



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Bay Delta Region  
2825 Cordelia Road, Suite 100  
Fairfield, CA 94534  
www.wildlife.ca.gov

**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



July 23, 2025

Tommy Alexander, Public Utilities Regulatory Analyst  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102  
[Tommy.Alexander@cpuc.ca.gov](mailto:Tommy.Alexander@cpuc.ca.gov)

Subject: LSPGC Power the South Bay Project, Draft Environmental Impact Report,  
SCH No. 2024071095, Santa Clara County

Dear Tommy Alexander:

The California Department of Fish and Wildlife (CDFW) received a draft Environmental Impact Report (EIR) from the California Public Utilities Commission (Lead Agency) for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

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 CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

## **CDFW ROLE**

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

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority over the Project pursuant to the Fish and Game Code. For example, the Project may be subject to CDFW's Lake and Streambed Alteration (LSA) regulatory authority, if the Project impacts the bed, channel or bank of

---

<sup>1</sup> 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.

Tommy Alexander  
California Public Utilities Commission (CPUC)  
July 23, 2025  
Page 2

any river, stream or lake within the State (Fish & G. Code, § 1600 et seq.). Likewise, to the extent the Project may result in “take” as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

## **REGULATORY REQUIREMENTS**

### **California Endangered Species Act**

A CESA Incidental Take Permit (ITP) must be obtained from CDFW if the Project has the potential to result in “take” of plants or animals listed under CESA, either during construction or over the life of the Project. Under CESA, “take” means “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.” (Fish & G. Code, § 86). CDFW’s issuance of an ITP is subject to CEQA and to facilitate permit issuance, any Project modifications and mitigation measures must be incorporated into the CEQA document analysis, discussion, and mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA Permit.

CEQA requires a mandatory finding of significance if a project is likely to substantially impact threatened or endangered species. Pub. Resources Code, §§ 21001, subd. (c) & 21083; CEQA Guidelines, §§ 15380, 15064 & 15065). In addition, pursuant to CEQA, the Lead Agency cannot approve a project unless all impacts to the environment are avoided or mitigated to less-than-significant levels, or the Lead Agency makes and supports Findings of Overriding Consideration for impacts that remain significant despite the implementation of all feasible mitigation. FOC under CEQA, however, does not eliminate the Project proponent’s obligation to comply with the Fish and Game Code.

### **Lake and Streambed Alteration**

CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et seq., for Project activities affecting rivers, lakes or streams and associated riparian habitat. Notification is required for any activity that may substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank (including associated riparian or wetland resources); or deposit or dispose of material where it may pass into a river, lake, or stream. Work within ephemeral streams, drainage ditches, washes, watercourses with a subsurface flow, and floodplains is generally subject to notification requirements. In addition, infrastructure installed beneath such aquatic features, such as through hydraulic directional drilling, is also generally subject to notification requirements. Therefore, any impact to the mainstems, tributaries, or

Tommy Alexander  
California Public Utilities Commission (CPUC)  
July 23, 2025  
Page 3

floodplains or associated riparian habitat caused by the proposed Project will likely require an LSA Notification.

### **Migratory Birds and Raptors**

CDFW has authority over actions that may result in the disturbance or destruction of active bird nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include section 3503 (regarding unlawful take, possession, or needless destruction of the nests or eggs of any bird), section 3503.5 (regarding the take, possession, or destruction of any birds-of-prey or their nests or eggs), and section 3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act (MBTA).

### **Fully Protected Species**

Several Fully Protected Species (Fish & G. Code § 3511 and 4700) have the potential to occur within or adjacent to the Project area, including, but not limited to: salt-marsh harvest mouse (*Reithrodontomys raviventris*), white-tailed kite (*Elanus leucurus*), golden eagle (*Aquila chrysaetos*), California least tern (*Sternula antillarum browni*), and California Ridgway's rail (*Rallus obsoletus obsoletus*).

Project activities described in the draft EIR should be designed to completely avoid any fully protected species that have the potential to be present within or adjacent to the Project area. Fully protected species may not be taken or possessed at any time and no licenses or permits may be issued for their take except as follows:

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

Specified types of infrastructure projects may be eligible for an ITP for unavoidable impacts to fully protected species if certain conditions are met (see Fish & G. Code §2081.15).

CDFW also recommends the draft EIR analyze potential adverse impacts to fully protected species due to habitat modification, loss of foraging habitat, and/or interruption of migratory and breeding behaviors. CDFW recommends that the Lead Agency include in the analysis how appropriate avoidance, minimization and mitigation measures will reduce indirect impacts to fully protected species. Project proponents should consult

Tommy Alexander  
California Public Utilities Commission (CPUC)  
July 23, 2025  
Page 4

with CDFW early in the Project planning process.

## **PROJECT DESCRIPTION SUMMARY**

**Proponent:** California Public Utilities Commission

**Objective:** The Project would include the construction of two new high-voltage direct current (HVDC) terminals and associated new transmission lines which would connect the existing Pacific Gas and Electric Company (PG&E) Newark 230 kilovolt (kV) substation and the existing Silicon Valley Power (SVP) Northern Receiving Station (NRS) 230 kV substation. The transmission line would extend approximately 12 miles alternating between overhead and underground for 2 and 10 miles, respectively. The construction of the transmission line would also include installation and/or modification of 15 overhead transmission structures. In addition, the Project would also include telecommunication infrastructure that would be co-located with the transmission line, which would include two telecommunication fiber optic cables.

**Location:** Cities of Fremont, Milpitas, San Jose, Santa Clara, Santa Clara County, and GPS coordinates 37°25'44.7"N 121°57'08.6"W.

**Timeframe:** 2026-2028

## **COMMENTS AND RECOMMENDATIONS**

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

### **I. Environmental Setting and Related Impact Shortcoming**

**Would the Project have a substantial adverse 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 U.S. Fish and Wildlife Service (USFWS)?**

#### **COMMENT 1: Nesting Birds**

The Project has the potential to disturb special-status species and nesting habitat for birds and raptors. Impacts could occur through direct damage or mortality to birds and nests as well as potential electrocution. Take of nesting birds, birds in the orders Falconiformes or Strigiformes, and migratory nongame bird as designated in the federal MBTA is a violation of Fish and Game Code (§ 3503, 3503.5, 3513).

Tommy Alexander  
California Public Utilities Commission (CPUC)  
July 23, 2025  
Page 5

Electric distribution lines are typically placed within the range of average bird flight level and are difficult for birds to see. Many birds, particularly raptors and waterbirds, seek out tall perches like distribution poles to hunt for food or perch and roost. Frequent use of poles increases the exposure to energized parts when flying on and off a pole. Nesting material may also cause an electrical connection, or the nest material could catch on fire, killing the bird and damaging the power structure.

Linear features such as generator-tie lines and interior and perimeter fences present collision hazard to birds, and electric lines represent a potential electrocution hazard. The draft EIR should include measures that require all powerlines to be placed underground, if feasible.

The draft EIR notes that to avoid electrocution risk, Project design includes implementation of the Avian Power Line Interaction Committee (APLIC) measures to space conductors and ground wires sufficiently far apart that raptors or other birds in the area are not able to contact two conductors (or one conductor and a ground wire) to cause electrocution. However, the proposed mitigation measure 3.4-13 does not adequately address risks to birds from powerlines, as this measure is focused on worker education. Additionally, the draft EIR cites outdated 20212 APLIC guidelines. We recommend the use of the latest guidelines, which as of this letter are “Suggested Practices for Avian Protection on Power Lines: State of the Art in 2024” and the APLIC 2025 “Eagle Risk Framework”.

### **Recommended Mitigation Measure 1: Nesting Bird Surveys**

We recommend that APM BIO-12, BIO-13, and BIO-15 be modified to include the language here. If Project-related work is scheduled during the nesting season (typically February 15 to August 30 for small bird species such as passerines; January 15 to September 15 for owls; and February 15 to September 15 for other raptors), a qualified biologist experienced with the applicable species and habitat shall conduct two surveys for active nests of such birds within 14 days prior to the beginning of Project construction, with a final survey conducted within 48 hours prior to construction. Appropriate minimum survey radii surrounding the work area are typically the following: i) 250 feet for passerines; ii) 500 feet for small raptors such as accipiters; and iii) 1,000 feet for larger raptors such as buteos. Surveys shall be conducted at the appropriate times of day and during appropriate nesting times.

### **Recommended Mitigation Measure 2: Active Nest Buffers**

If the qualified biologist documents active nests within the Project area or in nearby surrounding areas, an appropriate buffer between the nest and active construction should be established. The buffer should be clearly marked and maintained until the young have fledged and are foraging independently. Prior to construction, the qualified

Tommy Alexander  
California Public Utilities Commission (CPUC)  
July 23, 2025  
Page 6

biologist should conduct baseline monitoring of the nest to characterize “normal” bird behavior and establish a buffer distance which allows the birds to exhibit normal behavior. The qualified biologist should monitor the nesting birds daily during construction activities and increase the buffer if the birds show signs of unusual or distressed behavior (e.g., defensive flights and vocalizations, standing up from a brooding position, and/or flying away from the nest). If buffer establishment is not possible, the qualified biologist or construction foreman should have the authority to cease all construction work in the area until the young have fledged and the nest is no longer active.

### **Recommended Mitigation Measure 3: Avian Electrocutation Assessment**

The Lead Agency shall investigate methods to prevent bird nesting and perching on transmission line infrastructure leading to potential electrocution through design changes or installation of deterrents to the greatest extent feasible. All aboveground lines should be fitted with bird flight diverters or visibility enhancement devices. When lines cannot be placed underground, appropriate avian protection designs should be employed. As a minimum requirement, the electrical line system should conform with the most current edition of the APLIC guidelines to prevent electrocutions. Resources may be found on the APLIC website at <https://www.aplic.org/mission>. CDFW staff are available to assist in determination of measures to protect avian species.

### **COMMENT 2: Golden Eagle**

Impacts on golden eagles (*Aquila chrysaetos*, State Fully Protected and Federally Protected under the Bald and Golden Eagle Protection Act) could occur near Staging Area 9 and Los Esteros Road, where there is a known nest approximately 1,000 feet south of the proposed staging area. A golden eagle pair has successfully nested within the past several years approximately adjacent to the Project site (Menzel and Higgins 2020, Menzel and Higgins 2022). The Project area and surrounding grasslands are within a typical golden eagle pair’s home range (Katzner et al. 2012a, Katzner et al. 2012b) and could potentially support eagle nesting and foraging habitat. See also Comment 1 on nesting habitat and electrocution risks.

Loss of nesting and foraging habitat resulting in take or reduced nesting success (loss or reduced health or vigor of eggs or young).

Take of nesting birds, birds in the orders Falconiformes or Strigiformes, and migratory nongame bird as designated in the federal MBTA is a violation of Fish and Game Code (§ 3503, 3503.5, 3513). The golden eagle is a Fully Protected Species under Fish and Game Code § 3511. Project impacts may result in unmitigated foraging habitat loss, impacts to nesting golden eagles, and cumulative impacts resulting in the restriction in the range of this species. The Project would result in temporary impacts on up to

Tommy Alexander  
California Public Utilities Commission (CPUC)  
July 23, 2025  
Page 7

approximately 79.85 acres of golden eagle foraging habitat and a permanent loss of approximately 0.05 acre of foraging habitat (annual grassland habitat; Table 3.4-4).

**Recommended Mitigation Measure 4: Habitat Assessment and Surveys**

The EIR should include a thorough habitat assessment of potential golden eagle nesting and foraging habitat within the Project area and surrounding areas. A qualified biologist should conduct a field assessment that includes all areas that could be directly or indirectly impacted by the Project and include data such as vegetation type, vegetation structure, and evidence of type and abundance of prey.

A qualified biologist should conduct protocol-level surveys in all suitable golden eagle habitat within the Project area and surrounding areas where Project activities could adversely affect eagles during the nesting season (late January to August).

Guidance and resources can be found on our website at Golden Eagles in California, <https://wildlife.ca.gov/Conservation/Birds/Golden-Eagles> and in consultation with the USFWS Migratory Bird Program.

**Recommended Mitigation Measure 5: Compensatory Mitigation**

The EIR should include effective compensatory mitigation to offset all eagle habitat loss. A mitigation plan should be prepared in consultation with CDFW and USFWS.

**COMMENT 3: Western Burrowing Owl**

The burrowing owl (*Athene cunicularia*) is currently a candidate species under CESA and is afforded the same protection as a CESA-listed species (CEQA Guidelines, §15380, subds.(b)). Unauthorized take of this species pursuant to CESA is a violation of Fish and Game Code section 2080 et seq.

Burrowing owl were formerly numerous throughout the San Francisco (SF) Bay Area region, particularly in the interior east of the Bay. Based on the burrowing owl endangered species petition, the number of breeding burrowing owl pairs in the SF Bay area have declined from 165 in 1993 to less than 25 in 2023. Of the five primary threats it lists, the 2024 Burrowing Owl Petition identifies habitat loss, fragmentation, and degradation as the primary threat to burrowing owl in California.

Small, isolated colonies are vulnerable to extirpation, especially without the influx of immigrants. Fragmented populations are at higher risk of extinction due to factors like reproductive isolation, inbreeding, and increased predation, and environmental factors such as drought or reduced prey density may further threaten these small populations.

Tommy Alexander  
California Public Utilities Commission (CPUC)  
July 23, 2025  
Page 8

Known populations of burrowing owl occur within and adjacent to the Project area, including the grasslands south of the San Jose-Santa Clara Regional Wastewater Facility and other suitable habitat. Direct impacts on burrowing owl could occur within suitable native and non-native grassland habitat around the existing PG&E Newark 230 kV Substation, Don Edwards NWR along Cushing Parkway, the Santa Clara Police Activities League BMX track, areas of the former Santa Clara Golf and Tennis Club, north of the PG&E Newark 230 kV Substation, and Staging Area 9. Burrowing owl nest near Staging Area 9 and the underground transmission line in Los Esteros Road, at a nearby burrowing owl conservation area.

The Project includes grassland and herbaceous vegetation that may be burrowing owl habitat. Direct mortality could occur through crushing of adults or young within burrows, loss of nesting burrows, loss of nesting habitat, loss of foraging habitat resulting in reduced nesting success (loss or reduced health or vigor of eggs or young), nest abandonment, and reduced frequency or duration of care for young resulting in reduced health or vigor of young. Because of their highly specialized, ground-dwelling lifestyle and dependence on underground tunnels, burrowing owl are extremely vulnerable to direct and indirect impacts of grading, disking, tilling, earthmoving, burrow blockage, and eradication of ground squirrels. The construction of the substation perimeter fence could deter burrowing owl from nesting in grassland habitat near the existing PG&E Newark 230 kV Substation and potentially expose them to predatory raptors.

The Project would result in temporary impacts on up to approximately 79.85 acres 2025, potentially suitable nesting and foraging habitat for burrowing owl and the permanent loss of up to 0.05 acre of potentially suitable nesting and foraging habitat.

#### **Recommended Mitigation Measure 6: Habitat Assessment and Surveys**

The EIR should add a measure to include a thorough habitat assessment of potential burrowing owl habitat within and adjacent to the Project area. A professional biologist experienced with burrowing owl and their habitat should conduct a field assessment that includes all areas that could be directly or indirectly impacted by the Project and include data such as vegetation type, vegetation structure and presence of burrows. Specific information on habitat assessment, burrowing owl survey methods, buffer distances and mitigation is provided in the CDFW Staff Report on Burrowing Owl Mitigation, dated March 7, 2012, and available at <https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds>.

#### **Recommended Mitigation Measure 7: Compensatory Mitigation**

CDFW highly recommends that the Project proponent obtain take authorization from CDFW through issuance of an ITP if full avoidance of take during construction and/or operations is not feasible. The EIR must include all biologically appropriate and feasible

Tommy Alexander  
California Public Utilities Commission (CPUC)  
July 23, 2025  
Page 9

take avoidance measures. If permanent or temporary impacts of the proposed Project to burrowing owl foraging and/or nesting habitat cannot be completely avoided, the EIR should include measures to minimize the impacts of construction on owls and their habitat, and effective compensatory mitigation to offset all habitat loss. A mitigation plan should be prepared in consultation with CDFW.

#### **COMMENT 4: State Listed Fish Species**

State listed fish species known to be present in the Project area, including green sturgeon (*Acipenser medirostris*), white sturgeon (*Acipenser transmontanus*), Sacramento hitch (*Lavinia exilicauda exilicauda*), Sacramento splittail (*Pogonichthys macrolepidotus*), steelhead - central California coast Distinct Population Segments (*Oncorhynchus mykiss*, DPS) and longfin smelt (*Spirinchus thaleichthys*) along the South Bay shoreline and throughout the Don Edwards San Francisco Bay National Wildlife Refuge.

The draft EIR does not include white sturgeon. The white sturgeon is currently a candidate species under CESA and is afforded the same protection as a CESA-listed species (CEQA Guidelines, §15380, subs.(b)). Unauthorized take of this species pursuant to CESA is a violation of Fish and Game Code section 2080 et seq.

White sturgeon are commonly caught in marshes in the south bay. They occasionally are found in tidal riverine and estuarine habitats of larger tributary streams such as Coyote Creek and Guadalupe River in the South Bay and Napa and Petaluma Rivers and Sonoma Creek in the North Bay (Leidy 2007). These habitats consist primarily of shallow water habitats that provide opportunities for benthic feeding on opossum shrimp (*Mysida*) and amphipods (*Amphipoda*). Foraging movements are presumably in response to salinity changes (Moyle 2002) associated with tides and seasonal outflow. In dry years, white sturgeon follow brackish waters upstream and the opposite occurs in wet years (Kohlhorst et al. 1991). Adults tend to concentrate in deep areas with soft bottoms and often move into intertidal or shallow subtidal areas to feed during high tides (Moyle 2002).

The south bay serves as nursery habitat for a number of these species and project impacts could occur as direct and indirect impacts from construction equipment, pile driving, dredging, stranding from water diversion, and erosion impacts to water quality.

Construction activities would either cross or occur in the vicinity of Coyote Creek, the Guadalupe River, Lower Penitencia Creek, Agua Caliente Creek, Mallard Slough, and other unnamed streams or drainage ditches that could be used by fish species. Activities including horizontal directional drilling or jack-and-bore trenchless techniques could impact fish in the Project area. Special-status fish species could be directly

Tommy Alexander  
California Public Utilities Commission (CPUC)  
July 23, 2025  
Page 10

affected by the occurrence of a frac-out (i.e., an unintentional release of drilling fluids, typically bentonite, to the ground surface) during drilling.

Indirect impacts on steelhead, longfin smelt, and green sturgeon during construction could include decreased water quality and habitat suitability in the Project's vicinity caused by spills or leaks into waterways, increased noise and vibration from construction activities, and increased human activity.

### **Recommended Mitigation Measure 8: Work Windows and Compensatory Mitigation**

The draft EIR should include mitigation measures to avoid potential impacts to aquatic species for construction methods such as pile driving and dredging. In-water construction shall only occur during the CDFW approved work window of June 1 through November 30. If horizontal directional drilling or jack-and-bore trenchless techniques are likely to impact state listed species such as longfin smelt, white sturgeon and Chinook salmon (*Oncorhynchus tshawytscha*), the Lead Agency shall consult with CDFW regarding a CESA ITP for potential impacts and compensatory mitigation.

### **COMMENT 5: Crotch's bumble bee**

Crotch's bumble bee are candidate species under CESA (CEQA Guidelines, §15380, subds. (c)(1)). Crotch's bumble bee occurrences have been documented within the vicinity of the Project area and historic observations occur elsewhere in Santa Clara County (CDFW 2023, County). The Project location is within the Crotch's bumble bee range (<https://wildlife.ca.gov/Conservation/CESA>) and grassland within and adjacent to the Project area may contain potential habitat for Crotch's bumble bee. Suitable habitat is present at the PG&E Newark 230 kV Substation in staging areas, and grassland along the transmission line alignment. Grassland habitat associated with the Don Edwards NWR alongside Cushing Parkway would be mowed and directly affected during construction.

The Project includes ground disturbance that may occur within ruderal grass and herbaceous vegetation and that may be potential Crotch's bumble bee nesting and foraging habitat. Potential impacts include direct mortality through crushing or filling of active bee colonies and hibernating bee cavities, reduced reproductive success, loss of suitable breeding and foraging habitats, loss of native vegetation that may support essential foraging habitat.

CDFW recommends adding these measures below to APM BIO-16: Special-Status Invertebrate Surveys.

### **Recommended Mitigation Measure 9: Habitat Assessment**

Tommy Alexander  
California Public Utilities Commission (CPUC)  
July 23, 2025  
Page 11

A habitat assessment shall be conducted by a qualified entomologist knowledgeable with the life history and ecological requirements of Crotch's bumble bee. The habitat assessment shall include all suitable nesting, overwintering, and foraging habitats within the Project area and surrounding areas. Potential nest habitat (February through October) could include that of other *Bombus* species such as bare ground, thatched grasses, abandoned rodent burrows or bird nests, brush piles, rock piles, and fallen logs. Overwintering habitat (November through January) could include that of other *Bombus* species such as soft and disturbed soil or under leaf litter or other debris. The habitat assessment shall be conducted during peak bloom period for floral resources on which Crotch's bumble bees feed. Further guidance on habitat surveys can be found within *Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species* (<https://wildlife.ca.gov/Conservation/CESA>).

#### **Recommended Mitigation Measure 10: Herbicide Application**

To minimize impacts to bumble bees, avoid the bloom periods for herbicide application and mowing activities. If this is not possible, CDFW recommends that the Project obtain take authorization under an ITP, pursuant to Fish and Game Code section 2081 subdivision (b).

#### **Recommended Mitigation Measure 11: Avoidance of Nesting Colonies**

CDFW recommends that inactive small mammal burrows and thatched/bunch grasses be avoided whenever feasible. If an inactive burrow may be disturbed by Project activities, it should be resurveyed for Crotch's bumble bee presence within seven days prior to the scheduled disturbance. If Crotch's bumblebee has been detected during surveys, the qualified entomologist should identify the location of all nests in or adjacent to the Project site. If nests are identified, 45-foot no-disturbance buffer zones should be established around nests to reduce the risk of disturbance or accidental take. If Project activities may result in disturbance or potential take, the qualified entomologist should expand the buffer zone as necessary to prevent disturbance or take.

#### **Recommended Mitigation Measure 12: Take Authorization and Compensatory Mitigation**

If surveys document presence of Crotch's bumblebee within the Project area, due to the difficulty of completely avoiding take of individuals of the species, CDFW strongly recommends that the Project proponent apply for an ITP under CESA to provide take authorization for Crotch's bumblebee as a covered species. The Lead Agency shall coordinate with CDFW on the appropriate level of compensatory mitigation.

#### **COMMENT 6: Sensitive Natural Plant Communities**

Tommy Alexander  
California Public Utilities Commission (CPUC)  
July 23, 2025  
Page 12

The Project would go through habitat for rare species, including federally endangered species. The Native Plant Protection Act (NPPA) (Fish & G. Code §1900 *et seq.*) prohibits the take or possession of state-listed rare and endangered plants, including any part or product thereof, unless authorized by CDFW or in certain limited circumstances. Take of state-listed rare and/or endangered plants due to Project activities may only be permitted through an ITP or other authorization issued by CDFW pursuant to California Code of Regulations, Title 14, section 786.9 subdivision (b).

Impacts to special-status plant species should be considered significant under CEQA unless they are clearly mitigated below a level of significance. CDFW considers plant communities, alliances, and associations with a statewide ranking of S1, S2, S3, and S4 as sensitive and declining at the local and regional level (Sawyer 2009).

Additionally, plants that have a California Native Plant Society (CNPS) California Rare Plant Rank (CRPR) of 1A, 1B, 2A, and 2B are rare throughout their range, endemic to California, and are seriously or moderately threatened in California. All plants constituting CRPR 1A, 1B, 2A, and 2B are eligible for State listing. Impacts to these species or their habitat must be analyzed during preparation of environmental documents relating to CEQA, as they meet the definition of rare or endangered (CEQA Guidelines, § 15380). Please see CNPS, <https://www.cnps.org/rare-plants> (CNPS 2022) page for additional rank definitions.

Plants included in the draft EIR are brittle scale, lesser salt scale, Congdon's tarplant, Point Reyes salty bird's-beak, Hoover's button-celery, San Joaquin spear scale; Contra Costa goldfields, prostrate vernal pool navarretia, long-styled sand-spurrey, California alkali grass, and saline clover.

In response to the Notice of Preparation (NOP), CDFW submitted the following recommended mitigation measures. These were not included in the draft EIR. We are reiterating them here.

Focused protocol-level surveys have not been conducted to demonstrate the absence of special-status plants from areas that may support such species. If these special-status plants are present within or immediately outside the Project area, direct impacts include the destruction of individuals or groups of plants within the immediate Project footprint. Indirect impacts include the degradation of habitat for special-status plants outside of the disturbance area and the introduction of nonnative weed

### **Recommended Mitigation Measure 13: Buffers**

To avoid indirect impacts to special-status plants, an appropriate buffer distance should be established between the special-status plant occurrence and the Project impact areas. Appropriate buffer distance should be based upon review of site-specific conditions (e.g. special-status plants located downstream, inland, or in lower elevational

Tommy Alexander  
California Public Utilities Commission (CPUC)  
July 23, 2025  
Page 13

areas in relation to the impact location, special-status plants being down wind of earth moving activities, and other conditions).

### **Recommended Mitigation Measure 14: Compensatory Mitigation and Revegetation**

A review of protocol-level survey results should be conducted to establish appropriate compensatory mitigation ratios specific to each special-status plant species. Compensatory mitigation ratios should be developed based on the biological factors specific to each species and should be sufficient to compensate for the loss of those species. Appropriate compensatory mitigation should be through preservation and protection in perpetuity of equal or higher quality habitat, or through creation, enhancement, and/or restoration. A mitigation and monitoring plan should be developed, reviewed and approved by CDFW prior to any ground disturbance, and include success criteria to be met at the end of the monitoring period. If success criteria are not met, the mitigation plan should include adaptive management actions along with additional years of monitoring as well as additional mitigation for the temporal loss.

### **ENVIRONMENTAL DATA**

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

### **ENVIRONMENTAL DOCUMENT FILING FEES**

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

### **CONCLUSION**

CDFW appreciates the opportunity to comment on the draft EIR to assist the Lead Agency in identifying and mitigating Project impacts on biological resources.

Tommy Alexander  
California Public Utilities Commission (CPUC)  
July 23, 2025  
Page 14

Questions regarding this letter or further coordination should be directed to Marcus Griswold, Senior Environmental Scientist (Specialist), at (707) 815-6451 or [Marcus.Griswold@wildlife.ca.gov](mailto:Marcus.Griswold@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
*Erin Chappell*

B77E9A6211EF486...  
Erin Chappell  
Regional Manager  
Bay Delta Region

Attachment 1: Special-Status Species and Commercially/Recreationally Important Species

cc: Office of Land Use and Climate Innovation (SCH No. 2024071095)  
Craig Weightman, CDFW Bay Delta Region – [Craig.Weightman@wildlife.ca.gov](mailto:Craig.Weightman@wildlife.ca.gov)  
Jason Faridi, CDFW Bay Delta Region – [Jason.Faridi@wildlife.ca.gov](mailto:Jason.Faridi@wildlife.ca.gov)

## REFERENCES

- Avian Power Line Interaction Committee website at <https://www.aplic.org/mission> - “Suggested Practices for Avian Protection on Power Lines: State of the Art in 2024” and the APLIC 2025 “Eagle Risk Framework”..
- Baye, P. R., P. M. Faber, and B. Grewell. 2000. Tidal marsh plants of the San Francisco Estuary. Pp. 9-31, In, P.R. Olson, editor. Goals Project 2000. Baylands ecosystem species and community profiles: Life histories and environmental requirements of key plants, fish and wildlife. San Francisco Bay Regional Water Quality Control Board, Oakland, California.
- California Department of Fish and Wildlife (CDFW). 2024. Biogeographic Information and Observation System (BIOS). <https://www.wildlife.ca.gov/Data/BIOS>. Accessed November 20, 2024.
- Huso M, Dalthorp D, Miller TJ, Burns D. 2016. Wind energy development: methods to assess bird and bat fatality rates post-construction. *Human-Wildlife Interactions* 10:62–70.
- Katzner, T., B. W. Smith, T.A. Miller, D. Brandes, J. Cooper, M. Lanzone, D. Brauning, C. Farmer, S. Harding, D.E. Kramar, C. Koppie, C. Maisonneuve, M. Martell, E.K. Mojica, C. Todd, J.A. Tremblay, M. Wheeler, D.F. Brinker, T.E. Chubbs, R. Gubler, K. O’Malley, S. Mehus, B. Porter, R.P. Brooks, B.D. Watts, and K.L.

Tommy Alexander  
California Public Utilities Commission (CPUC)  
July 23, 2025  
Page 15

- Bildstein. 2012a. Status, Biology, and Conservation Priorities for North America's Eastern Golden Eagle (*aquila chrysaetos*) Population. *The Auk* 129(1):168–176.
- Katzner, T., P. Turk, A. Duerr, D. Brandes, T. Miller, and M. Lanzone. 2012b. Golden Eagle Home Range, Habitat Use, Demography and Renewable Energy Development In The California Desert, an Interim Report Submitted to the: Bureau of Land Management, California State Office (CASO). West Virginia University, Morgantown, West Virginia, USA.
- Kohlhorst, D. W., L.W. Botsford, J.S. Brennan, and G.M. Caillet. 1991. Aspects of the structure and dynamics of an exploited central California population of white sturgeon (*Acipenser transmontanus*). Pages 277-293 in P. Willriott, editor. *Acipenser*. Cemagref Publishers, Bordeaux, France.
- Liedy, R.A. 2007. Ecology, assemblage structure, distribution, and status of fishes in stream tributary to the San Francisco estuary, California. SFEI contribution #530. San Francisco Estuary Institute. Oakland, California.
- Menzel, S. and P. Higgins. 2020. San José-Santa Clara Regional Wastewater Facility Bufferlands Burrowing Owl Management Year 3: October 2018–September 2019 Summary Report for the Burrowing Owl Expert Adaptive Management Team (Dr. Lynne Trulio and Debra Chromczak). Santa Clara Valley Audubon Society, Cupertino, California, USA.
- Menzel, S. and P. Higgins. 2022. San José-Santa Clara Regional Wastewater Facility Bufferlands Burrowing Owl Management Year 5 Summary Report: October 2020– December 2021. Santa Clara Valley Audubon Society, Cupertino, California, USA and Talon Ecological Research Group, San Jose, California, USA.
- Moyle, P. B. 2002. *Inland fishes of California*. University of California Press. Berkeley, California.
- Thomson RC, Wright A, Shaffer HB. 2016. *California amphibian and reptile species of special concern*. Oakland: University of California Press.

Tommy Alexander  
 California Public Utilities Commission (CPUC)  
 July 23, 2025  
 Page 16

**ATTACHMENT 1**

**Special-Status Species**

Species	Status
<b>Fish and Invertebrates</b>	
Crotch's bumble bee ( <i>Bombus crotchii</i> )	State candidate (SC)
green sturgeon – southern DPS ( <i>Acipenser medirostris</i> pop. 1)	Federally Threatened (FT), State Species of Special Concern (SSC)
steelhead - central California coast DPS ( <i>Oncorhynchus mykiss irideus</i> )	FT, SSC
longfin smelt ( <i>Spirinchus thaleichthys</i> )	Proposed FT, State Threatened (ST)
white sturgeon ( <i>Acipenser transmontanus</i> )	SC
Sacramento hitch ( <i>Lavinia exilicauda exilicauda</i> )	SSC
Sacramento splittail ( <i>Pogonichthys macrolepidotus</i> )	SSC
<b>Birds</b>	
Cooper's hawk ( <i>Accipiter cooperii</i> )	State Watch List
Alameda song sparrow ( <i>Melospiza melodia pusillula</i> )	SSC
black skimmer ( <i>Rynchops niger</i> )	SSC
burrowing owl ( <i>Athene cunicularia</i> )	SSC
California least tern ( <i>Sternula antillarum browni</i> )	FE, State Fully Protected (FP)
California Ridgway's rail ( <i>Rallus obsoletus obsoletus</i> )	FE, State Endangered (SE), FP
California black rail ( <i>Laterallus jamaicensis coturniculus</i> )	ST, SSC
golden eagle ( <i>Aquila chrysaetos</i> )	FP
grasshopper sparrow ( <i>Ammodramus savannarum</i> )	SSC

Tommy Alexander  
 California Public Utilities Commission (CPUC)  
 July 23, 2025  
 Page 17

Species	Status
northern harrier ( <i>Circus hudsonius</i> )	SSC
saltmarsh common yellowthroat ( <i>Geothlypis trichas sinuosa</i> )	SSC
tricolored blackbird ( <i>Agelaius tricolor</i> )	ST, SSC
western snowy plover ( <i>Charadrius nivosus nivosus</i> )	FT, SSC
white-tailed kite ( <i>Elanus leucurus</i> )	FP
<b>Mammals</b>	
pallid bat ( <i>Antrozous pallidus</i> )	SSC
salt-marsh harvest mouse ( <i>Reithrodontomys raviventris</i> )	Federal Endangered (FE), FP
San Francisco dusky-footed woodrat ( <i>Neotoma fuscipes annectens</i> )	SSC
salt-marsh wandering shrew ( <i>Sorex vagrans halicoetes</i> )	SSC
Townsend's big-eared bat ( <i>Corynorhinus townsendii</i> )	SSC
<b>Reptiles and Amphibians</b>	
western pond turtle ( <i>Emys marmorata</i> )	Proposed FT, SSC
<b>Plants</b>	
Brittlescale ( <i>Atriplex depressa</i> )	1B.2
Lesser saltscale ( <i>Atriplex minuscula</i> )	1B.1
California alkali grass ( <i>Puccinellia simplex</i> )	1B.2
California seablite ( <i>Suaeda californica</i> )	FE, 1B.1
Congdon's tarplant ( <i>Centromadia parryi</i> ssp. <i>congdonii</i> )	1B.1

Tommy Alexander  
 California Public Utilities Commission (CPUC)  
 July 23, 2025  
 Page 18

Species	Status
Contra Costa Goldfields ( <i>Lasthenia conjugens</i> )	FE, 1B.1
Hoover's button-celery ( <i>Eryngium aristulatum</i> var. <i>hooveri</i> )	1B.1
Point Reyes salty bird's-beak ( <i>Chloropyron maritimum</i> ssp. <i>palustre</i> )	1B.2
Long-styled sand-spurrey ( <i>Spergularia macrotheca</i> var. <i>longistyla</i> )	1B.2
Prostrate vernal pool navarretia ( <i>Navarretia prostrata</i> )	1B.2
saline clover ( <i>Trifolium hydrophilum</i> )	1B.2
San Joaquin spearscale ( <i>Extriplex joaquiniana</i> )	1B.2