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SENT VIA ELECTRONIC MAIL

November 3, 2025

Wes Ervin
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RE: MITIGATED NEGATIVE DECLARATION FOR PROPOSED BREI SOLAR FARM
DATED OCTOBER 3, 2025, STATE CLEARINGHOUSE NUMBER [2025100155](#)

Dear Wes Ervin,

The Department of Toxic Substances Control (DTSC) reviewed the Initial Study/Mitigated Negative Declaration (IS/MND) for the Proposed BREI Solar Farm (Project). The Project proposes to construct and operate an approximately 116-acre utility-scale solar energy facility spanning nine parcels within the City of Oroville. Approximately 81.1 acres or 70% of the Proposed Project area—including Assessor's Parcel Numbers (APNs) 035-470-028, 035-470-031, 035-470-035, 035-470-036-000, 035-470-037-000—are located within the [Koppers Superfund Site](#) (Site) and therefore, falls under DTSC and United States Environmental Protection Agency (USEPA) regulatory authority. These five parcels are referenced as the Jerome Johnson Site and the Gill Reynoso Site in the IS/MND. The IS/MND should explicitly identify these parcels as part of an active federal Superfund site. Please note DTSC has comments on the sixth parcel, APN 035-470-005, in the Comments section.

Site Background

The Site first operated in 1920 by Hutchinson Lumber. Later, the Site was used

for wood treatment operations from 1948 to 2001. The USEPA listed the Site as a National Priorities List (NPL) Site in 1984, due to soil and groundwater contamination originating from past wood treatment operations. The contaminants of concerns (COCs) include pentachlorophenol, isopropyl ether, polycyclic aromatic hydrocarbons, polychlorinated dibenzo-p-dioxins/polychlorinated dibenzofurans, arsenic, barium, boron, chromium, creosote, and copper. In 1988, Beazer East Inc. assumed responsibility for contamination resulting from Koppers' historical wood treatment operations and continues to conduct remedial response actions at the Site. The Site is approximately 205 acres.

The Site's remedy decision documents include a 1989 Record of Decision (ROD), a 1996 ROD Amendment No.1, a 1999 ROD Amendment No. 2 with a Technical Impracticability (TI) Waiver for a 4-acre area of the Western On-property plume encompassing the former creosote pond and cellon blowdown areas. Remedies implemented on Site include excavation and disposal of contaminated soil and building materials in engineered On-Site Landfills (Soil Disposal Cells No.1 and No.2.), groundwater extraction and treatment systems (one on-property and one off-property), providing an alternative water supply to residents with contaminated drinking water wells, in situ bioremediation, a TI Waiver Zone, a Toxic Pits Cleanup Act (TPCA) soil cap, and institutional controls including land use restrictions. On November 12, 2003, DTSC and Beazer East, Inc. (Beazer) signed and recorded the [Covenant to Restrict Use of Property - Environmental Restriction](#) (document# 2003-0079930, hereinafter referred to as LUC), because past operations left hazardous substances above cleanup goals. The LUC binds present and successive owners of the restricted property for the benefit of DTSC and USEPA. In 2007, USEPA approved of the off-property groundwater treatment system to be deconstructed and removed.

To the present day, the on-property groundwater treatment system is still operating. Routine site activities include but are not limited to inspection, operation, maintenance and repairs, semiannual groundwater monitoring and reporting, discharge monitoring,

and land use monitoring. These activities require continued access to the remedial systems by vehicles and maintenance equipment as indicated in the LUC.

Remedy and Site features that may overlap with the Proposed Project include the Fire Water Pond, a TPCA Soil Cap, TI Waiver Zone, a portion of the Former Pole Washer Area, Former Dri-Con Area, existing Groundwater Treatment Plant, groundwater extraction and monitoring wells, as well as ancillaries such as pumps, piping, electrical, and conveyance lines. The two On-Site Landfills in the northern portion of the Site appear to be outside of the Proposed Project area based on mapping provided in the IS/MND.

DTSC recommends and requests consideration of the following comments:

1. Identification of Superfund Properties

The IS/MND should clearly state that portions of the BREI Solar Farm are proposed on parcels within or adjacent to the Koppers Superfund Site—a federal NPL site under USEPA and DTSC oversight with an active LUC and ongoing regulatory management.

2. Jerome Johnson and Gill Reynoso Parcels

All three of the referenced Jerome Johnson parcels and two out of three of the Gill Reynoso parcels are located within the Koppers Superfund Site boundary. More specifically, APNs 035-470-035, 035-470-028, 035-470-031, 035-470-036-000, 035-470-037-000 lie within the Superfund Site area and are subject to DTSC and USEPA regulatory oversight, including existing Land Use Covenant restrictions. As stated in the Site Background section, the proposed Project on these parcels overlaps with significant Site remedy features including but not limited to the groundwater monitoring and extraction wells and underground or above-ground ancillaries, Fire Water Pond, TI Waiver Zone, a portion of the Former Pole Washer Area, Former Dri-Con Area, and the existing Groundwater Treatment Plant. Any interference, disturbance or damage to any components of the remedial system will be a

violation of the 2003 LUC. The IS/MND should clearly identify the location of these parcels relative to the Koppers Superfund Site boundary and note that all activities proposed on these parcels must comply with applicable DTSC/USEPA remedial and institutional control requirements.

In addition, there are inconsistencies in the IS/MND regarding the use of APN 035-470-005. Figure 4 on page 13 shows solar panels covering a small area of APN 035-470-005, and this APN has not been mentioned in the Environmental Checklist Form or throughout the IS/MND. It also conflicts with DTSC's prior understanding that this APN was excluded from the Proposed Project. As mentioned in DTSC's August 28, 2025 letter to the City of Oroville, referenced as Appendix F of the IS/MND, this APN is within the Site boundary and DTSC is currently investigating ongoing LUC violations on the parcel. It is also worth noting that Figure 4 mislabels the area covered by the TPCA cap and the Former Biological Treatment Facility. Both remedy features are located on APN 035-470-005. These two Site features occupy a much larger area that extends both west and east of the shaded area.

3. Clarification of Parcel Numbers

The IS/MND references APN 035-470-035 for the Koppers parcels. However, APN 035-470-035, is no longer an active parcel according to the Butte County Assessor's Map Book 35, Page 47 (Revised on 11-30-2021). Please revise the APN references accordingly. For discussion purposes, the APN will continue to be referenced as 035-470-035 in this letter.

4. Construction Definition and Oversight

The Proposed Project description should define all proposed construction activities (e.g., the number of solar panels, grading, trenching for underground cables, ballast installation, fencing, and access-road construction). DTSC approval is required for any intrusive work on the Site parcels that could contact contaminated soil or interfere with existing remedial systems, as required by the 2003 LUC.

5. Solar Farm Project Requirements and CEQA Adequacy

Page 6 of the IS/MND talks about the Project Requirements and Safeguards (Part of the Proposed Project). This section should add background information about the Site and its ongoing regulatory oversight by DTSC and USEPA. This section should briefly summarize the Site's contamination history, existing Land Use Covenant restrictions, and applicable institutional controls. Including this context will clarify that portions of the BREI Solar Farm Project area are located on or adjacent to a federally regulated Superfund site, and that all proposed activities must comply with the existing DTSC/EPA oversight requirements. CEQA documentation must include sufficient site background to inform the public of existing contamination, remedial features, and applicable regulatory constraints.

6. Decommissioning Commitment

The Decommissioning Commitment referenced in Page 6 of the IS/MND should be revised to more clearly define and describe what the process entails. Please specify the facility's expected operational or "useful life," describe what activities decommissioning will include (such as removal of solar panels, inverters, and fencing), and identify the responsible party for implementation.

7. Reference Citation ("U.S. EPA & DTSC, 2020")

The citation "U.S. EPA & DTSC, 2020" is referenced six times in the IS/MND, however it is unclear which document it refers to exactly. Please identify the specific document, report, or publication being referenced. DTSC is not aware of a jointly issued 2020 report or guidance document matching this reference.

8. Unchecked Boxes for Section VII. Greenhouse Gas Emissions

There are unchecked boxes for items (a) and (c) in the Greenhouse Gas Emissions checklist. DTSC recommends revising the table to ensure that all checklist responses are completed and consistent with the narrative discussion below. Additionally, item (c) includes the note "Impact will be

beneficial.” This statement should be clarified with additional detail and context.

9. Incorrect References

Page 7 of the IS/MND states that “Land Use Restrictions were recently received.” This is inaccurate; the existing Land Use Covenant was recorded in 2003 and remains in full effect without amendment. DTSC issued an LUC rescission in 2022 for APNs 035-470-034 and 035-470-035. Please correct this reference to accurately reflect the long-standing, enforceable nature of the LUC restrictions.

Page 53 of the IS/MND states: “Wes Ervin August 28, 2025 Page 5 of 8”, which appears to be an inadvertent copy and paste from DTSC’s August 28, 2025 Letter and should be deleted.

10. Civil and Drainage Plan Review

DTSC concurs that civil and drainage plans will require agency review. DTSC will review the civil and drainage plans to ensure that proposed grading and drainage modifications do not adversely affect existing remedial systems, engineered caps, or institutional controls at the Koppers Superfund Site. Any changes to drainage or surface water management must maintain compliance with the existing LUC and DTSC/USEPA-approved remedial design requirements.

11. Figure Additions

Please add a figure that clearly delineates the Koppers Superfund boundary and the project’s solar panels layout within it, to assist the public and reviewing agencies in understanding the project’s relationship to the restricted areas.

12. Appendix F

DTSC’s comment letter dated August 28, 2025, is referenced as Appendix F. Sections 2 and 3 of the letter are still valid comments for consideration in this IS/MND.

The Proposed Project must not in any way introduce new contamination or

spread or exacerbate existing contamination in soil and groundwater. Any disturbance of the soil requires submission and approval from USEPA prior to beginning work. Any party that causes or exacerbates the contamination could potentially be held liable for the contamination. In addition, the Proposed Project must not impede, delay nor prevent the ongoing remediation activities at the Site.

DTSC reserves the right to comment on any future circulated documents related to this Project based on our review or proposed or incorporated changes, measures, or project features. DTSC would like to thank you for the opportunity to comment on the IS/MND for the Proposed BREI Solar Farm. Thank you for your assistance in protecting California's people and environment from the harmful effects of toxic substances. If you have any questions or would like clarification on DTSC's comments, please contact Angel Solis at (916) 322-0491 or via email at angel.solis@dtsc.ca.gov.

Sincerely,



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