



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



August 11, 2025
Sent via email

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Dear Mr. Black:

Seville 4 Solar Project (Project)
MITIGATED NEGATIVE DECLARATION (MND)
SCH# 2025070240

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from Imperial County Planning & Development Services for the Project pursuant 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, 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 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.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

Proponent: Apex Energy, LLC

Objective: The objective of the Project is to construct a 90 megawatt (MW) solar photovoltaic facility, construct a 180-MW battery energy storage system, construct an on-site substation, and develop an interconnection line to the Titan II substation with ultimate delivery to Imperial Irrigation District's existing 92-kV "R" Line. Primary Project activities include Site Preparation and Grading, Trenching and Interconnection Construction, Substation and Switching Station installation, and Solar Array Installation.

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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Location: The project is located approximately 0.40 miles south of SR 78, approximately 7 miles east of the unincorporated community of Ocotillo Wells, and approximately 7 miles west of SR 86. The project site is approximately 14 miles west from the southern tip of the Salton Sea and 4 miles east of the Imperial County-San Diego County line.
Timeframe: July 2026 to December 2027

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist Imperial County Planning & Development Services 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 document.

I. Environmental Setting and Related Impact Shortcoming

Would the Project substantially reduce the number or restrict the range of an endangered, rare or threatened species?

COMMENT 1:

Section IV, Biological Resources, Page 37

Issue: The Initial Study/Mitigated Negative Declaration does not analyze the Project’s potential to reduce the number or range of State and Federally Endangered desert pupfish (*Cyprinodon macularis*), changes to the baseline water supplies of the Ocotillo-Clark Valley groundwater basin, or cumulative impacts to desert pupfish from the proposed Seville 4, 5 and related Seville 1-3 projects.

Specific impact: Project-related groundwater drafting may result in reduced or unreliable water flows within San Felipe Wash resulting in a corresponding reduction in number of desert pupfish and extent of its range.

Why impact would occur: Desert pupfish is a California Endangered Species Act (CESA) and Federal Endangered Species Act (ESA) endangered species that has experienced significant population and habitat declines and threats. Throughout the desert pupfish’s range, the loss of habitat associated with reduced water quantities received by streams and unreliable water supplies and prevalence of non-native species are a primary threat to its persistence. The U.S. Fish and Wildlife Service designated San Felipe Creek, its tributaries, and San Sebastian Marsh as the only Designated Critical Habitat for desert pupfish located approximately 2.5 miles downstream (southeast) of the Seville 4 and 5 Projects, and 2 miles northwest of the existing Seville 1, 2, and 3 (a.k.a., Titan III) projects. The San Sebastian Marsh is a 3-mile stretch of riparian habitat within a perennial section of San Felipe Creek, which itself is in a “trough” approximately 30-feet below the surrounding landscape. *In the summer of 2017, the main perennial surface water channel within the marsh went dry² triggering a CDFW-lead desert pupfish salvage effort to relocate 350 individuals.* At the time of the relocation effort, 200 desert pupfish mortalities had already occurred, and any remaining individuals are not expected to have survived.³ The Bureau of Land Management (BLM) prepared an information/briefing memo (BLM Memo) investigating the summer of 2017 drying of San Felipe Creek, San Sebastian Marsh, and made monitoring and management recommendations to address future uncertainty⁴.

² Poff, Borris, 2017. Bureau of Land Management, Southern Nevada District; Information/Briefing Memorandum for the California Desert District, El Centro Field Office—Desert Pupfish Management in San Sebastian Marsh.
³ *Ibid.*
⁴ *Ibid.*

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A total of three wells are proposed for construction and operation of the Seville 4 and 5 projects. The Seville 4 IS/MND⁵ (p. 77) states that the "...project's water supply would be provided by groundwater from two private wells. An existing well located in the southeast corner of the project site would be used for construction needs. The second well, located in the northern portion of the project site, would be used for operation and maintenance purposes." The IS/MND estimates that the Project will require 112.5 acre-feet (af) of water for an 18-month construction period, and 7.5 acre-feet per year (AFY) for the duration of the 25-year operation and maintenance period. Similarly, the Water Supply Assessment (WSA; SWCA, 2025) for the Seville 5 project estimates that it will *also* require the same amount of water for construction and operations,⁶ "[i]t was assumed for the purpose of this analysis that reasonably foreseeable water use within the vicinity of the proposed project would include the water demand associated with the project, which requires the same water demand as Seville [4]5⁷." Table 4 (Groundwater Availability Projections for the First 12 Months of Construction) and Table 5 (Groundwater Availability Projections for the Operations and Maintenance (Years 2.5-25)) of the WSA include ground water availability projections for potential multiple dry year events. The multiple dry year projections are limited to three-year periods, with some dry year projections resulting in a negative balance of -121 AFY. Within the last twenty five years, Imperial County has experienced four periods of drought conditions that meet or exceed the 3 year "dry-year balance" periods utilized by the WSAs including two, 3-year periods (2002-2005 and 2020-2023), one 4-year period of drought (2006-2010), and one, 7.5-year period of drought (2011-2019).⁸ It is reasonable to infer that the region will experience periods of consecutive droughts that meet or exceed the 3-year drought modeling, and periods where the local water demands of the projects meet or exceed the local groundwater balance.

Reductions and/or fluctuations in groundwater within the Basin could substantially impact flows at San Felipe Creek and negatively impact desert pupfish, its range and designated critical habitat.

Evidence impact would be significant: San Felipe Creek is a groundwater-dependent ecosystem within the Ocotillo-Clark Valley Groundwater Basin as established in the Desert Valley Company Monofill Expansion Project, Cell 4 Environmental Impact Report⁹. San Felipe Creek and San Sabastian Marsh occur within the understudied and poorly monitored Ocotillo-Clark Valley Groundwater Basin (Basin). The Seville 4 WSA¹⁰ cites Department of Water Resources data from 2004 indicating Basin recharge rates of 1,200 acre-feet per year (afy) for the Clark Valley portion of the Basin and 1,100 afy for the Ocotillo Valley portion of the Basin, and a total groundwater storage capacity of the Ocotillo-Clark Valley as 6,250,000 af. The WSA further explains that within the vicinity of the Project, the Basin consists of a shallow, unconfined aquifer feeding San Felipe and Fish Creeks approximately 100-feet above the depth of (at least) a partially confined deep-water aquifer.¹¹ In an unconfined aquifer the pattern of drawdown during well water pumping is referred to as the cone of depression. The cone of depression intercepts water that would ordinarily flow past a well, through an aquifer toward a stream. The cone of depression created by the well can create "...divides' or dividing lines that separate areas of groundwater that flow back and are captured by the well from areas that are not."¹² It is not well documented what depths each of the three wells associated with the Seville 4 and 5 projects will be,

⁵ Imperial County Planning & Development Services, 2025. Draft Initial Study, Seville 4 Solar project. Initial Study #24-0020.
⁶ SWCA Environmental Consultants, 2025. Water Supply Assessment for the Seville 4 Solar Project, Imperial County, California. P.11
⁷ SWCA Environmental Consultants, 2025. Water Supply Assessment for the Seville 5 Solar Project, Imperial County, California. P.13
⁸ University of Nebraska-Lincoln, 2025. University of Nebraska-Lincoln: U.S. Drought Monitor [web application]. University of Nebraska-Lincoln National Drought Mitigation Center, Lincoln NE. Available: <https://droughtmonitor.unl.edu/DmData/TimeSeries.aspx> Accessed August 1, 2025.
⁹ Imperial County Planning and Development Services, 2021. Desert Valley Company Monofill Expansion Project, Cell 4 Environmental Impact Report
¹⁰ SWCA Environmental Consultants, 2025. Water Supply Assessment for the Seville 4 Solar Project, Imperial County, California. P.8
¹¹ *Ibid.*
¹² H. Simpson, P. Geo., and J. Myslik, P., 2021. OMAFRA Engineering Fact Sheet #21-013 AGDEX 716/552.

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or what the potential near or long-term effects will be associated with use of groundwater production of the partially confined deep-water aquifer or how it may influence the shallow water aquifer.

The 2017 BLM Memo documented the September 2017 drying of San Sebastian Marsh, a portion of San Felipe Creek, exploring potential and likely causes of the changed hydrologic conditions. The BLM Memo establishes that this area is underlain with many geologic fault lines, including the Coyote Creek Fault (see also California Department of Water Resources, Bulletin 118)¹³ and theorized that a potential cause of the changed hydrology could be connected to one of several seismic activities (e.g., a 5.2 magnitude earthquake near Borrego Springs in the summer of 2016 and its proceeding aftershocks, and/or two 4.1 and 4.0 magnitude earthquakes near the border of Mexico, in March 2017). Conversely, the BLM Memo also explores the “unlikely” drop in water levels associated with groundwater pumping citing “...the location of the closest notable well fields/pumping locations...are located 20 miles to the north-northwest of the Marsh and about 700 feet higher in elevation.”¹⁴ It is unclear if, at that time, the author of the BLM Memo would have had knowledge of the construction, and operation and maintenance water demands of Seville 1-3 (approximately 2 miles northwest of San Felipe Creek). The BLM Memo further suggests “[I]f a known well is suspected to have caused the water level drop, a pump/aquifer test could either confirm or eliminate such suspicion.”¹⁵ The Ocotillo-Clark Valley groundwater basin is poorly studied and monitored basin. The WSA references Department of Water Resources data regarding the Basin’s capacity and recharge rates from 2004¹⁶, predating the 2017 San Sebastian Marsh dry out event. Regardless of the cause, the drying of San Felipe Creek and San Sebastian Marsh indicate clear changes in baseline conditions of the Ocotillo Clark-Valley Groundwater subbasin from the 2004 DWR data, whether that change is attributed to seismic activity, groundwater overdraft, or other causes. These changes have altered the environmental baseline of the Seville 4 and 5 projects— significantly impacting the endangered desert pupfish, and its range. Further disruptions to water sources for San Felipe Creek may jeopardize the local desert pupfish population.

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Environmental Setting and Related Impact Shortcoming): CDFW recommends that the enforceable mitigation measures below are adopted to address the following: 1) installation of groundwater monitoring wells to address the uncertainty of the environmental baseline of the headwaters of San Felipe Creek; 2) installation of groundwater monitoring wells to actively monitor the Project’s (newly proposed Seville 4 and 5, and existing Seville 1-3) potential to impact water availability for San Felipe Creek and desert pupfish during construction and operation and maintenance periods; 3) Develop a CDFW-approved groundwater monitoring plan to monitor local groundwater levels in relation to Project activities, establish thresholds for contingent actions, and identify contingency actions to avoid detrimental impacts to desert pupfish; 4) prohibit the use of chemicals for washing solar panels and other infrastructure, dust suppression, and other ancillary Project uses without prior CDFW and County approval; and 5) provide groundwater recharge basins to capture stormwater flows and ancillary water uses (e.g. panel washing) to maximize water infiltration into the shallow groundwater aquifer and San Felipe Creek.

Mitigation Measure BIO-27:

To reduce impacts to less than significant: Prior to grading, grubbing or other ground disturbing activities, the project proponent shall install one shallow-groundwater monitoring well at a CDFW and County-approved location and design within Assessor’s

¹³ California Department of Water Resources, 2004. Hydrologic Region Colorado River Ocotillo-Clark Valley Groundwater Basin, California’s Groundwater, Bulletin 118.
¹⁴ Poff, Boris, 2017. Bureau of Land Management, Southern Nevada District; Information/Briefing Memorandum for the California Desert District, El Centro Field Office—Desert Pupfish Management in San Sebastian Marsh.
¹⁵ *Ibid.*
¹⁶ SWCA Environmental Consultants, 2025. Water Supply Assessment for the Seville 4 Solar Project, Imperial County, California. P.5

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Parcel Number 018-170-067-000 or similarly situated location within the San Felipe Creek, OR the Project proponent shall install two shallow-groundwater monitoring wells, one at a CDFW and County-approved location and design within the footprint of Seville 4, and one groundwater monitoring well at a CDFW and County-approved location and design within the footprint of Seville 5.

Mitigation Measure BIO-28: 30 days prior to the installation of the shallow-groundwater monitoring well, the Project proponent shall obtain CDFW and County approval of a final groundwater management plan (Groundwater Plan). The Plan shall demonstrate necessary funding to endow a third-party to maintain the well(s), monitor, collect and record groundwater level data, analyze and report the data to CDFW and the County at a meaningful interval or triggering event(s) identified in the CDFW and County-approved Groundwater Plan. The Groundwater Plan shall identify specific and quantifiable thresholds for implementing a suite of adaptive management strategies. The Groundwater Plan shall include the immediate discontinuation of temporary and permanent groundwater pumping, and identify alternative sources of water as viable adaptive management strategies. The Groundwater Plan shall require written notification to CDFW and the County upon commencement of well pumping in excess of 500 gallons per day. The date and quantity of all water use shall be logged daily during construction and decommissioning, and monthly during operations and maintenance. The Groundwater Plan shall be reviewed every five years and revised with mutual agreement from CDFW and the County.

Mitigation Measure BIO-29: No chemicals shall be used for dust suppression, panel washing, or ancillary uses with the prior written approval of CDFW and the County.

Mitigation Measure BIO-30: Water infiltration basins of sufficient size and location(s) will be utilized to maximize groundwater percolation of clean water, free of chemicals deleterious to fish and amphibians.

COMMENT 2:

Section IV. Biological Resources, Page 47

Issue: CDFW is concerned that the MND has not accurately described or fully established the biological resources present onsite, limiting the CEQA Lead Agency’s and CDFW’s ability to analyze the Project’s potential impacts, avoidance, and/or mitigation measures on candidate, sensitive, or special status species. The MND relies on general field reconnaissance surveys of the Project area that were conducted on May 1st through May 5th and May 8th through May 9th, 2023 with an emphasis on documenting the biological conditions to support special status plant species, habitats, and wildlife.

Specific impact: The Project’s Biological Resources Technical Report includes a reconnaissance survey to identify potential habitat for special status plants which was performed twice, over a 7-day period, during drought conditions. As noted in the MND, only one of the three special status plant species with a high potential to occur within the Project site (per the MND) has a late spring blooming period consistent with the timing of the reconnaissance survey. The reconnaissance survey was performed during an inappropriate time of year for the other two species and did not follow the *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities*¹⁷. Without protocol surveys, potential Project impacts to candidate, sensitive, or special status species may be mischaracterized, resulting in avoidable, unminimized, or unmitigated impacts not analyzed by the MND.

Why impact would occur: The MND and accompanying Biological Technical Resources Report for the Project does not have sufficient information as to whether there’s suitable habitat and potential impacts to Abrams' spurge (*Euphorbia abramsiana*), Ribbed cryptantha (*Johnstonella costata*), and Thurber's pilostyles

¹⁷ Department of Fish and Wildlife, 2018. Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities.

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(*Pilostyles thurberi*). A reconnaissance survey is too general in nature to accurately characterize the biological baseline conditions on which the MND must base its analysis concerning potentially significant impacts. Focused botanical surveys were not performed, rather the MND relies on a general reconnaissance habitat assessment. The Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities¹⁷ state botanical field surveys need to be conducted when plants will be both evident and identifiable, with the timing and number of visits considered to determine presence of special status species and floristic diversity. Multiple surveys during the season may be warranted to capture floristic diversity¹⁷. Habitats, such as desert plant communities that have annual and short-lived perennial plants as major floristic components, may require yearly surveys to accurately document baseline conditions for purposes of impact assessment¹⁷. Focused surveys limited to certain habitats and species “are not considered floristic in nature and are not adequate to identify all plants in a project area to the level necessary to determine if they are special status plants”¹⁷.

Evidence impact would be significant: Sensitive plant species listed under the CESA as threatened, or endangered, or proposed candidates for listing; designated as rare under the Native Plant Protection Act; meet the definition of rare, threatened, or endangered species under CEQA. Plants constituting California Rare Plant Ranks 1A, 1B, 2A, and 2B generally meet the criteria of a CESA-listed species and should be considered as an endangered, rare or threatened species for the purposes of CEQA analysis. Take of any CESA-listed species is prohibited except as authorized by state law (Fish and Game Code, §§ 2080 & 2085). Fish and Game Code Sections 1900–1913 includes provisions that prohibit the take of endangered and rare plants from the wild and a salvage requirement for landowners.

CDFW is concerned that the assessment of the existing environmental setting with respect to biological resources, particularly sensitive plant species has not been adequately analyzed in the MND. CDFW is concerned that without a complete and accurate description of the existing environmental setting, the MND likely provides an incomplete or inaccurate analysis of Project-related environmental impacts and whether those impacts have been mitigated to a level that is less than significant. Section 15125(c) of the CEQA Guidelines states that knowledge of the regional setting of a Project is critical to the assessment of environmental impacts, that special emphasis should be placed on environmental resources that are rare or unique to the region, and that significant environmental impacts of the proposed Project are adequately investigated and discussed. Absent a thorough species impact analysis and mitigation strategy, it is unclear whether the Project’s impacts can be adequately identified, disclosed, or mitigated. CDFW recommends the MND be revised and circulated to provide this information. However, if Imperial County chooses not to collect and disseminate this information, then the mitigation measure should be updated, as provided below, to address a scenario in which the site is determined to be occupied.

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Environmental Setting and Related Impact Shortcoming)

To reduce impacts to less than significant: CDFW recommends botanical field surveys following the *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities*¹⁷ be conducted by qualified personnel prior to the start of construction. One botanical field survey may be insufficient to detect plants that are not evident and identifiable every year, therefore CDFW recommends multiple surveys. Appropriate surveys will identify the species present to allow development of effective mitigation measures. If surveys for Special Status Plant species find that the project area is occupied, the Project shall mitigate the permanent loss of habitat with the ratio of acquisition to loss at a minimum of 1:1. The ratio shall be higher for occupied and irreplaceable habitats. Permanent protection of mitigation land shall be established through a conservation easement deeded to a nonprofit conservation organization or public agency with a conservation mission, and include development and implementation of a mitigation land management plan to

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address long-term ecological sustainability and maintenance of the site for sensitive plant species, and funding for the maintenance and management of mitigation land through the establishment of a long-term funding mechanism such as an endowment.

II. Mitigation Measure or Alternative 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 USFWS?

COMMENT 3:

Section IV. Biological Resources, Page 49

Issue: Mitigation measure BIO-3 as written does not explicitly permit the Project Biologist to have the authority to halt Project activities if special status species are located on site.

Specific impact: Potential, avoidable take of special status species and loss of habitat.

Why impact would occur: Project implementation could result in direct mortality and/or injury to special status species through staging of construction equipment, vehicles, and foot traffic and in the loss of nesting and/or foraging habitat from grading, ground disturbance, and vegetation clearing.

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Mitigation Measure or Alternative and Related Impact Shortcoming)
CDFW supports the inclusion of MM BIO-3 with minor revisions in the final MND, as per below to avoid impacts to special status species (additions are in **bold**):

Mitigation Measure BIO-3:

Project Biologist. The project proponent shall designate a project Biologist, **approved by CDFW**, who shall be responsible for overseeing compliance with protective measures for biological resources during vegetation clearing and work activities within and adjacent to areas of native habitat. The project Biologist shall be familiar with the local habitats, plants, and wildlife, and have experience performing all necessary surveys and monitoring for biological resources present on site. The project Biologist shall also maintain communications with the Contractor to ensure that issues relating to biological resources are appropriately and lawfully managed and shall monitor construction. The project Biologist shall monitor all ground disturbing activities within construction areas, including activities during nesting bird season (generally February 1 to September 15), such as vegetation removal, the implementation of Best Management Practices (BMPs), and installation of security fencing to protect native species. **The Project Biologist shall have the authority to halt all work if special status species are found on site during Project activities.** The project Biologist shall ensure that all wildlife and regulatory agency permit requirements, conservation measures, and general avoidance and minimization measures are properly implemented and followed.

COMMENT 4:

Section IV. Biological Resources, Page 50

Issue: The MND does not fully analyze the project’s potential to impact or otherwise result in take of burrowing owl (*Athene cunicularia hypugaea*). CDFW recommends that the MND analyze the Project’s potential to impact burrowing owl by following the recommendations and guidelines provided in the *Staff Report on Burrowing Owl*

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*Mitigation*¹⁸, available for download from CDFW's website: [Survey and Monitoring Protocols and Guidelines \(ca.gov\)](#). Although the Biological Technical Report indicates that a protocol burrowing owl survey was conducted and suitable habitat was identified within the project area,¹⁹ the MND should include burrow mapping and analyze the project's potential to impact burrowing owl by including the results of the focused surveys conducted in accordance with CDFW's 2012 Staff Report on Burrowing Owl Mitigation.

On October 10, 2024, the California Fish and Game Commission accepted a petition to list Western Burrowing Owl as endangered under CESA, determining the listing “may be warranted” and advancing the species to the candidacy stage of the CESA listing process. The Project may have a significant impact on burrowing owl and burrowing owl habitat. Due to western burrowing owl being currently reviewed as a CESA candidate species, CDFW is providing additional recommendations for mitigation of this species. More specific mitigation for western burrowing owl is provided below in mitigation measure BIO-6.

Specific impact: Project construction and activities may result in injury or mortality of burrowing owl, disrupt natural burrowing owl breeding behavior, and reduce reproductive capacity. Also, the Project may impact breeding, wintering, and foraging habitat for the species. Habitat loss could result in local extirpation of the species and contribute to local, regional, and statewide declines of burrowing owl. The current MND did not note or analyze the presence of fossorial mammal burrows originally identified within the Project site by the *Seville Burrowing Owl Report* dated November 4, 2013 prepared by Helix Environmental Planning. The potential for the collapsing of burrows, entombment, displacement, direct take associated with vehicle and equipment strike, indirect take associated with Project operations such as attracting predators, reduction of habitat and habitat quality could occur. The Project, as described, will potentially cause permanent and temporary impacts to western burrowing owl foraging and nesting habitat.

Why impact would occur: Burrowing owls have a high potential to move into disturbed areas since they are adapted to highly modified habitats²⁰²¹. Impacts to burrowing owls from the Project could include take of burrowing owls, their nest, or eggs, or destroying nest, foraging, or over-wintering habitat, thus impacting burrowing owl populations. Impacts can result from grading, earthmoving, burrow blockage, heavy equipment compaction and crushing of burrows, general Project disturbance that has the potential to stress owls at occupied burrows, and other activities.

Evidence impact would be significant: The current MND and the 2013 *Seville Burrowing Owl Report* identified suitable burrowing owl habitat within and adjacent to the proposed Project associated with the current CEQA action. Burrowing owl is a candidate species for CESA-listing, which gives the species protection under CESA during its candidacy period. Take of any CESA-listed species or candidate is prohibited except as authorized by state law (Fish and Game Code §§ 2080 & 2085). Take of individual burrowing owls and their nest is also defined by Fish and Game Code section 86, and prohibited by sections 3503, 3503.5, and 3513. Take is defined in Fish and Game Code section 86 as “hunt, pursue, catch, capture, or kill, or the attempt to hunt, pursue, catch, capture, or kill.” During the recent Fish and Game Commission meeting to petition to list, it was stated that take of owls is often delayed by eviction or relocation due to strong site fidelity, resulting in reluctance to leave the site²².

¹⁸ Department of Fish and Game, 2012. “Staff Report on Burrowing Owl Mitigation.”

¹⁹ SWCA, 2025. Biological Resources Technical Report for the Seville 4 Solar Energy Project, Imperial County, California.

²⁰ Chipman, Erica D., *et al.* 2008. “Effects of human land use on western Burrowing Owl foraging and activity budgets.” *Journal of Raptor Research* 42.2: 87-98.

²¹ Coulombe, Harry N. 1971. “Behavior and population ecology of the burrowing owl, *Speotyto cunicularia*, in the Imperial Valley of California.” *The Condor* 73.2: 162-176.

Department of Fish and Game, 2012. “Staff Report on Burrowing Owl Mitigation.”

²² Center for Biological Diversity *et al.*, 2024. “To List California Population of the Western Burrowing Owl (*Athene cunicularia hypugaea*) as Endangered or Threatened Under the California Endangered Species Act.”

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Recommended Potentially Feasible Mitigation Measure(s) (Regarding Mitigation Measure or Alternative and Related Impact Shortcoming) CDFW appreciates that the MND provides a measure to minimize the Project’s impacts to burrowing owl. CDFW offers the following revisions to mitigation measure BIO-6 (edits are in strikethrough and bold) for inclusion in the MND

Mitigation Measure BIO-6:

Burrowing Owl Avoidance and Minimization, and Mitigation. Four breeding season surveys for burrowing owl shall be completed prior to project construction by a qualified avian biologist. Surveys shall be conducted as detailed within Appendix D of the Staff Report on Burrowing Owl Mitigation (California Department of Fish and Game [CDFG] 2012). This survey shall include 100 percent coverage of the project site. A report summarizing the breeding season surveys including all requirement for survey reports shall be submitted to CDFW for review and approval. ~~If burrowing owl or sign thereof is not detected, no further action is necessary.~~

~~If burrowing owl, active burrowing owl burrows, or sign thereof are found, the qualified avian biologist shall prepare and implement a plan for avoidance, minimization, and mitigation measures to be reviewed and approved by CDFW prior to commencing project activities. The plan shall propose mitigation for permanent impacts to nesting, loss of foraging habitat, occupied and satellite burrows and/or burrowing owl habitat such that the habitat acreage, number of burrows and burrowing owls impacted are replaced with permanent conservation of similar vegetation communities to provide for burrowing owl nesting, foraging, wintering, and dispersal comparable to or better than that of the impact area. The mitigation land shall be sufficiently large acreage with presence of fossorial mammals. The mitigation lands may require habitat enhancements including enhancement or expansion of burrows for breeding, shelter, and dispersal opportunity, and remove or control of population stressors. Permanent protection of mitigation land shall be through a conservation easement deeded to a nonprofit conservation organization or public agency with a conservation mission. The project proponent shall develop and implement a mitigation land management plan to address long-term ecological sustainability and maintenance of the site for burrowing owls, and funding for the maintenance and management of mitigation land through the establishment of a long-term funding mechanism such as an endowment. If deemed appropriate by CDFW, conservation species credits may also be purchased at a CDFW approved conservation bank~~

~~To ensure that the project avoids impacts to burrowing owl, a qualified avian biologist shall complete a take avoidance survey no less than 14 days prior to initiating ground disturbing activities using the recommended methods described in the Staff Report on Burrowing Owl Mitigation (CDFG, 2012). Burrowing owls may recolonize a site after only a few days. Time lapses between project activities trigger subsequent take avoidance surveys including but not limited to a final survey conducted within 24 hours prior to ground disturbance. is identified during the non-breeding season (September 1 through January 31), then a 50-meter buffer will be established by the biological monitor. Construction within the buffer will be avoided until a qualified biologist determines that burrowing owl is no longer present or until a CDFW-approved exclusion plan has been implemented. The buffer distance may be reduced if noise attenuation buffers such as hay bales are placed between the occupied burrow and construction activities.~~

~~If burrowing owl is identified during the breeding season (February 1 through August 31), then an appropriate buffer will be established by the biological monitor in accordance with the Staff Report on Burrowing Owl Mitigation (CDFG 2012). Construction within the buffer will be avoided until a qualified biologist determines that burrowing owl is no longer present or until young have fledged. The buffer distance may be reduced in consultation with CDFW if noise attenuation buffers such as hay bales are placed between the occupied burrow and construction activities.~~

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If complete avoidance cannot be achieved, an Incidental Take Permit (ITP) for burrowing owl shall be obtained prior to initiation of ground disturbing activities. The Project proponent shall adhere to measures and conditions set forth within the ITP. Compensatory mitigation for direct impacts shall be fulfilled through conservation of suitable burrowing owl habitat. Permanent protection of mitigation land shall be established through a conservation easement deeded to a nonprofit conservation organization or public agency with a conservation mission, and include development and implementation of a mitigation land management plan to address long-term ecological sustainability and maintenance of the site for burrowing owls, and funding for the maintenance and management of mitigation land through the establishment of a long-term funding mechanism such as an endowment.

BIO-6.1: If present, the Project proponent shall prepare a Burrowing Owl Plan that shall be submitted to CDFW for review and approval at least 30 days prior to initiation of ground disturbing activities. The Burrowing Owl Plan shall include 1) provide details with the number and location of occupied burrow sites, and acres of burrowing owl habitat; 2) if avoidance of impacts is proposed, details on avoidance actions and monitoring such as proposed buffers, visual barriers and other actions; 3) site monitoring to be conducted prior to, during, and after any ground disturbance sufficient to ensure take is avoided, daily monitoring with cameras and direct observation. 4) Information shall be provided regarding adjacent or nearby suitable habitat available to owls. The Project proponent shall implement the Burrowing Owl Plan following CDFW review and approval.

BIO-6.2: Burrowing Owl Avoidance. If burrowing owls are detected on-site, a Designated Biologist, knowledgeable of burrowing owl habitat and behavior, shall establish a no-disturbance buffer following the 2012 Staff Report around all burrowing owl burrows such as roosting and satellite burrows within the Project area and an appropriate buffer determined by the Designated Biologist, with posted signs demarking the area to avoid, using stakes, flags, and/or rope or cord to minimize the disturbance of burrowing owl habitat. The Designated Biologist shall delineate burrows with different materials than those used to delineate the Project area. Project proponent shall remove and properly dispose of all materials used for delineation immediately upon completion of the Project.

BIO-6.3: To ensure that the Project avoids impacts to burrowing owl, a qualified biologist shall complete a take avoidance survey no less than 14 days prior to initiating ground disturbance activities using the recommended methods described in the 2012 Staff Report. Burrowing owls may re-colonize a site after only a few days. Time lapses or a break in construction activities of 3 days will trigger subsequent take avoidance surveys including but not limited to a final survey conducted within 24 hours prior to ground disturbance.

BIO-6.4: During take avoidance surveys, the Project proponent shall have a Designated Biologist(s), pre-approved by CDFW, inspect all burrows that exhibit typical characteristics of owl activity prior to any site-preparation activities. Evidence of owl activity may include presence of owls themselves, burrows, and owl sign at burrow entrances such as pellets, whitewash or other “ornamentation,” feathers, prey remains, etc. If it is evident that the burrows are actively being used, the Project proponent shall follow the guidelines in the CDFW approved Burrowing Owl Plan. If no Plan has been approved, the Project proponent shall not commence activities until owls have been confirmed absent, as determined in consultation with CDFW, and the burrows are no longer in use by adult or juvenile owls or until a Burrowing Owl Plan has been submitted and approved.

COMMENT 5:

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Issue: The Project will result in the loss of flat-tailed horned lizard habitat, and likely result in take of individuals. Flat-tailed horned lizard mitigation should be consistent with the *Flat-tailed Horned Lizard Rangewide Management Strategy*.

Specific impact: Mitigation measure BIO-7 does not identify mitigation consistent with the *Flat-tailed Horned Lizard Rangewide Management Strategy*. Without following the guidelines within the *Flat-tailed Horned Lizard Rangewide Management Strategy*, flat-tailed horned lizards may endure significant impacts to individuals and their habitat²³.

Why impact would occur: Project activities have the potential to significantly impact flat-tailed horned lizards via habitat destruction, direct mortality, and loss of foraging habitat.

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Mitigation Measure or Alternative and Related Impact Shortcoming)

CDFW supports the inclusion of MM BIO-7 with minor revisions in the final MND, as per below to avoid impacts to special status species (edits are in ~~strike through~~ and additions are in **bold**):

Mitigation Measure BIO-7:

Flat-Tailed Horned Lizard. **Following standard mitigation measures listed in the *Flat-tailed Horned Lizard Rangewide Management Strategy*, Aa** qualified biologist shall conduct a preconstruction survey for flat-tailed horned lizard within seven days before the start of ground disturbing construction activities. The pre-construction survey will cover all suitable areas on site and focus on areas with suitable habitat for the species and where individuals were previously found. The preconstruction survey may be conducted in phases based on the construction schedule as ground-disturbing activities may occur during different phases of construction. Individual flat-tailed horned lizards found will be relocated to suitable habitat at least 200 feet from impact areas, roads, and laydown or staging areas. Translocation may only be conducted by a **qualified** biologist who holds a current CDFW Scientific Collection Permit that authorizes handling of this species.

The project work areas will be clearly flagged or marked at the outer boundaries to define the limit of work activities. All work activities will be restricted to the flagged areas to avoid impacts to flat-tailed horned lizard and their habitat.

A qualified biological monitor, **approved by CDFW**, shall be present during ground-disturbing activities. The biological monitor will examine areas of active surface disturbance periodically (at least hourly when surface temperatures exceed 85°F) for the presence of flat-tailed horned lizards. In addition, open trenches, holes, or other excavated areas will be examined at least twice per day, and immediately prior to backfilling. If avoidance is not feasible or a flat-tailed horned lizard becomes trapped within the work area, the biological monitor, who will hold a Scientific Collecting Permit for this species, may capture the lizard by hand and relocate it ~~to suitable habitat~~ outside of the impact area **in the shade of a large shrub a short distance from the construction zone and in the direction of undisturbed habitat when surface temperatures range from 90° F and 104° F. If surface temperatures in the sun are less than 86° F or exceed 122° F, the qualified biological monitor shall hold the flat-tailed horned lizard in an appropriate clean, dry container (cloth bag or empty cooler) for later release when surface temperatures are in the acceptable range.** Dead or injured flat-tailed horned lizards will be reported to CDFW and the Imperial County Planning & Development Services Department.

COMMENT 6:

²³ Foreman, L. D. (Ed.) 1997. Flat-tailed Horned Lizard Rangewide Management Strategy. Report of interagency working group. 61pp. plus appendices.

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Section IV. Biological Resources, Page 51

Issue: As written, mitigation measure BIO-8 is not sufficient to mitigate impacts to desert kit fox. CDFW recommends additional mitigation be included in a revision of mitigation measure BIO-8.

Specific impact: Project activities may result in degradation and permanent loss of desert kit fox habitat and may also result in direct mortality and/or injury to desert kit fox onsite.

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

Why impact would occur: The staging of construction equipment, vehicles, and foot traffic may result in the collapse of occupied burrows and result in direct mortality and/or injury. Project-related vehicular activities may result in direct mortality or injury associated with collisions. Project construction may result in increased predator presence and depredation of desert kit fox.

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Mitigation Measure or Alternative and Related Impact Shortcoming)
CDFW supports the inclusion of MM BIO-8 with minor revisions in the final MND, as per below to avoid impacts to special status species (edits are in ~~striketrough~~ and additions are in **bold**):

Mitigation Measure BIO-8:

Desert Kit Fox and American Badger: Prior to the beginning of surface disturbance, the project Biologist shall conduct a pre-project 10-meter transect survey (or reduced based on topography and vegetation), to attain 100% visual coverage within the project area and a minimum 200-meter buffer to determine the presence or absence of desert kit fox and/or American badger individuals, dens, and sign. If potential dens are located, they shall be monitored by the project Biologist. Trail cameras may be used to assist with observation but shall not be the sole basis upon which the status is determined. **All desert kit fox dens identified as potentially active or active within the Project footprint (solar site and transmission line work sites) will be monitored for a minimum of 3 consecutive nights. Surveys shall monitor for tracks in loose dirt at den entrances or using a tracking medium (e.g., diatomaceous earth) and infra-red cameras at the den entrance(s). Using both methods (monitoring tracks and cameras) will help to ascertain whether desert kit fox in photos are actively using den sites.** The project proponent shall provide the results of the survey to CDFW prior to start of project activities. The project proponent shall provide a determination if active dens can be avoided and buffered from project activities to prevent take and disturbance with the survey results. Should active dens be present within the project area that cannot be avoided with an adequate buffer, the project proponent shall reschedule project activities or submit a monitoring and passive relocation plan for CDFW’s review and approval. No disturbance or passive relocation of active dens may take place during the breeding season or when juveniles are dependent on parental care. **Burrows that have been confirmed inactive within the Project site, that are not being excavated and filled, will be blocked with rocks and sticks to discourage use during Project activities and removed when construction is complete. The Project Biologist shall periodically check that the inactive burrows remain blocked and are not reoccupied**

COMMENT 7:

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Issue: As written, Mitigation measure BIO-25 will not account for all resources potentially impacted pursuant to Fish and Game Code 1600.

Specific impact: If Project activities will impact resources pursuant to Fish and Game Code 1600 et seq., the Project proponent will need to notify for a Lake or Streambed Alteration Agreement (LSA), and if deemed necessary by CDFW, be issued a Streambed Alteration Agreement and avoid, minimize, and mitigate the impacts to the Fish and Game Code 1600 resources.

Why impact would occur: Mitigation measure BIO-25 only specifies a small portion of what needs to be covered in an LSA Agreement in order to adhere to what is required in Fish and Game Code 1600.

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Mitigation Measure or Alternative and Related Impact Shortcoming)

CDFW supports the inclusion of MM BIO-25 with minor revisions in the final MND, as per below to avoid impacts to special status species (edits are in ~~striketrough~~ and additions are in **bold**):

Mitigation Measure BIO-25:

Aquatic Resources Regulatory Permitting: ~~If a~~**Project**-related impacts that will occur to ~~the riparian areas or areas in any resource~~ subject to Fish and Game Code section 1602 shall be mitigated at a minimum of 2:1 ratio (two acres of mitigation for every impact to one acre of resource). The project proponent shall obtain all necessary regulatory permits for resources that may also fall under the jurisdiction of the USACE, CDFW, and/or RWQCB, a regulatory permit with those agencies is needed prior to the impact occurring. Refer to the Aquatic Resource Delineation Report for the Aquatic Resources Delineation Report for the Seville 4 Solar Project (Appendix D of this Initial Study) for preliminary determination of regulatory limits that of areas that may be regulated by USACE, CDFW, or RWQCB. Permitting includes preparation and submittal of a Pre-Construction Notification under Section 404 of the federal CWA, an Application for Water Quality Certification under Section 401 of the federal CWA and a notification of Lake or Streambed Alteration under Section 1600 of the California Fish and Game Code. A completed CEQA document, and Notice of Determination, will be necessary to submit along with the applications. Other items such as finalized project plans, quantities of fill material, supporting technical studies, etc., are also submitted along with the applications. As a part of this process, the project must also identify and approve mitigation through the respective agencies.

Mitigation shall include: onsite or offsite options or land acquisition that is conserved and managed in perpetuity for the resource; could include, payment of an in-lieu fee to a conservation organization; and/or types of mitigation can include restoration, creation, rehabilitation, enhancement, or other types of habitat improvement. Typically, the type of mitigation and final acreage of mitigation is negotiated shall be approved by with the regulatory agencies during the permitting process.

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

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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 MND to assist Imperial County Planning & Development Services in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Austin Gutierrez, Environmental Scientist at (909) 544-2525 or Austin.Gutierrez@Wildlife.ca.gov.

Sincerely,

DocuSigned by:
Magdalena Rodriguez

938A012E7285407...
Brandy Wood
Environmental Program Manager

Attachments

Attachment A: Draft Mitigation Monitoring and Reporting Program

ec: Office of Planning and Research, State Clearinghouse, Sacramento
state.clearinghouse@lci.ca.gov

Sharyn Hidalgo, Project Manager, HDR Inc.
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Charles Land, CDFW Salton Sea Program
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Attachment A

Draft Mitigation Monitoring and Reporting Program and Draft Recommendations

Draft Mitigation Monitoring and Reporting Program (MMRP)

CDFW provides the following language to be incorporated into the MMRP for the Project.

Biological Resources (BIO)		
Mitigation Measure (MM) Description	Implementation Schedule	Responsible Party
Mitigation Measure BIO-3: Project Biologist. The project proponent shall designate a project Biologist, approved by CDFW, who shall be responsible for overseeing compliance with protective measures for biological resources during vegetation clearing and work activities within and adjacent to areas of native habitat. The project Biologist shall be familiar with the local habitats, plants, and wildlife, and have experience performing all necessary surveys and monitoring for biological resources present on site. The project Biologist shall also maintain communications with the Contractor to ensure that issues relating to biological resources are appropriately and lawfully managed and shall monitor construction. The project Biologist shall monitor all ground disturbing activities within construction areas, including activities during nesting bird season (generally February 1 to September 15), such as vegetation removal, the implementation of Best Management Practices (BMPs), and installation of security fencing to protect native species. The Project Biologist shall have the authority to halt all work if special status species are found on site during Project activities. The project Biologist shall ensure that all wildlife and regulatory agency permit requirements, conservation measures, and general avoidance and minimization measures are properly implemented and followed.	Prior to and during construction	Project Proponent
Mitigation Measure BIO-6: Burrowing Owl Avoidance and Minimization, and Mitigation. Four breeding season surveys for burrowing owl shall be completed prior to project construction by a qualified avian biologist. Surveys shall be conducted as detailed within Appendix D of the Staff Report on Burrowing Owl Mitigation (California Department of Fish and Game [CDFG] 2012). This survey shall include 100 percent coverage of the project site. A report summarizing the breeding season surveys including all requirement for survey reports shall be submitted to CDFW for review and approval. If complete avoidance cannot be achieved, an Incidental Take Permit (ITP) for burrowing owl shall be obtained prior to initiation of ground disturbing activities. The Project proponent shall adhere to measures and conditions set forth within the ITP. Compensatory mitigation for direct impacts shall be fulfilled through conservation of suitable burrowing owl habitat. Permanent protection of mitigation land shall be established through a conservation	Prior to and during construction	Project Proponent

easement deeded to a nonprofit conservation organization or public agency with a conservation mission, and include development and implementation of a mitigation land management plan to address long-term ecological sustainability and maintenance of the site for burrowing owls, and funding for the maintenance and management of mitigation land through the establishment of a long-term funding mechanism such as an endowment.		
Mitigation Measure BIO-6.1: If present, the Project proponent shall prepare a Burrowing Owl Plan that shall be submitted to CDFW for review and approval at least 30 days prior to initiation of ground disturbing activities. The Burrowing Owl Plan shall include 1) provide details with the number and location of occupied burrow sites, and acres of burrowing owl habitat; 2) if avoidance of impacts is proposed, details on avoidance actions and monitoring such as proposed buffers, visual barriers and other actions; 3) site monitoring to be conducted prior to, during, and after any ground disturbance sufficient to ensure take is avoided, daily monitoring with cameras and direct observation. 4) Information shall be provided regarding adjacent or nearby suitable habitat available to owls. The Project proponent shall implement the Burrowing Owl Plan following CDFW review and approval.	Prior to and during construction	Project Proponent
Mitigation Measure BIO-6.2: Burrowing Owl Avoidance. If burrowing owls are detected on-site, a Designated Biologist, knowledgeable of burrowing owl habitat and behavior, shall establish a no-disturbance buffer following the 2012 Staff Report around all burrowing owl burrows such as roosting and satellite burrows within the Project area and an appropriate buffer determined by the Designated Biologist, with posted signs demarking the area to avoid, using stakes, flags, and/or rope or cord to minimize the disturbance of burrowing owl habitat. The Designated Biologist shall delineate burrows with different materials than those used to delineate the Project area. Project proponent shall remove and properly dispose of all materials used for delineation immediately upon completion of the Project.	Prior to and during construction	Project Proponent
Mitigation Measure BIO-6.2: To ensure that the Project avoids impacts to burrowing owl, a qualified biologist shall complete a take avoidance survey no less than 14 days prior to initiating ground disturbance activities using the recommended methods described in the 2012 Staff Report. Burrowing owls may re-colonize a site after only a few days. Time lapses or a break in construction activities of 3 days will trigger subsequent take avoidance surveys including but not limited to a final survey conducted within 24 hours prior to ground disturbance.	Prior to Construction	Project Proponent
Mitigation Measure BIO-6.4:	Prior to Construction	Project Proponent

During take avoidance surveys, the Project proponent shall have a Designated Biologist(s), pre-approved by CDFW, inspect all burrows that exhibit typical characteristics of owl activity prior to any site-preparation activities. Evidence of owl activity may include presence of owls themselves, burrows, and owl sign at burrow entrances such as pellets, whitewash or other “ornamentation,” feathers, prey remains, etc. If it is evident that the burrows are actively being used, the Project proponent shall follow the guidelines in the CDFW approved Burrowing Owl Plan. If no Plan has been approved, the Project proponent shall not commence activities until owls have been confirmed absent, as determined in consultation with CDFW, and the burrows are no longer in use by adult or juvenile owls or until a Burrowing Owl Plan has been submitted and approved.		
Mitigation Measure BIO-7: Flat-Tailed Horned Lizard. Following standard mitigation measures listed in the Flat-tailed Horned Lizard Rangewide Management Strategy, Aa qualified biologist shall conduct a preconstruction survey for flat-tailed horned lizard within seven days before the start of ground disturbing construction activities. The pre-construction survey will cover all suitable areas on site and focus on areas with suitable habitat for the species and where individuals were previously found. The preconstruction survey may be conducted in phases based on the construction schedule as ground-disturbing activities may occur during different phases of construction. Individual flat-tailed horned lizards found will be relocated to suitable habitat at least 200 feet from impact areas, roads, and laydown or staging areas. Translocation may only be conducted by a qualified biologist who holds a current CDFW Scientific Collection Permit that authorizes handling of this species. The project work areas will be clearly flagged or marked at the outer boundaries to define the limit of work activities. All work activities will be restricted to the flagged areas to avoid impacts to flat-tailed horned lizard and their habitat. A qualified biological monitor, approved by CDFW, shall be present during ground-disturbing activities. The biological monitor will examine areas of active surface disturbance periodically (at least hourly when surface temperatures exceed 85°F) for the presence of flat-tailed horned lizards. In addition, open trenches, holes, or other excavated areas will be examined at least twice per day, and immediately prior to backfilling. If avoidance is not feasible or a flat-tailed horned lizard becomes trapped within the work area, the biological monitor, who will hold a Scientific Collecting Permit for this species, may capture the lizard by hand and relocate it to suitable habitat outside of the impact area in the shade of a large shrub a short distance from the construction zone and in the direction of undisturbed habitat when surface temperatures range from 90° F and 104° F. If surface temperatures in the sun are less than 86° F or exceed 122° F, the qualified biological monitor shall hold the flat-tailed horned lizard in an appropriate	Prior to and during Construction	Project Proponent

clean, dry container (cloth bag or empty cooler) for later release when surface temperatures are in the acceptable range. Dead or injured flat-tailed horned lizards will be reported to CDFW and the Imperial County Planning & Development Services Department.		
Mitigation Measure BIO-8: Desert Kit Fox and American Badger: Prior to the beginning of surface disturbance, the project Biologist shall conduct a pre-project 10-meter transect survey (or reduced based on topography and vegetation), to attain 100% visual coverage within the project area and a minimum 200-meter buffer to determine the presence or absence of desert kit fox and/or American badger individuals, dens, and sign. If potential dens are located, they shall be monitored by the project Biologist. Trail cameras may be used to assist with observation but shall not be the sole basis upon which the status is determined. All desert kit fox dens identified as potentially active or active within the Project footprint (solar site and transmission line work sites) will be monitored for a minimum of 3 consecutive nights. Surveys shall monitor for tracks in loose dirt at den entrances or using a tracking medium (e.g., diatomaceous earth) and infra-red cameras at the den entrance(s). Using both methods (monitoring tracks and cameras) will help to ascertain whether desert kit fox in photos are actively using den sites. The project proponent shall provide the results of the survey to CDFW prior to start of project activities. The project proponent shall provide a determination if active dens can be avoided and buffered from project activities to prevent take and disturbance with the survey results. Should active dens be present within the project area that cannot be avoided with an adequate buffer, the project proponent shall reschedule project activities or submit a monitoring and passive relocation plan for CDFW's review and approval. No disturbance or passive relocation of active dens may take place during the breeding season or when juveniles are dependent on parental care. Burrows that have been confirmed inactive within the Project site, that are not being excavated and filled, will be blocked with rocks and sticks to discourage use during Project activities and removed when construction is complete. The Project Biologist shall periodically check that the inactive burrows remain blocked and are not reoccupied	Prior to and during Construction	Project Proponent
Mitigation Measure BIO-25: Aquatic Resources Regulatory Permitting: If pProject-related impacts that will occur to the riparian areas or areas in any resource subject to Fish and Game Code section 1602 shall be mitigated at a minimum of 2:1 ratio (two acres of mitigation for every impact to one acre of resource). The project proponent shall obtain all necessary regulatory permits for resources that may also fall under the jurisdiction of the USACE, CDFW, and/or RWQCB, a regulatory permit with those agencies is needed prior to the impact occurring. Refer to the Aquatic Resource Delineation Report for the Aquatic Resources Delineation Report for the Seville 4 Solar Project (Appendix D of this Initial Study) for preliminary determination of regulatory limits that of areas that may be regulated by USACE, CDFW, or RWQCB. Permitting	Prior to Construction	Project Proponent

includes preparation and submittal of a Pre-Construction Notification under Section 404 of the federal CWA, an Application for Water Quality Certification under Section 401 of the federal CWA and a notification of Lake or Streambed Alteration under Section 1600 of the California Fish and Game Code. A completed CEQA document, and Notice of Determination, will be necessary to submit along with the applications. Other items such as finalized project plans, quantities of fill material, supporting technical studies, etc., are also submitted along with the applications. As a part of this process, the project must also identify and approve mitigation through the respective agencies. Mitigation shall include: onsite or offsite options or land acquisition that is conserved and managed in perpetuity for the resource; could include, payment of an in-lieu fee to a conservation organization; and/or types of mitigation can include restoration, creation, rehabilitation, enhancement, or other types of habitat improvement. Typically, the type of mitigation and final acreage of mitigation is negotiated shall be approved by with the regulatory agencies during the permitting process.		
Mitigation Measure BIO-27: To reduce impacts to less than significant: Prior to grading, grubbing or other ground disturbing activities, the project proponent shall install one shallow-groundwater monitoring well at a CDFW and County-approved location and design within Assessor's Parcel Number 018-170-067-000 or similarly situated location within the San Felipe Creek, OR the Project proponent shall install two shallow-groundwater monitoring wells, one at a CDFW and County-approved location and design within the footprint of Seville 4, and one groundwater monitoring well at a CDFW and County-approved location and design within the footprint of Seville 5.	Prior to Construction	Project Proponent
Mitigation Measure BIO-28: 30 days prior to the installation of the shallow-groundwater monitoring well, the Project proponent shall obtain CDFW and County approval of a final groundwater management plan (Groundwater Plan). The Plan shall demonstrate necessary funding to endow a third-party to maintain the well(s), monitor, collect and record groundwater level data, analyze and report the data to CDFW and the County at a meaningful interval or triggering event(s) identified in the CDFW and County-approved Groundwater Plan. The Groundwater Plan shall identify specific and quantifiable thresholds for implementing a suite of adaptive management strategies. The Groundwater Plan shall include the immediate discontinuation of temporary and permanent groundwater pumping, and identify alternative sources of water as viable adaptive management strategies. The Groundwater Plan shall require written notification to CDFW and the County upon commencement of well pumping in excess of 500 gallons per day. The date and quantity of all water use shall be logged daily during construction and decommissioning, and monthly during operations	Prior to Construction	Project Proponent/Project Operator

and maintenance. The Groundwater Plan shall be reviewed every five years and revised with mutual agreement from CDFW and the County.		
Mitigation Measure BIO-29: No chemicals shall be used for dust suppression, panel washing, or ancillary uses with the prior written approval of CDFW and the County.	During Life of Project	Project Operator
Mitigation Measure BIO-30: Water infiltration basins of sufficient size and location(s) will be utilized to maximize groundwater percolation of clean water, free of chemicals deleterious to fish and amphibians.	During Life of Project	Project Operator