survey season immediately prior to the initiation of Project activities. This survey protocol, designed to optimize BNLL detectability, reasonably assures CDFW that ground disturbance will not result in take of this fully protected species.

In addition to conducting protocol-level BNLL surveys prior to the initiation of Project activities, CDFW recommends the DEIR include the following measures:

Recommended Mitigation Measure 1: BNLL Consultation

CDFW recommends that consultation with CDFW occur to discuss how to implement the Project and avoid take over the life of the Project. With the passage of Senate Bill No. 147, the incidental take of BNLL may be authorized for certain categories of projects, including industrial solar photovoltaic projects. If take cannot be avoided, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA.

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San Joaquin Antelope Squirrel

The Project site is within the known geographic range of San Joaquin antelope squirrel (SJAS) and there are historical occurrences of the species approximately three miles southeast of the Project site (CDFW 2026). Suitable habitat for SJAS includes areas of grassland, upland scrub, and alkali sink habitats that contain requisite habitat elements, such as small mammal burrows. The BRTR concluded that suitable habitat for the species occurs adjacent to the Project site. Additionally, the DEIR notes there is a moderate potential for the species to occur within the Project streams and drainages and along the Project boundaries. Given there is high quality habitat adjacent to the Project site, the idling of agricultural activities may have allowed for the recolonization of the Project site by SJAS. Additionally, the conversion of agricultural lands to solar facilities is likely to enhance the habitat within the Project site over the life of the Project and potentially support suitable habitat for SJAS. General habitat assessments are not sufficient to determine absence of SJAS from the Project site, and presence is likely given the presence of suitable habitat adjacent to the Project site and the lack of specific measures to prevent impacts to SJAS.

CDFW recommends the DEIR include the following measures:

Recommended Mitigation Measure 2: SJAS Focused Surveys

CDFW recommends that a qualified biologist conduct focused daytime visual surveys for SJAS in all areas of suitable habitat using line transects (10-30 m spacing) during optimal ambient temperatures (68-86°F) between April and September, prior to the initiation of any ground-disturbance activities.

Recommended Mitigation Measure 3: SJAS Take Authorization

Should focused visual surveys or other efforts detect the potential presence of SJAS, CDFW recommends that consultation with CDFW occur to discuss how to implement the Project and avoid take over the life of the Project. If take cannot be avoided, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA.

San Joaquin Kit Fox

The Project site is within the known geographic range of San Joaquin kit fox (SJKF), and the species is known to currently inhabit the Project vicinity (CDFW 2026). According to the BRTR, a SJKF carcass was discovered adjacent to the Project site, further confirming the species utilizes the Project site and surrounding habitats. Additionally, SJKF are likely to be attracted to the Project site due to the type and level of ground disturbing activities and the loose, friable soils resulting from intensive ground disturbance. Additionally, the conversion of agricultural lands to solar facilities is likely to

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enhance the SJKF habitat within the Project site over the life of the Project and potentially support SJKF.

The DEIR recognizes that the Project may have impacts on SJKF (see section Impact 3.5-1) and states, "Thus, although burrowing owl is likely to be present, and San Joaquin kit fox, blunt-nosed leopard lizard, Crotch's bumble bee, and other special-status mammal or reptile species identified above could occur on the Project site in suitable habitat, direct impacts on areas that provide such habitat are not anticipated". The DEIR states that APMs 2.91, 2.9.3, 2.9.6, 2.9.8, and Mitigation Measure 3.5-1 would reduce impacts to less than significant. As there is direct evidence that SJKF utilize the Project site, CDFW does not concur that these measures adequately reduce potential significant impacts and avoid unauthorized take of the species. Mitigation Measure 3.5-1 states that exclusionary fencing will be placed around the perimeter of the project to deter species from entering the Project site. CDFW is concerned that the placement of exclusion fencing, without appropriate surveys and implementation of avoidance measures, or without appropriate take authorization through a CESA ITP, would have the potential to result in the unauthorized take of the species. Further, CDFW is aware from past renewable energy projects that SJKF exclusion fencing is unlikely to adequately deter SJKF from entering the Project site and could inadvertently entrap SJKF that get onto the Project site and could lead to increased chance of predation from predators by restricting movement. s. Additionally, based on the fencing information provided in the DEIR, temporary exclusionary fencing placement along the Project's perimeter would potentially increase transitory SJKF traffic along SR 33 and, paired with the increased traffic from human activity related to construction activities, could increase the risk of mortality for SJKF attempting to move between natural habitats on either side of SR 33 from increased vehicle strikes and predation.

As there is suitable habitat adjacent to the project site and confirmed presence of the species, it is recommended the Project proponent pursue take authorization through the acquisition of an ITP. CDFW also recommends the DEIR include the following measures:

Recommended Mitigation Measure 4: SJKF Take Authorization

CDFW recommends that the Project proponent pursue take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b) to comply with CESA.

Recommended Mitigation Measure 5: SJKF Fencing

CDFW recommends that all permanent fencing installed on the perimeter of the solar Project be designed to allow for permeability of SJKF, their prey and other wildlife, while impeding the passage of larger predators such as coyotes. Perimeter fencing should be installed with a four (4) to six (6) inch gap from the

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bottom of the fencing material and knuckled back to form a smooth edge and allow permeability for wildlife. This fencing should be continuously open along the entirety of the Project boundary to reduce the risk of predation (i.e., fencing implementation should not utilize portals).

Swainson's Hawk

The Project is within the known geographic range of Swainson's hawk (SWHA), and recent occurrences have been documented within the vicinity of the Project site (CDFW 2026). SWHA are known to breed within the Central Valley of California and prefer to nest and forage in alfalfa, fallow fields, field crops, and grassland habitats with a sufficient source of small mammals (CDFG 1994). Based the Swainson's Hawk survey report conducted in 2023 and provided in the BRTR, several foraging SWHA were detected utilizing the Project site. The section titled Impact 3.5-3 of the DEIR states that APM 2.9.6 and 2.9.7 are intended to minimize impacts to SWHA, other raptors, and migratory birds. CDFW does not concur that these measures, which require a preconstruction survey and implementation of a 300 ft avoidance buffer for active SWHA nests, is sufficient to mitigate for potential significant impacts to SWHA and avoid unauthorized take. While the individuals detected in the survey report were determined to not be nesting within the Project vicinity, considering the lifetime of the Project and the presence of suitable nesting trees and foraging habitat on the Project site, CDFW recommends the DEIR include the following measures:

Recommended Mitigation Measure 6: SWHA Pre-Construction Surveys

CDFW recommends that additional surveys, following the survey methodology developed by the SWHA Technical Advisory Committee (SWHA TAC 2000), be repeated the survey season immediately prior to construction.

Recommended Mitigation Measure 7: SWHA Avoidance Buffer

If Project-specific activities will take place during the SWHA nesting season (i.e., March 1 through September 15), and active SWHA nests are present, CDFW recommends a minimum ½-mile no-disturbance buffer be delineated and maintained around each nest, regardless of whether it was detected by surveys or observed incidentally. These buffers would remain in place until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival, to prevent nest abandonment and other take of SWHA as a result of Project activities.

Recommended Mitigation Measure 8: SWHA Take Authorization

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CDFW also recommends that in the event an active SWHA nest is detected, and a ½-mile no-disturbance buffer is not feasible, consultation with CDFW is warranted to discuss how to implement the Project and avoid take. If take cannot be avoided, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA.

Recommended Mitigation Measure 9: SWHA Foraging Habitat Mitigation

Finally, CDFW recommends compensation for the loss of SWHA foraging habitat as described in CDFW's "Staff Report Regarding Mitigation for Impacts to Swainson's Hawks" (CDFG 1994) to reduce impacts to foraging habitat to less than significant. The Staff Report recommends that mitigation for habitat loss occur within a minimum distance of 10 miles from known nest sites. CDFW has the following recommendations based on the Staff Report:

- For projects within 1 mile of an active nest tree, a minimum of 1 acre of habitat management (HM) land for each acre of development is advised.
- For projects within 5 miles of an active nest but greater than 1 mile, a minimum of ¾ acre of HM land for each acre of development is advised.
- For projects within 10 miles of an active nest tree but greater than 5 miles from an active nest tree, a minimum of ½ acre of HM land for each acre of development is advised.

Western Burrowing Owl

The California Fish and Game Commission (FGC) approved western burrowing owl (BUOW) as a candidate for potential listing as a protected species under CESA on October 10, 2024, and published these findings in the California Regulatory Notice Register (Notice Register) on October 25, 2024. As such, BUOW is now a candidate under CESA and receives the same legal protection afforded to an endangered or threatened species (Fish & G. Code, §§ 2074.2 & 2085).

The Project site is within the known geographic range of BUOW, there are multiple historic and recent occurrences located adjacent to the Project site (CDFW 2026), and BUOW was detected during surveys that were conducted to inform the DEIR. BUOW inhabit open grasslands and desert scrublands containing small mammal burrows, a requisite habitat feature used by BUOW for nesting and cover. Based on information provided in the burrowing owl survey report in the BRTR, there is confirmed usage of the Project site by BUOW through evidence of white-wash and owl pellets.

APM 2.9.7 and APM 2.9.8 provide mitigation measures intended to mitigate impacts to BUOW. CDFW does not believe that the methodology described in APM 2.9.7 is sufficient for determining presence/absence of BUOW. Additionally, APM 2.9.8 states

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species-specific surveys for BUOW would be conducted 30 days prior to ground-disturbing activities. Depending on the timing of the ground-disturbing activities the surveys may not be conducted during the appropriate survey period. APM 2.9.8 states “If San Joaquin kit fox or burrowing owl (assuming they have candidacy status under the California Endangered Species Act) are observed occupying the site, CDFW (for burrowing owl) or CDFW and USFWS (for San Joaquin kit fox) would be consulted.” As there is suitable habitat adjacent to the Project site and confirmed presence of the species, it is recommended the Project proponent consult with CDFW to discuss how to implement the Project and avoid take. If take cannot be avoided, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA. CDFW recommends the DEIR include the following mitigation measures:

Recommended Mitigation Measure 10: BUOW Pre-Construction Surveys

CDFW recommends that additional surveys, following the “Burrowing Owl Survey Protocol and Mitigation Guidelines” (CBOC 1993) and CDFW’s “Staff Report on Burrowing Owl Mitigation” (CDFG 2012) be repeated the survey season immediately prior to construction.

Recommended Mitigation Measure 11: BUOW Avoidance Buffer

Should a BUOW be detected, CDFW recommends that no-disturbance buffers, as outlined in the “Staff Report on Burrowing Owl Mitigation” (CDFG 2012), be implemented prior to and during any ground-disturbing activities. Specifically, CDFW’s Staff Report recommends that impacts to occupied burrows be avoided in accordance with the following table unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.

Recommended Mitigation Measure 12: BUOW Take Authorization

CDFW also recommends that in the event BUOW are detected, and the recommended avoidance buffer is not feasible, consultation with CDFW is warranted to discuss how to implement the Project and avoid take. If take cannot be avoided, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA.

Temblor Legless Lizard

The Project site is within the known geographic range of Temblor legless lizard (TLL) and recent occurrences were documented within the annual grassland located west of the Project site (CDFW 2026). TLL occupy sparsely vegetated areas of desert scrub,

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sandy washes, and stream terraces with sycamores, cottonwoods, or oaks. TLL can be found under surface objects such as rocks, boards, driftwood, logs, and refuse. Areas of potentially suitable habitat for TLL were not included in the surveys done for the BRTR that are still considered part of the Project area. As such, CDFW recommends that a qualified biologist conduct a habitat assessment of these areas. APM 2.9.8 states that general preconstruction surveys would be conducted for TLL within 24 hours of ground disturbing activities. CDFW does not concur that this would be a sufficient approach to detect TLL. As such, if potentially suitable habitat is identified, consultation with CDFW is recommended for guidance on focused survey methods and mitigation measures such avoidance, minimization, and mitigation. If take cannot be avoided, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA.

Crotch's Bumble Bee

The Project site is within the known geographic range of Crotch's bumble bee (CBB) and a historical occurrence has been documented approximately five miles west of the Project site (CDFW 2026). Areas of potentially suitable habitat for CBB were not included in the surveys done for the BRTR. Additionally, APM 2.9.8, which states that general preconstruction surveys would be conducted for CBB within 24 hours of ground disturbing activities, is not sufficient to mitigate for potential significant impacts and avoid potential unauthorized take.

As such, CDFW recommends a qualified biologist conduct a habitat assessment of the foothill, grassland, and stream areas within the Project site to determine if the Project area and the immediate surrounding vicinity contain habitat suitable to support CBB. Potential nesting sites, which include all small mammal burrows, perennial bunch grasses, thatched annual grasses, brush piles, old bird nests, dead trees, and hollow logs would need to be documented as part of the assessment.

CDFW additionally recommends the DEIR include following mitigation measures:

Recommended Mitigation Measure 13: CBB Pre-Construction Surveys

If potentially suitable habitat is identified within the Project site prior to the initiation of Project activities, CDFW recommends that a qualified biologist conduct focused surveys for CBB, and their requisite habitat features following the methodology outlined in the Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species (CDFW 2023).

Recommended Mitigation Measure 14: CBB Avoidance Buffer

If CBB is detected, then CDFW recommends that all small mammal burrows and thatched/bunch grasses be avoided by a minimum of 50 feet to avoid take and

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potentially significant impacts. If ground-disturbing activities will occur during the overwintering period (October through February), consultation with CDFW is warranted to discuss how to implement Project activities and avoid take. Any detection of CBB prior to or during Project implementation warrants consultation with CDFW to discuss how to avoid take.

Recommended Mitigation Measure 15: CBB Take Authorization

If take cannot be avoided, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA.

Western Spadefoot

The Project is within the geographic range of western spadefoot (WESP) and suitable habitat may be present within portions of the Project site (e.g., low lying inundated depressions, irrigation ditches, sumps, pumps, and wells located in the Project site). On September 24, 2025, the California Fish and Game Commission (Commission) received a petition to list the northern population of WESP as threatened species and the southern population of WESP as an endangered species under CESA. If the Commission takes action and WESP becomes listed as a Candidate for listing pursuant to CESA (possible in 2026), or ultimately becomes listed as threatened or endangered pursuant to CESA, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081, subdivision (b), is necessary to comply with CESA if full avoidance of WESP cannot be achieved.

As such, CDFW recommends a qualified biologist conduct a habitat assessment to determine if the Project site and the immediate surrounding vicinity contain habitat suitable to support WESP as part of the technical studies conducted in support of the CEQA document. If potentially suitable habitat is identified, CDFW recommends that a qualified biologist conduct focused surveys for WESP, using appropriate survey methodologies, in consultation with CDFW. If surveys indicate the presence or potential presence of the species, consultation with CDFW is recommended for guidance on mitigation measures such as avoidance, minimization, and mitigation.

Editorial Comments and/or Suggestions

Battery Energy Storage System Evaluation: The proposed Project includes installation of an approximately 300 MW BESS as part of the Project. CDFW is familiar with the Moss Landing battery plant fire, which was a battery energy storage system (BESS) which had densely stacked batteries within a single warehouse building and which used lithium-ion batteries with Nickel Manganese Cobalt (NMC) chemistry, which are more prone to overheating and thermal runaway. Fires at NMC BESSs cannot be extinguished with water and thus an alternative onsite fire suppression system is critical.

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As such, the BESS systems proposed as part of the Project warrant a careful evaluation for potential fire-related impacts to biological resources within and surrounding the Project site. While newer BESS technologies have been made more readily available since construction of the Moss Landing BESS, current battery technologies can still have the potential for impacts to biological resources if overheating and thermal runaway were to occur. For example, Lithium-ion BESS fires can release an array of toxic chemicals into the air (Mylenbusch et al. 2023). In addition to potential human health concerns, these emissions may also impact air quality for nearby wildlife, and harmful particulate matter may settle into soils or waterways, possibly affecting soil-dwelling organisms, burrowing mammals, and aquatic life.

Based on information in the DEIR, it appears the BESS configuration for the Project is likely to be constructed of self-contained energy storage modules (i.e., individual battery containers). CDFW recommends considering alternative battery technologies to the NMC chemistry, including but not limited to Lithium Iron Phosphate (LFP), which uses more benign constituents, is more stable over long life cycles, and has better thermal stability and is less prone to overheating (Evro 2024).

CDFW also recommends a thorough analysis of the BESS component of the Project to evaluate the potential impacts of a large and small BESS fires on biological resources within and surrounding the Project site. CDFW recommends the evaluation not only assess the risk to biological resources but also detail the Project-specific measures that would be implemented to reduce the risk of fire, and to carefully consider BESS siting, battery/container spacing, battery chemistry, battery life and degradation, and the most appropriate fire protection/suppression system.

Lake and Streambed Alteration: As noted in the DEIR, Multiple streams subject to CDFW's regulatory authority pursuant Fish and Game Code section 1600 et seq., including Canoas Creek and Garza Creek, are present within the Project vicinity. Project activities that substantially change the bed, bank, and channel of any river, stream, or lake are subject to CDFW's regulatory authority pursuant Fish and Game Code section 1600 et seq. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake (including the removal of riparian vegetation); (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral or intermittent as well as those that are perennial and may include those that are highly modified such as canals and retention basins.

CDFW is required to comply with CEQA in the issuance of a Lake or Streambed Alteration Agreement (LSAA); therefore, if the CEQA document approved for the Project does not adequately describe the Project and its impacts to lakes or streams, a

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subsequent CEQA analysis may be necessary for LSAA issuance. For information on notification requirements, please refer to CDFW's website (<https://wildlife.ca.gov/Conservation/LSA>) or contact CDFW staff in the Central Region Lake and Streambed Alteration Program at (559) 243-4593.

Nesting Birds: CDFW encourages that Project ground-disturbing activities occur during the bird non-nesting season; however, if ground-disturbing or vegetation-disturbing activities must occur during the nesting season (February 1st through September 15th), the Project applicant is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Code sections as referenced above.

To evaluate Project-related impacts on nesting birds, CDFW recommends that the DEIR for this Project include that a qualified biologist conduct a pre-construction survey for active nests no more than 7 days prior to the start of ground or vegetation disturbance to maximize the probability that nests that could potentially be impacted are detected. CDFW also recommends that surveys cover a sufficient area around the Project site to identify nests and determine their status. A sufficient area means any area potentially affected, either directly or indirectly, by the Project. In addition to direct impacts (i.e., nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. CDFW recommends that a qualified biologist establish a behavioral baseline of all identified nests. Once Project activities begin, CDFW recommends having a qualified biologist continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends halting the work causing that change and consulting with CDFW for additional avoidance and minimization measures.

If continuous monitoring of identified nests by a qualified biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival. Variance from these no-disturbance buffers is possible when there is a compelling biological or ecological reason to do so, such as when the Project site would be concealed from a nest site by topography. CDFW recommends that a qualified wildlife biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

California Natural Diversity Database: Please note that the California Natural Diversity Database (CNDDDB) is populated by records through voluntary submissions of species detections. As a result, species may be present in locations not depicted in the CNDDDB but where there is suitable habitat features capable of supporting species. A lack of an occurrence record in the CNDDDB does not mean a species is not present. In

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order to adequately assess any potential Project-related impacts to biological resources, surveys conducted by a qualified biologist during the appropriate survey period(s) using the appropriate protocol survey methodology are warranted in order to determine whether or not any special status species are present at or near the Project site.

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

CDFW recommends that lighting is not installed in ecologically sensitive areas (e.g., streams, wetlands, and habitat used by special status species, such as nesting/roosting sites and riparian corridors) and the use of the white/blue wavelengths of the light spectrum be avoided.

Wildlife Movement and Connectivity: The Project site supports significant biological resources and contains habitat connections and supports movement across the broader landscape, sustaining both transitory and permanent wildlife populations. CDFW recommends that on-site features that contribute to habitat connectivity should be evaluated and maintained, particularly the eastern and western edges of the proposed Project site, which appear to be intact habitat that would better serve as potential compensatory mitigation habitat rather than a location for solar panels. As discussed above, CDFW recommends that all permanent fencing installed on the perimeter of the solar Project be designed to allow for passage of SJKF, their prey, and other wildlife, while impeding the passage of larger predators such as coyotes. Perimeter fencing should be installed with a four (4) to six (6) inch gap from the bottom of the fencing material and knuckled back to form a smooth edge and allow permeability for wildlife. This fencing should be continuous along the entirety of the Project boundary to reduce the risk of predation.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database, which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during Project surveys to the CNDDDB. The CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email

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address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

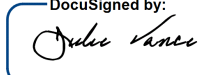
FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

CONCLUSION

CDFW appreciates the opportunity to comment to assist Fresno County in identifying and mitigating Project impacts on biological resources. Please see the enclosed Mitigation Monitoring and Reporting Program (MMRP) table which corresponds with recommended mitigation measures in this comment letter. If you have any questions, please contact Jaime Marquez, Senior Environmental Scientist, at the address provided on this letterhead, by telephone at (559) 580-3200, or by electronic mail at Jaime.Marquez@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Julie A. Vance
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Attachment 1

Attachment 1
CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM
(MMRP)

**PROJECT: Cornucopia Hybrid Solar Project by BayWare Solar
 Projects LLC**

SCH No.: 2024050219

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
<i>Before Disturbing Soil or Vegetation</i>	
BNLL	
Recommended Mitigation Measure 1: BNLL Consultation	
SJAS	
Recommended Mitigation Measure 2: SJAS Focused Surveys	
Recommended Mitigation Measure 3: SJAS Take Authorization	
SJKF	
Recommended Mitigation Measure 4: SJKF Take Authorization	
Recommended Mitigation Measure 5: SJKF Fencing	
SWHA	
Recommended Mitigation Measure 6: SWHA Pre-Construction Surveys	
Recommended Mitigation Measure 8: SWHA Take Authorization	
Recommended Mitigation Measure 9: SWHA Foraging Habitat Mitigation	
BUOW	
Recommended Mitigation Measure 10: BUOW Pre-construction Surveys	
Recommended Mitigation Measure 12: BUOW Take Authorization	
CBB	
Recommended Mitigation Measure 13: CBB Pre-Construction Surveys	
Recommended Mitigation Measure 15: CBB Take Authorization	
<i>During Construction</i>	
SWHA	

Recommended Mitigation Measure 7: SWHA Avoidance Buffer	
BUOW	
Recommended Mitigation Measure 11: BUOW Avoidance Buffer	
CBB	
Recommended Mitigation Measure 14: CBB Avoidance Buffer	