



STATE OF CALIFORNIA  
DEPARTMENT OF FISH AND WILDLIFE

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March 18, 2026  
*Sent via email.*

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**Subject: Heber 1 Parasitic Solar Energy Project (Project)  
Draft Environmental Impact Report (DEIR)  
SCH# 2025101397**

Dear Alan Molina:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a DEIR from Imperial County Planning and Development Services for the Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup> CDFW previously submitted comments in response to the Notice of Preparation of the DEIR.

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

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<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.

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**

The Project proposes to develop a 20 megawatt (MW) solar energy facility and interconnecting cable line (gen-tie line) that would provide parasitic load to the existing Heber 1 Geothermal Plant. The solar energy facility would provide behind-the-meter power used to offset the auxiliary load of the existing Heber 1 Geothermal Plant. The solar energy facility would not connect to or generate power that will enter the transmission grid; rather, the solar energy facility would serve as an integrated part of the operation of the existing Heber 1 Geothermal Plant.

There are three route options proposed, of which only one will be chosen, for the medium voltage cable that would connect the new 20 MW solar energy facility to the existing Heber 1 Geothermal Plant.

The proposed Project would be located on one privately-owned parcel (Assessor Parcel Number [APN] 059-020-001) at 602 Dogwood Road in the southern portion of Imperial County, California. The Project site is approximately 1.4 miles south of the community of Heber. The proposed solar energy facility would encompass approximately 106 acres in the southern portion of APN 059-020-001. The northern portion of APN 059-020-001 has been previously approved for the development and operation of the Heber 2 Parasitic Solar and Dogwood Parasitic Solar projects. The proposed solar energy facility would be developed southwest of the existing Heber 1 Geothermal Plant located on APN 054-250-036 at 895 Pitzer Road in Heber, California.

## **COMMENTS AND RECOMMENDATIONS**

CDFW offers the comments and recommendations below to assist Imperial County Planning and 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. Based on the Project's potential to have significant impacts on biological resources that would need implementation of mitigation measures to reduce the impacts to less than significant, CDFW concludes that an Environmental Impact Report is appropriate for the Project.

### **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 USFWS?**

#### **COMMENT 1:**

**Issue:** CDFW is concerned that the EIR 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 EIR relies on field reconnaissance surveys of the Project area that were conducted on October 12 and 13, 2023 and just focused on documenting the potential habitat to support special status plant and animal species. BIO-2 conditions a pre-construction rare plant survey to be performed

prior to the start of construction, particularly focusing on areas that may support special status species

**Specific impact:** The Appendix E – Biological Resources Report for the Project included a reconnaissance survey to identify potential habitat for special status plants which was only performed once, over a two-day period. The reconnaissance survey was performed during an inappropriate time of year for the four species that have potential to be present on the Project site and did not follow the Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities (CDFW, March 2018). 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 EIR.

**Why impact would occur:** The EIR and accompanying Biological Resources Report for the Project does not have sufficient information as to whether there's suitable habitat and potential impacts to California satintail (*Imperata brevifolia*), Chapparal sand-verbena (*Abronia villosa* var. *aurita*), gravel milkvetch (*Astragalus sabulorum*), and Abrams' spurge (*Euphorbia abramsiana*). A reconnaissance survey is too general in nature to accurately characterize the biological baseline conditions on which the EIR must base its analysis concerning potentially significant impacts. Botanical surveys were not performed, rather a habitat assessment. The Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities (CDFW, March 2018) 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 diversity (CDFW, 2018). 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 assessment (CDFW, 2018). 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" (CDFW, March 2018).

**Evidence impact would be significant:** Project impacts to the species identified above are possible and the EIR should incorporate avoidance, minimization, and mitigation measures for each species based on an assumption of presence or based on focused surveys, following professionally accepted methods (protocol level surveys), and incorporated in the EIR. Sensitive plant species are listed under the CESA as threatened, or endangered, or proposed candidates for listing; designated as rare under the Native Plant Protection Act; or plants that otherwise 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.

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

**To minimize significant impacts:** CDFW recommends botanical field surveys following the Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities (CDFW, March 2018) be

conducted by qualified personnel annually 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. Because of the potential for impacts to Special Status Native Plant Populations, CDFW recommends Imperial County Planning and Development Services include the following additional mitigation measure in the final EIR:

**MM BIO-2: Pre-construction Special-Status Plant Surveys.** Prior to the start of construction, a qualified biologist shall conduct a botanical field survey following the methodology described in Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018). The survey shall be floristic in nature (i.e., identifying all plant species to the taxonomic level necessary to determine rarity), and shall be inclusive of areas proposed for disturbance and indirectly impacted by the project. The results of the survey shall be documented in a letter report that will be submitted to the Imperial County Planning and Development Services Department and CDFW. The survey shall be conducted annually until start of construction to ensure the floristic diversity is accurately captured and effective avoidance, minimization, and mitigation strategies are developed.

If special-status plant species are observed during the pre-construction rare plant survey(s) within the development area of the project, the project shall be designed to reduce impacts to these species through the establishment of buffers, to the extent feasible. Buffer distances will be determined by the qualified biologist, typically 50 feet or greater from an identified special-status plant species, unless the Qualified Biologist determines a reduced buffer would suffice to avoid impacts to the species.

If avoidance of special-status plant species is not feasible, a Special-Status Plant Relocation Plan shall be developed and implemented. The Special-Status Plant Relocation Plan shall address mitigation for special-status plants, including topsoil salvage to preserve seed bank and management of salvaged topsoil; seed collection, storage, possible nursery propagation, and planting; salvage and planting of bulbs as feasible; location of on-site receptor sites; land protection instruments for receptor areas; and funding mechanisms. The Special-Status Plant Relocation Plan shall include methods, monitoring, reporting, success criteria, adaptive management, and contingencies for achieving success. All special-status plant species identified on site shall be mapped onto a site-specific aerial photograph and topographic map and included on the construction, grading, fuel modification, and landscape plans.

Botanical field surveyors shall possess the following qualifications and will be approved by Imperial County prior to any botanical field surveys:

- Knowledge of plant taxonomy and natural community ecology
- Familiarity with plants of the region, including special status plants
- Familiarity with natural communities of the region, including sensitive natural Communities
- Experience with the CNDDDB, BIOS, and Survey of California Vegetation Classification and Mapping Standards
- Experience conducting floristic botanical field surveys as described in Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018), or experience conducting such botanical field surveys under the direction of an experienced botanical field surveyor
- Familiarity with federal, state, and local statutes and regulations related to plants and plant collecting; and
- Experience analyzing the impacts or projects on native plant species and sensitive natural communities.

## COMMENT 2:

**Issue:** The EIR does not include mitigation measures to avoid or reduce impacts to streams and their associated resources to a level less than significant.

**Specific impact:** The EIR indicates that, depending on which cable route option is chosen, 0.11, 0.47, or 1.72 acres of CDFW jurisdictional waters could be impacted. Many of the canals and drains have potential to support wildlife, such as burrowing owls, on-site and adjacent to the Project site. Potential direct and indirect impacts to the streams and associated fish and wildlife resources resulting from Project activities are subject to notification under Fish and Game Code section 1602.

**Evidence impact would be significant:** Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following: substantially divert or obstruct the natural flow of any river, stream, or lake; substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or deposit debris, waste or other materials that could pass into any river, stream or lake. Note that "any river, stream or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a body of water. Upon receipt of a complete notification, CDFW determines if the proposed Project activities may substantially adversely affect existing fish and wildlife resources and whether a Lake and Streambed Alteration (LSA) Agreement is required. An LSA Agreement includes measures necessary to protect existing fish and wildlife resources. CDFW may suggest ways to modify the Project that would eliminate or reduce harmful impacts to fish and wildlife resources. CDFW's issuance of an LSA Agreement is a "project" subject to CEQA (see Pub. Resources Code § 21065). Early consultation with CDFW is recommended since modification of the proposed Project may be required to avoid or reduce impacts to fish and wildlife resources. To submit a Lake or Streambed Alteration notification, visit:

<https://wildlife.ca.gov/Conservation/Environmental-Review/LSA>

**Recommended Potentially Feasible Mitigation Measure(s) (Regarding Environmental Setting and Related Impact Shortcoming)** Because of the potential for impacts to resources subject to Fish and Game Code section 1602, CDFW recommends Imperial County Planning and Development Services include the following additional mitigation measure in the final EIR:

### **Mitigation Measure BIO-11:**

**Prior to Project-activities and issuance of any grading permit, the Project Sponsor shall notify CDFW of Project activities occurring in resources subject to Fish and Game Code section 1602 via the [Environmental Permit Information Management System \(EPIMS\)](#). The Project Sponsor shall either obtain written confirmation stating that an Agreement under section 1602 of the Fish and Game Code is not required for the Project, or the Project Sponsor shall obtain a CDFW-executed Lake and Streambed Alteration Agreement (Agreement), authorizing impacts to Fish and Game Code section 1602 resources associated with the Project and adhere to all avoidance, minimization, and mitigation measures contained within the Agreement.**

## 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:**

**Issue:** The Project will impact suitable foraging habitat for bat species.

**Specific impact:** The Project site is documented to serve as foraging habitat and a commuting corridor for bat species. The acoustic bat survey resulted in Big brown bat (*Eptesicus fuscus*), Mexican free-tailed bat (*Tadarida brasiliensis*), Canyon bat (*Parastrellus hesperus*), Pocketed free-tailed bat (*Nyctinomops femorosaccus*), and Western yellow bat (*Lasiurus xanthinus*) having presence on the Project site; two of which are Species of Special Concern (SSC). However, avoidance and minimization measures were not proposed within the EIR to address the impact.

**Why impact would occur:** The Project site is currently irrigated farmland, which influences the availability of prey items for bat species. The conversion of farmland and elimination of irrigation has the potential to reduce prey availability and increase energy expenditure during foraging bouts for several bat species due to loss of preferred habitat. The Bat Acoustics and Habitat Assessment Report contained in Appendix G of the DEIR states the acoustic results indicate the Project site has substantial bat activity, consistently recorded from 30 minutes after sunset until 5:00am. The report also noted that activity peaked after irrigation events, supporting a relationship between water availability and prey emergence.

**Evidence impact would be significant:** Bats are considered non-game mammals and are afforded protection by State law from take and/or harassment (Fish & G. Code, § 4150; Cal. Code of Regs, § 251.1). Several bat species are considered Species of Special Concern. Impacts on SSC could require a mandatory finding of significance under CEQA (CEQA Guidelines, § 15065). Impacts on bats, either directly or indirectly through disturbances to roosts and loss of habitat, could be a significant impact.

**Recommended Potentially Feasible Mitigation Measure(s) (Regarding Mitigation Measure or Alternative and Related Impact Shortcoming)** CDFW recommends the lead agency consider agrivoltaics with the Project Sponsor, to allow farming of alfalfa to continue under the PV panels so loss of foraging habitat and prey availability will not impact bat species present at the site. This may be a consideration to reduce Project related impacts to burrowing owl, as well. CDFW offers the following Mitigation Measure for inclusion in the Final EIR.

**Mitigation Measure BIO-12: Bat Minimization Measure.**

- **The Project Sponsor shall implement agrivoltaics to maintain prey availability and foraging habitat for bat species throughout the operations of the project.**
- **Nightwork shall be prohibited during construction and operations.**
- **Project Sponsor shall implement dark-sky compliant lighting: 1) light only if it is needed; 2) aim and direct light to where it is needed using shielding and controlling its use with motion activation; 3) lowest brightness required; and 4) use of warmer-colored lights.**
- **If potential roost features (e.g., hollow trees, crevices, culverts) are discovered during construction, Project activities shall be temporarily halted, and a qualified biologist shall assess for bat use before Project activities may resume. If bat species are present, CDFW shall be contacted**

**for coordination, and an appropriate no-distance buffer shall be established surrounding the roosting feature depending on the bat species and current construction activities.**

**COMMENT 4:**

**Issue:** The disturbance buffer listed in mitigation measure BIO-9 does not adhere to the 2012 California Department of Fish and Game (CDFG) Staff Report on Burrowing Owl Mitigation.

**Specific impact:** Mitigation measure BIO-9 has a 200-meter disturbance buffer which would be adequate for low disturbance projects. This Project does not classify as a low disturbance project and without the correct disturbance buffer distance, significant impacts to burrowing owls could occur.

**Why impact would occur:** Impacts to vegetation communities that could provide suitable foraging habitat for burrowing owls and suitable burrows may occur in association with the Project due to disturbances associated with construction along with a permanent loss of foraging habitat. Project construction may result in direct mortality, population decline, or local extirpation of burrowing owl not previously identified. Burrowing owls also have a high potential to move into disturbed areas since they are adapted to highly modified habitats (Chipman et al., 2008; Coulombe, 1971).

**Evidence impact would be significant:** Habitat loss is a threat to burrowing owls (CDFG, 2012). Burrowing owls are dependent on burrows at all times of the year for survival and/or reproduction, evicting them from nesting, roosting, and satellite burrows may lead to indirect impacts or take. Loss of access to burrows will likely result in varying levels of increased stress on burrowing owls and could depress reproduction, increase predation, increase energetic costs, and introduce risks posed by having to find and compete for available burrows (CDFG, 2012). Burrowing owls are also dependent on adjacent habitat, and forage within 600 meters of nest burrows (Rosenberg and Haley, 2004). As a candidate species, Western Burrowing Owl is granted full protection of a threatened species under CESA. Take is defined in Fish and Game Code section 86 as "hunt, pursue, catch, capture or kill, or attempt to hunt, pursue, catch, capture or kill." CESA allows CDFW to authorize project proponents to take state-listed threatened, endangered, or candidate species if certain conditions are met. Take must be incidental to an otherwise lawful activity. The issuance of a permit cannot jeopardize the continued existence of the species, and the impacts must be minimized and fully mitigated.

**Recommended Potentially Feasible Mitigation Measure(s) (Regarding Mitigation Measure or Alternative and Related Impact Shortcoming)** CDFW supports the inclusion of MM BIO-9 with minor revisions in the final EIR, as per below to avoid impacts to special status species (edits are in ~~strike through~~ and additions are in **bold**):

**Mitigation Measure BIO-9:**

Burrowing Owl Avoidance, Minimization, and Mitigation. The Applicant will apply for and obtain an ITP prior to beginning ground disturbing activities. The Applicant ~~will~~ shall comply with all permit conditions required by CDFW to minimize **and fully mitigate** take **per the California Endangered Species Act**.

Potential impacts to burrowing owl shall be mitigated per the guidance of the CDFW Staff Report on Burrowing Owl Mitigation (CDFG 2012), **unless**

**superseded by the permit conditions required by CDFW in the ITP**, and at minimum including the following:

#### Burrowing Owl Protection and Mitigation Plan

As the project construction schedule and details are finalized, a qualified biologist will prepare a Burrowing Owl Protection and Mitigation Plan (BOPMP) for submission to CDFW for approval prior to beginning ground disturbing activities that will detail the approved, site-specific methodology proposed to avoid, minimize and mitigate impacts on this species. The goal of the BOPMP is to avoid potential direct and indirect mortality of burrowing owls, **and other forms of take**.

The BOPMP will include, at a minimum: success criteria based on factors such as site tenacity, number of adult owls present and reproducing, colonization by burrowing owls from elsewhere, evidence and causes of mortality, changes in distribution, trends in stressors; remedial measures; detailed survey methodology; exclusion and excavation methods; guidance for artificial burrow construction and placement; active monitoring procedures; identification of wildlife rehabilitation centers or veterinarians capable of and willing to treat burrowing owls in the case of injury of any life stage of burrowing owl (e.g., eggs, nestlings, fledglings, adults); procedures for collection and storage of carcasses; and annual reporting protocols. The BOPMP will include an annual report to CDFW and shall be funded by the project Applicant.

#### Burrowing Owl Pre-Construction Surveys and Physical Barriers

A CDFW-approved qualified biologist(s) shall conduct take-avoidance (preconstruction) surveys to identify, flag, and map all potential, known, and/or nesting burrows within (a) 14 calendar days prior to beginning ground-disturbing activities in the work area and (b) 24 hours prior to project construction. Surveys shall include the project area and a 500-foot buffer. Technical memoranda that document these survey findings will be submitted to CDFW and Imperial County.

If burrowing owl is identified during the non-breeding season (September 1 through January 31), a 50-meter (165-ft) to 100-meter (328-ft) no-work buffer between active burrows and construction activities shall be established by the qualified biologist, **and monitored by the qualified biologist during construction activities**. However, the minimum buffer shall be increased depending on the level of construction disturbance and construction activity, **and behavioral observations indicating the individual may be disturbed or stressed**. 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.

If burrowing owl is identified during the breeding season (**generally** February 1 through August 31), then a 100-meter (328-ft) to ~~200~~**500**-meter (~~656~~**1640**-ft) no-work buffer will be established by the qualified biologist in accordance with CDFW Staff Report (CDFG 2012). A qualified biologist shall monitor the burrowing owls for any sign of distress and adjust the buffers as necessary to ensure no take occurs. Construction and disturbance activities within the buffer will be avoided until a qualified biologist determines that the burrow is inactive or until young have fledged (**generally October**).

If active burrows are present within the project footprint and avoidance is infeasible, measures such as passive relocation methods, destruction of

burrows, and construction of artificial burrows described in the following subsections shall be implemented upon prior approval by and in coordination with CDFW.

Depending on the level of disturbance, a smaller buffer may be established by a qualified biologist. Burrows will be buffered from development activities to the greatest extent feasible, as determined by a CDFW-approved biologist. Physical barriers, such as fences and visual screens (e.g., a portable chain link fence with shade cloth), will be used to protect identified burrows and visually shield them from work areas when feasible. Flags or markers will be placed near burrows to ensure that construction equipment does not collapse burrows.

#### Burrowing Owl Construction Monitoring

Monitoring by a qualified biologist shall be performed during ~~all ground-disturbing~~ construction activities to avoid disturbance to burrowing owls. Additionally, if any active burrowing owl nests are present within the project construction area, they must be avoided by establishing a non-disturbance buffer until the young fledge or the nest fails (CDFG 2012). Any nesting owls that are adjacent to the construction area will also be avoided by establishing buffer areas. Buffer areas shall be marked using flagging or fencing to facilitate avoidance.

#### Avoidance

The following avoidance measures ~~may~~ **shall be implemented to** assist in seasonally and spatially avoiding direct impacts and disturbances that could result in take of burrowing owls, nests, or eggs.

- Avoid disturbing occupied burrows during the breeding season, **generally** from February 1 through August 31.
- Avoid impacting burrows occupied during the non-breeding season by migratory or non-migratory resident burrowing owls.
- Avoid direct destruction of burrows through chaining (dragging a heavy chain over an area to remove shrubs), diking, cultivation, and urban, industrial, or agricultural development.
- Do not fumigate, use treated bait or other means of poisoning nuisance animals in areas where burrowing owls are known or suspected to occur (e.g., sites observed with nesting owls, designated use areas).
- Restrict the use of treated grain to poison mammals ~~the months of January and February~~.

#### Passive Relocation and Lands Management Planning

If burrow avoidance is infeasible during the non-breeding season or during the breeding season where resident burrowing owls have not yet begun egg laying or incubation, or where the juveniles are foraging independently and capable of independent survival, a CDFW-approved qualified biologist shall implement a passive relocation program in accordance with the CDFW Staff Report on Burrowing Owl Mitigation (CDFG 2012). Procedures will also be detailed in the BOPMP. Passive relocation shall only be done in the non-breeding season, ~~where resident owls have not yet begun egg laying or incubation~~, or where the juveniles are foraging independently and capable of independent survival, in

accordance with the Staff Report on Burrowing Owl Mitigation (CDFG 2012) and a CDFW-approved BOPMP as follows:

- To facilitate identification of replacement burrow sites, a Burrowing Owl Exclusion Plan and Mitigation Lands Management Plan shall be prepared by the qualified biologist in accordance with the CDFW Staff Report on Burrowing Owl Mitigation (Appendix E and Appendix F of CDFG 2012). The plans shall be approved by CDFW prior to commencing passive relocation.
- All burrows would be covered or excavated, and a one-way door would be installed on occupied burrows. This will allow any animals inside to leave the burrow but will exclude any animals from re-entering the burrow.
- If burrowing owls exhibit signs of stress in attempting to re-enter the burrow, the one-way-door shall be removed to prevent take of the individual.
- A period of at least 1 week is required after the relocation effort to allow the birds to leave the impacted area before construction of the area can begin.
- Only burrows that will be directly impacted by the project shall be excavated and filled in to prevent their reuse.
- Off-site "replacement burrow site(s)" must consist of a minimum of two suitable, unoccupied burrows for every burrowing owl or pair to be passively relocated.
- The Mitigation Lands Management Plan will be developed when off-site or onsite mitigation habitat protection is needed to ensure compliance with and effectiveness of identified management actions for the mitigation lands. The Applicant shall implement the Mitigation Lands Management Plan and permanently conserve in a conservation easement offsite habitat suitable for burrowing owl **at a minimum of 1:1.5 ratio for acres impacted to acres acquired**. Land identified to mitigate for passive relocation of burrowing owl may be combined with other offsite mitigation requirements of the Project if the compensatory habitat is deemed suitable to support the species.
- The Applicant may purchase available burrowing owl conservation bank credits from a CDFW-approved conservation bank in lieu of placing offsite habitat into a conservation easement **if appropriate credits are available**. The final terms of potential land acquisition and/or credits, or some combination thereof (e.g., fees, easements, approvals, documentation, etc.), will be established in consultation with CDFW via the ITP process.

#### **COMMENT 5:**

**Issue:** CDFW is concerned that the EIR does not sufficiently mitigate Project impacts to nesting birds or ensure that impacts are reduced to a level less than significant.

**Specific impact:** CDFW is concerned about potential impacts to nesting birds including loss of nesting/foraging habitat and potential take from ground-disturbing activities and construction; therefore, CDFW recommends the completion of preconstruction nesting bird surveys *regardless* of the time of year to ensure that impacts to nesting birds are avoided. The timing of the nesting season varies greatly depending on several factors, such as bird species, weather conditions in any given year, and long-term climate changes (e.g., drought, warming, etc.). In response to warming, birds have been reported to breed earlier, thereby reducing temperatures that nests are

exposed to during breeding and tracking shifts in availability of resources (Socolar et al., 2017). CDFW staff have observed that climate change conditions may result in nesting bird season occurring earlier and later in the year than historical nesting season dates. CDFW therefore recommends the completion of nesting bird surveys *regardless of the time of year* to ensure compliance with all applicable laws pertaining to nesting and migratory birds. Pre-construction nesting bird surveys should also be repeated if there are pauses in construction.

**Evidence impact would be significant:** It is the Project proponent's responsibility to comply with all applicable laws related to nesting birds and birds of prey. Fish and Game Code sections 3503, 3503.5, and 3513 afford protective measures as follows: section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.)

**Recommended Potentially Feasible Mitigation Measure(s) (Regarding Mitigation Measure or Alternative and Related Impact Shortcoming)** CDFW appreciates the inclusion of BIO-4 in the EIR for protection of nesting birds; however, the measure is insufficient in scope and timing to reduce impacts to a level less than significant. CDFW recommends revising BIO-4 as follows (with additions in **bold** and removals in strikethrough):

**Mitigation Measure BIO-4:**

Pre-construction Nesting Bird Survey: ~~If construction or other project activities are scheduled to occur during nesting bird breeding season (typically February 1 through August 31 for raptors and March 15 through August 31 for the majority of migratory bird species)~~ **Regardless of the time of year**, a preconstruction nesting bird survey shall be conducted by a qualified avian biologist **no more than 3 days** prior to project-related disturbance within and adjacent to the project area. Pre-construction surveys shall focus on both direct and indirect evidence of nesting, including nesting locations and nesting behavior (including but not limited to copulation, carrying food or nesting materials, nest building, agitation, aggressive interaction, feigning injury, or distraction displays). In addition, any clearing of vegetation that may occur is required to take place outside of the breeding season. ~~The survey shall be completed no more than 3 days prior to initial ground disturbance.~~ The nesting bird survey shall include the project area and all suitable areas, including trees, shrubs, bare ground, burrows, cavities, and structures. **The qualified avian biologist will make every effort to avoid potential nest predation as a result of survey and monitoring efforts.** If an active nest is identified, the **qualified** biologist shall establish an appropriately sized no-work buffer zone around the nest, that is ~~sufficient~~ **at least 300 feet for passerines and 500 feet for raptors** to ensure that breeding is not likely to be disrupted or adversely impacted by construction. ~~The size of the~~ **A smaller or larger** no-work buffer zone ~~will~~**may** be based upon the **qualified** biologist's best professional judgment, the birds' displayed behavior (agitation or stress), the nesting species, its sensitivity to disturbance, nesting stage and expected types, and the intensity and duration of disturbance. The no-work buffer zone shall be clearly marked in a way that

does not alert predators. Construction activities shall not occur within any no-work buffer zones until the young birds have successfully fledged and the nest is deemed inactive by the qualified avian biologist. **Active nests and adequacy of the established buffer distance shall be monitored daily by the qualified biologist until the qualified biologist has determined the young have fledged or the Project has been completed. The qualified biologist has the authority to stop work if nesting pairs exhibit signs of disturbance. Any time that construction activities cease for more than seven days, a new nesting bird survey must be conducted.** Qualified avian biologist resumes will be provided to CDFW for review and approval prior to the start of construction.

**COMMENT 6:**

**Issue:** CDFW is concerned with the length and number of topics provided in BIO-6 Biological Protection Measures, as well as their ability to reduce impacts to biological resources to less than significant.

**Specific impact:** The Mitigation Measure written for BIO-6 is not focused and too general. Each of the measures included in BIO-6 should be separated into its own mitigation measure and compiled into a Mitigation Monitoring Reporting Plan (MMRP) for enforceability and compliance by on-site personnel during Project activities.

**Why impact would occur:** Mitigation measures given should be focused on a singular issue per measure, as opposed to listing several general measures. The purpose of mitigation and minimization measures is to reduce the impact of a project to less than significant for each separate issue or biological resource that is anticipated to be impacted.

**Evidence impact would be significant:** A blanket measure covering many topics is less effective in being properly tracked in an MMRP, as each measure is required to be checked individually for compliance and may have a different party responsible for its compliance, depending on the subject of the measure.

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

CDFW provides the following renumbering of mitigation measures below with some editorial suggestions. CDFW notes that bat species are natural pest controls, and use of pesticides is discouraged due to potential for direct poisoning and exposure.

Mitigation Measures:

**BIO-6** Fence markers shall be installed to deter or prevent birds and bats from colliding with perimeter/security fencing and maintenance or replacement of these markers will be completed per the manufacturer instruction.

**BIO-13** If encountered, wildlife within the project site shall be allowed to escape unimpeded, relocated by a qualified biologist and placed in a designated safe area away from construction activities, or left in place when required by regulations, policies, permits, and/or conditions of approval. If wildlife relocation of common species is required, the qualified biologist approved by CDFW prior to the start of construction shall approve the method of relocation or oversee the relocation. Any relocation of special-status species would require additional coverage under an Incidental Take Permit or Biological Opinion.

**BIO-14** Construction personnel trained by the qualified biologist during the WEAP, shall inspect under vehicles and equipment every time the vehicles or equipment are moved to make sure no special status or common wildlife species are present, which could be injured. If an animal is present, site workers shall wait for the individual to move to a safe location. If a special-status species is discovered under equipment or vehicles and does not move on its own, the Applicant shall contact Imperial County, CDFW, and/or USFWS to determine the appropriate action.

**BIO-15** All excavations (e.g., steep-walled holes, or trenches) more than 6 inches deep shall be covered with plywood or similar materials when not in use or fitted with at least one escape ramp, **angled at 30 degrees**, constructed of earth dirt fill, wooden planks, or another material that wildlife could ascend to prevent entrapment. All excavations more than 6 inches deep shall be inspected daily for entrapped wildlife **by a qualified biologist** before construction activities begin and once immediately before being covered with plywood. Before excavations are filled, they shall be thoroughly inspected for entrapped wildlife **by a qualified biologist**. Any wildlife discovered shall be allowed to escape unimpeded before field activities resume or shall be removed from excavated areas by a qualified biologist and released at a safe nearby location.

**BIO-16** Where habitat will be temporarily disturbed, restore the disturbed area to pre-project condition, including decompacting soil and revegetating.

**BIO-17 All open ends of pipes, culverts, and conduits stored in staging in laydown areas shall be covered/capped to exclude wildlife. The qualified biologist shall inspect that the exclusion material remains in place daily.** Any pipes, culverts, and conduits temporarily installed in open trenches ~~or stored in staging/laydown areas~~ shall be covered/capped at the end of each workday. Any such materials that have not been capped shall be inspected by ~~construction personnel~~ **a qualified biologist** for wildlife before being moved, buried, or handled. Should wildlife become trapped, a qualified biologist shall be notified by construction personnel to remove and relocate the individual(s). If a listed species is discovered inside a pipe, that section of pipe shall not be moved. The Project shall contact CDFW and/or USFWS to determine the appropriate action.

**BIO-18** All food-related trash items (wrappers, cans, bottles, food scraps, cigarettes, etc.), general trash, micro trash (nails, bits of metal and plastic, small construction debris, etc.), and other human-generated debris scheduled to be removed shall be stored in animal-proof containers and removed from the site on a regular basis (weekly during construction, and at least monthly during operations). No deliberate feeding of wildlife or domestic animals shall be allowed.

**BIO-19** New light sources shall be minimized, and lighting shall be designed (e.g., using shielding and/or downcast lights) to limit the lighted area to the minimum necessary.

**BIO-20** Use of chemicals, fuels, lubricants, or biocides shall be in compliance with all local, state, and federal regulations. All uses of such compounds shall observe label and other restrictions mandated by the U.S. Environmental Protection Agency, California Department of Food and Agriculture, and other state and federal legislation.

**BIO-21** To prevent harassment and mortality of listed, special status, and common wildlife species and destruction of their habitats, no domesticated animals shall be permitted on the site.

**BIO-22** No firearms shall be allowed on the project site, unless otherwise approved for security personnel.

**BIO-23** Use only **local** native, insecticide-free plants for habitat restoration and enhancement actions. If plants are grown via contract, use grow specifications that limit harmful pesticide residues.

**BIO-24** Protect **bat species and** pollinators and their habitats from pesticides, including insecticides, fungicides, and herbicides. If pesticides are **mandated used** in areas with flowering plants, lessen their potential harm by adhering to the following guidance:

- Avoid the use of neonicotinoids or other systemic insecticides, including coated seeds due to their ecosystem persistence, systemic nature, and toxicity to pollinators (Xerces Systemic Insecticides List [Xerces Society 2025]).
- Avoid the use of insecticides that target lepidopterans (e.g., moths and butterflies), including biological pesticides (Insecticide Resistance Action Committee 2011).
- Use targeted application methods, avoid large-scale broadcast applications, and take precautions to limit off-site movement (e.g., wind drift, discharge from surface water flows).
- If pesticides are **mandated used** for vector control treatments (e.g., mosquitoes), avoid treatment unless monitoring indicates that the species and numbers exceed a public health threshold. For any mosquito treatments, first employ prevention steps such as reducing standing water. Where possible, draw mosquitoes away from sensitive sites (e.g., using dry ice traps) to limit treatment effects in sensitive habitat areas.

- III. **Closely Related Past, Present, and Reasonably Foreseeable Probable Future Projects** (*CUMULATIVE IMPACTS, MANDATORY FINDING OF SIGNIFICANCE: Does the Project have impacts that are individually limited, but cumulatively considerable? "Cumulatively considerable" means that incremental effects of the Project are considerable when viewed in connection with effects of past projects, effects of other current projects, and effects of probable future projects?*)

**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 7:**

**Issue:** Due to Figure 5-1, CDFW is concerned that the DEIR lacks analysis on the cumulative impact of development in the Imperial Valley on the population of western burrowing owl, and the Project's ability to adequately mitigate impacts to western burrowing owl when a large portion of the Imperial Valley has Approved-Not Built and Pending Entitlement projects.

**Specific impact:** The DEIR states that 44,205.39 acres within the Imperial Valley have operational facilities, and 44,328.00 acres have Approved-Not Built and Pending Entitlement projects.

**Why impact would occur:** Should each of these forthcoming projects amounting to 44,205.39 acres impact western burrowing owl, mitigation to offset these impacts in the Imperial Valley would be expected. The DEIR does not analyze mitigation feasibility.

**Recommendation:** CDFW recommends the lead agency evaluate the forthcoming projects and determine if the cumulative impacts to western burrowing owl due to these developments can be appropriately mitigated in the Imperial Valley.

## 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

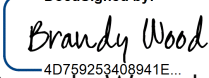
The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental 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 DEIR to assist Imperial County Planning and 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 [Austin.Gutierrez@Wildlife.ca.gov](mailto:Austin.Gutierrez@Wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
4D759253408941E...

Brandy Wood  
Environmental Program Manager

## ATTACHMENTS

Attachment A: Mitigation, Monitoring, and Reporting Program (MMRP) for CDFW-Proposed Mitigation Measures

ec: Office of Planning and Research, State Clearinghouse, Sacramento  
[state.clearinghouse@lci.ca.gov](mailto:state.clearinghouse@lci.ca.gov)

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- Socolar, J. B., Epanchin, P. N., Beissinger, S. R., & Tingley, M. W. 2017. Phenological shifts conserve thermal niches in North American birds and reshape expectations for climate-driven range shifts. *Proceedings of the National Academy of Sciences*, 114(49), 12976-12981.

**Attachment A  
 Draft Mitigation, Monitoring, and Reporting Program**

**Draft Mitigation, Monitoring, and Reporting Program (MMRP)**

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

<b>Biological Resources (BIO)</b>		
<b>Mitigation Measure (MM) Description</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>
<p><b>MM BIO-1:</b> Worker Environmental Awareness Program. Prior to project construction, a Worker Environmental Awareness Program shall be developed and implemented by a qualified biologist and shall be available in both English and Spanish. Qualified biologist resumes shall be provided to the County for review and approval prior to the start of construction. Handouts summarizing potential impacts on special-status biological resources and the potential penalties for impacts on these resources shall be provided to all construction personnel. At a minimum, the education program shall include the following:</p> <ul style="list-style-type: none"> <li>• the purpose for resource protection;</li> <li>• a description of special-status species including representative photographs and general ecology;</li> <li>• occurrences of USACE, RWQCB, and CDFW regulated features in the project area;</li> <li>• regulatory framework for biological resource protection and consequences if violated</li> <li>• sensitivity of the species to human activities;</li> <li>• avoidance and minimization measures designed to reduce the impacts on special-status biological resources.</li> <li>• environmentally responsible construction practices;</li> <li>• reporting requirements; and</li> <li>• the protocol to resolve conflicts that may arise at any time during the construction process.</li> </ul> <p>All personnel shall be required to sign a training roster. The construction manager is responsible for ensuring that all required personnel receive the training. The construction manager shall provide a copy of the signed training roster to the Imperial County Planning and Development Services Department as proof of compliance.</p>	<p>Prior to the start of &amp; during Project related activities</p>	<p>Project Proponent</p>
<p><b>MM BIO-2:</b> Pre-construction Special-Status Plant Surveys. Prior to the start of construction, a qualified biologist shall conduct a botanical</p>	<p>Prior to the start of Project related activities</p>	<p>Project Proponent</p>

<p>field survey following the methodology described in <i>Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities</i> (CDFW 2018). The survey shall be floristic in nature (i.e., identifying all plant species to the taxonomic level necessary to determine rarity), and shall be inclusive of areas proposed for disturbance and indirectly impacted by the project. The results of the survey shall be documented in a letter report that will be submitted to the Imperial County Planning and Development Services Department and CDFW. The survey shall be conducted annually until start of construction to ensure the floristic diversity is accurately captured and effective avoidance, minimization, and mitigation strategies are developed.</p> <p>If special-status plant species are observed during the pre-construction rare plant survey(s) within the development area of the project, the project shall be designed to reduce impacts to these species through the establishment of buffers, to the extent feasible. Buffer distances will be determined by the qualified biologist, typically 50 feet or greater from an identified special-status plant species, unless the Qualified Biologist determines a reduced buffer would suffice to avoid impacts to the species.</p> <p>If avoidance of special-status plant species is not feasible, a Special-Status Plant Relocation Plan shall be developed and implemented. The Special-Status Plant Relocation Plan shall address mitigation for special-status plants, including topsoil salvage to preserve seed bank and management of salvaged topsoil; seed collection, storage, possible nursery propagation, and planting; salvage and planting of bulbs as feasible; location of on-site receptor sites; land protection instruments for receptor areas; and funding mechanisms. The Special-Status Plant Relocation Plan shall include methods, monitoring, reporting, success criteria, adaptive management, and contingencies for achieving success. All special-status plant species identified on site shall be mapped onto a site-specific aerial photograph and topographic map and included on the construction, grading, fuel modification, and landscape plans.</p> <p>Botanical field surveyors shall possess the following qualifications and will be approved</p>		
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<p>by Imperial County prior to any botanical field surveys:</p> <ul style="list-style-type: none"> <li>• Knowledge of plant taxonomy and natural community ecology</li> <li>• Familiarity with plants of the region, including special status plants</li> <li>• Familiarity with natural communities of the region, including sensitive natural Communities</li> <li>• Experience with the CNDDDB, BIOS, and Survey of California Vegetation Classification and Mapping Standards</li> <li>• Experience conducting floristic botanical field surveys as described in <i>Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities</i> (CDFW 2018), or experience conducting such botanical field surveys under the direction of an experienced botanical field surveyor</li> <li>• Familiarity with federal, state, and local statutes and regulations related to plants and plant collecting; and</li> <li>• Experience analyzing the impacts or projects on native plant species and sensitive natural communities.</li> </ul>		
<p><b>MM BIO-3:</b> Avoidance of Sensitive Natural Communities: To the greatest extent practicable, project work shall avoid impacts to arrow-weed thickets, including possibly undergrounding the medium voltage cable. If arrow-weed thickets cannot be avoided, the Applicant shall provide compensatory mitigation for direct impacts consisting of habitat acquisition at a minimum of a 3:1 ratio. Habitat acquisition sites shall be biologically equal or superior to existing conditions and must be conserved and managed in perpetuity. This mitigation measure shall be implemented prior to the start of project-related activities by the Applicant.</p>	<p>During Project related activities</p>	<p>Project Proponent</p>
<p><b>MM BIO-4</b> Pre-construction Nesting Bird Survey: Regardless of the time of year, a preconstruction nesting bird survey shall be conducted by a qualified avian biologist no more than 3 days prior to project-related disturbance within and adjacent to the project area. Pre-construction surveys shall focus on both direct and indirect evidence of nesting, including nesting locations and nesting behavior (including but not limited to copulation, carrying food or nesting materials, nest building, agitation, aggressive interaction, feigning injury, or distraction displays). In addition, any clearing of vegetation that may occur is required to take place outside of the</p>	<p>Prior to Project related activities</p>	<p>Project Proponent</p>

<p>breeding season. The nesting bird survey shall include the project area and all suitable areas, including trees, shrubs, bare ground, burrows, cavities, and structures. The qualified avian biologist will make every effort to avoid potential nest predation as a result of survey and monitoring efforts. If an active nest is identified, the qualified biologist shall establish an appropriately sized no-work buffer zone around the nest, that is at least 300 feet for passerines and 500 feet for raptors to ensure that breeding is not likely to be disrupted or adversely impacted by construction. A smaller or larger no-work buffer zone may be based upon the qualified biologist's best professional judgment, the birds' displayed behavior (agitation or stress), the nesting species, its sensitivity to disturbance, nesting stage and expected types, and the intensity and duration of disturbance. The no-work buffer zone shall be clearly marked in a way that does not alert predators. Construction activities shall not occur within any no-work buffer zones. Active nests and adequacy of the established buffer distance shall be monitored daily by the qualified biologist until the qualified biologist has determined the young have fledged or the Project has been completed. The qualified biologist has the authority to stop work if nesting pairs exhibit signs of disturbance. Any time that construction activities cease for more than seven days, a new nesting bird survey must be conducted. Qualified avian biologist resumes will be provided to CDFW for review and approval prior to the start of construction.</p>		
<p><b>MM BIO-5:</b> Biological Monitoring: Construction monitoring shall be conducted by a qualified biologist. Qualified biologist resumes will be provided to CDFW for approval prior to the start of construction. The biologist shall be given authority to execute the following functions:</p> <ul style="list-style-type: none"> <li>• Establish construction exclusion zones and make recommendations for implementing erosion control measures in temporary impact areas.</li> <li>• Ensure all construction activities stay within the staked construction zone and do not go beyond the limits of disturbance.</li> <li>• Minimize trimming/removal of vegetation to within the project impact area.</li> <li>• Restrict non-essential equipment to the existing roadways and/or disturbed areas to avoid disturbance to existing adjacent native vegetation.</li> <li>• Verify permit compliance.</li> </ul> <p>During construction, the qualified biologists will act as biological monitors and shall inspect and verify field conditions, as needed, to ensure that wildlife</p>	<p>During Project related activities</p>	<p>Project Proponent</p>

<p>and vegetation adjacent to the BSA are not harmed. The biological monitor shall coordinate with the construction supervisor and construction crew and shall have the authority to stop any activity that has the potential to affect special-status species or remove vegetation.</p>		
<p><b>MM BIO-6:</b> Fence markers shall be installed to deter or prevent birds and bats from colliding with perimeter/security fencing and maintenance or replacement of these markers will be completed per the manufacturer instruction.</p>	<p>Prior to Project related activities</p>	<p>Project Proponent</p>
<p><b>MM BIO-7:</b> Avian/Power Line Collision Avoidance and Minimization. Install bird flight diverters in accordance with the Avian Power Line Interaction Committee (APLIC) guidelines for reducing avian collisions with power lines (Reducing Avian Collisions with Power Lines; APLIC 2012). Details of design components shall be indicated on all construction plans. The Applicant shall monitor for new versions of the APLIC collision guidelines and update designs or implement new measures as needed during Project construction, provided these actions do not require the purchase of previously ordered transmission line structures. All bird flight diverters shall be maintained for the duration of construction and operation.</p>	<p>During Project related activities</p>	<p>Project Proponent</p>
<p><b>MM BIO-8:</b> Avian Electrocution Avoidance and Minimization. Implement Project-specific design measures in accordance with the APLIC guidelines for minimizing avian electrocutions. The Applicants shall construct and maintain all transmission facilities, towers, poles, and lines in accordance with applicable policies set forth in the most recent APLIC guidelines for minimizing avian electrocutions (Avian Protection Plan Guidelines; APLIC and USFWS 2005). Specific APLIC guidelines to be incorporated into the design of the transmission lines to minimize avian electrocutions shall include the following:</p> <ul style="list-style-type: none"> <li>• Design the tops of structures to be safe for perching raptors.</li> <li>• Provide 60 inches separation between energized conductors and:             <ul style="list-style-type: none"> <li>o energized conductors,</li> <li>o grounded or neutral conductors,</li> <li>o pole line hardware that could provide a perch or nesting place, and</li> <li>o overhead shield wires, including optical ground wire shield wire.</li> </ul> </li> <li>• Ensure that all exposed jumper cables are completely covered with a cover of a qualified insulation rating.</li> <li>• Ensure insulation of all energized arresters with covers and insulated cables.</li> <li>• Details of design components shall be indicated on all construction plans. The</li> </ul>	<p>Prior and during Project related activities</p>	<p>Project Proponent</p>

<p>Applicants shall monitor for new versions of the APLIC guidelines and update designs or implement new measures as needed during Project construction, provided these actions do not require the purchase of previously ordered transmission line structures.</p>		
<p><b>MM BIO-9:</b> Burrowing Owl Avoidance, Minimization, and Mitigation. The Applicant will apply for and obtain an ITP prior to beginning ground disturbing activities. The Applicant will shall comply with all permit conditions required by CDFW to minimize and fully mitigate take per the California Endangered Species Act.</p> <p>Potential impacts to burrowing owl shall be mitigated per the guidance of the CDFW Staff Report on Burrowing Owl Mitigation (CDFG 2012), unless superseded by the permit conditions required by CDFW in the ITP, and at minimum including the following:</p> <p><u>Burrowing Owl Protection and Mitigation Plan</u></p> <p>As the project construction schedule and details are finalized, a qualified biologist will prepare a Burrowing Owl Protection and Mitigation Plan (BOPMP) for submission to CDFW for approval prior to beginning ground disturbing activities that will detail the approved, site-specific methodology proposed to avoid, minimize and mitigate impacts on this species. The goal of the BOPMP is to avoid potential direct and indirect mortality of burrowing owls, and other forms of take.</p> <p>The BOPMP will include, at a minimum: success criteria based on factors such as site tenacity, number of adult owls present and reproducing, colonization by burrowing owls from elsewhere, evidence and causes of mortality, changes in distribution, trends in stressors; remedial measures; detailed survey methodology; exclusion and excavation methods; guidance for artificial burrow construction and placement; active monitoring procedures; identification of wildlife rehabilitation centers or veterinarians capable of and willing to treat burrowing owls in the case of injury of any life stage of burrowing owl (e.g., eggs, nestlings, fledglings, adults); procedures for collection and storage of carcasses; and annual reporting protocols. The BOPMP will include an annual report to CDFW and shall be funded by the project Applicant.</p> <p><u>Burrowing Owl Pre-Construction Surveys and Physical Barriers</u></p>	<p>Prior to Project related activities</p>	<p>Project Proponent</p>

<p>A CDFW-approved qualified biologist(s) shall conduct take-avoidance (preconstruction) surveys to identify, flag, and map all potential, known, and/or nesting burrows within (a) 14 calendar days prior to beginning ground-disturbing activities in the work area and (b) 24 hours prior to project construction. Surveys shall include the project area and a 500-foot buffer. Technical memoranda that document these survey findings will be submitted to CDFW and Imperial County.</p> <p>If burrowing owl is identified during the non-breeding season (September 1 through January 31), a 50-meter (165-ft) to 100-meter (328-ft) no-work buffer between active burrows and construction activities shall be established by the qualified biologist, and monitored by the qualified biologist during construction activities. However, the minimum buffer shall be increased depending on the level of construction disturbance and construction activity, and behavioral observations indicating the individual may be disturbed or stressed. 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.</p> <p>If burrowing owl is identified during the breeding season (generally February 1 through August 31), then a 100-meter (328-ft) to 200500-meter (6561640-ft) no-work buffer will be established by the qualified biologist in accordance with CDFW Staff Report (CDFG 2012). A qualified biologist shall monitor the burrowing owls for any sign of distress and adjust the buffers as necessary to ensure no take occurs. Construction and disturbance activities within the buffer will be avoided until a qualified biologist determines that the burrow is inactive or until young have fledged (generally October).</p> <p>If active burrows are present within the project footprint and avoidance is infeasible, measures such as passive relocation methods, destruction of burrows, and construction of artificial burrows described in the following sub-sections shall be implemented upon prior approval by and in coordination with CDFW.</p> <p>Depending on the level of disturbance, a smaller buffer may be established by a qualified biologist. Burrows will be buffered from development activities to the greatest</p>		
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<p>extent feasible, as determined by a CDFW-approved biologist. Physical barriers, such as fences and visual screens (e.g., a portable chain link fence with shade cloth), will be used to protect identified burrows and visually shield them from work areas when feasible. Flags or markers will be placed near burrows to ensure that construction equipment does not collapse burrows.</p> <p><u>Burrowing Owl Construction Monitoring</u></p> <p>Monitoring by a qualified biologist shall be performed during all ground-disturbing construction activities to avoid disturbance to burrowing owls. Additionally, if any active burrowing owl nests are present within the project construction area, they must be avoided by establishing a non-disturbance buffer until the young fledge or the nest fails (CDFG 2012). Any nesting owls that are adjacent to the construction area will also be avoided by establishing buffer areas. Buffer areas shall be marked using flagging or fencing to facilitate avoidance.</p> <p><u>Avoidance</u></p> <p>The following avoidance measures shall be implemented to may assist in seasonally and spatially avoiding direct impacts and disturbances that could result in take of burrowing owls, nests, or eggs.</p> <ul style="list-style-type: none"><li>• Avoid disturbing occupied burrows during the breeding season, generally from February 1 through August 31.</li><li>• Avoid impacting burrows occupied during the non-breeding season by migratory or non-migratory resident burrowing owls.</li><li>• Avoid direct destruction of burrows through chaining (dragging a heavy chain over an area to remove shrubs), disking, cultivation, and urban, industrial, or agricultural development.</li><li>• Do not fumigate, use treated bait or other means of poisoning nuisance animals in areas where burrowing owls are known or suspected to occur (e.g., sites observed with nesting owls, designated use areas).</li><li>• Restrict the use of treated grain to poison mammals the months of January and February.</li></ul> <p><u>Passive Relocation and Lands Management Planning</u></p>		
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<p>If burrow avoidance is infeasible during the non-breeding season or during the breeding season where resident burrowing owls have not yet begun egg laying or incubation, or where the juveniles are foraging independently and capable of independent survival, a CDFW-approved qualified biologist shall implement a passive relocation program in accordance with the CDFW Staff Report on Burrowing Owl Mitigation (CDFG 2012). Procedures will also be detailed in the BOPMP. Passive relocation shall only be done in the non-breeding season, where resident owls have not yet begun egg laying or incubation, or where the juveniles are foraging independently and capable of independent survival, in accordance with the Staff Report on Burrowing Owl Mitigation (CDFG 2012) and a CDFW-approved BOPMP as follows:</p> <ul style="list-style-type: none"><li>• To facilitate identification of replacement burrow sites, a Burrowing Owl Exclusion Plan and Mitigation Lands Management Plan shall be prepared by the qualified biologist in accordance with the CDFW Staff Report on Burrowing Owl Mitigation (Appendix E and Appendix F of CDFG 2012). The plans shall be approved by CDFW prior to commencing passive relocation.</li><li>• All burrows would be covered or excavated, and a one-way door would be installed on occupied burrows. This will allow any animals inside to leave the burrow but will exclude any animals from re-entering the burrow.</li><li>• If burrowing owls exhibit signs of stress in attempting to re-enter the burrow, the one-way-door shall be removed to prevent take of the individual.</li><li>• A period of at least 1 week is required after the relocation effort to allow the birds to leave the impacted area before construction of the area can begin.</li><li>• Only burrows that will be directly impacted by the project shall be excavated and filled in to prevent their reuse.</li><li>• Off-site "replacement burrow site(s)" must consist of a minimum of two suitable, unoccupied burrows for every burrowing owl or pair to be passively relocated.</li><li>• The Mitigation Lands Management Plan will be developed when off-site or onsite mitigation habitat protection is needed to ensure compliance with and</li></ul>		
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<p>effectiveness of identified management actions for the mitigation lands. The Applicant shall implement the Mitigation Lands Management Plan and permanently conserve in a conservation easement offsite habitat suitable for burrowing owl at a minimum of 1:1.5 ratio for acres impacted to acres acquired. Land identified to mitigate for passive relocation of burrowing owl may be combined with other offsite mitigation requirements of the Project if the compensatory habitat is deemed suitable to support the species.</p> <ul style="list-style-type: none"> <li>• The Applicant may purchase available burrowing owl conservation bank credits from a CDFW-approved conservation bank in lieu of placing offsite habitat into a conservation easement if appropriate credits are available. The final terms of potential land acquisition and/or credits, or some combination thereof (e.g., fees, easements, approvals, documentation, etc.), will be established in consultation with CDFW via the ITP process.</li> </ul>		
<p><b>MM BIO-10:</b> American Badger Avoidance, Minimization, and Mitigation. Prior to initial site clearing, a CDFW-approved qualified biologist shall conduct a pre-construction survey for American badgers. The biologist shall conduct the pre-construction survey within 3 days prior to the initiation of ground disturbing activities. If no American badger individuals and/or dens are found during the pre-construction survey, the biologist shall document the findings in a letter report to CDFW, and no further mitigation shall be required. If individuals and/or dens are found, the Applicant shall consult with CDFW and a CDFW-approved qualified biologist to determine an appropriate no-disturbance buffer (typically 50-foot buffer around occupied dens and a 250-foot buffer around natal dens) to avoid impacts to the den. The no-disturbance buffer around natal dens shall remain in place until a qualified biologist determines through non-invasive means that the individuals occupying the den have dispersed. If impacts cannot be avoided and den excavation and exclusion implementation is required, den excavation and exclusion activities shall only take place during the non-breeding season (typically September 1 through January 1) in consultation with CDFW.</p>	<p>Prior to Project related activities</p>	<p>Project Proponent</p>
<p><b>MM BIO-11:</b> Prior to Project-activities and issuance of any grading permit, the Project Sponsor shall notify CDFW of Project activities occurring in resources subject to Fish and Game Code section 1602 via the Environmental Permit Information Management System (EPIMS). The Project</p>	<p>Prior to Project related activities</p>	<p>Project Proponent</p>

<p>Sponsor shall either obtain written confirmation stating that an Agreement under section 1602 of the Fish and Game Code is not required for the Project, or the Project Sponsor shall obtain a CDFW-executed Lake and Streambed Alteration Agreement (Agreement), authorizing impacts to Fish and Game Code section 1602 resources associated with the Project and adhere to all avoidance, minimization, and mitigation measures contained within the Agreement.</p>		
<p><b>MM BIO-12:</b> Bat Minimization Measure.</p> <ul style="list-style-type: none"> <li>• The Project Sponsor shall implement agrivoltaics to maintain prey availability and foraging habitat for bat species throughout the operations of the project.</li> <li>• Nightwork shall be prohibited during construction and operations.</li> <li>• Project Sponsor shall implement dark-sky compliant lighting: 1) light only if it is needed; 2) aim and direct light to where it is needed using shielding and controlling its use with motion activation; 3) lowest brightness required; and 4) use of warmer-colored lights.</li> <li>• If potential roost features (e.g., hollow trees, crevices, culverts) are discovered during construction, Project activities shall be temporarily halted, and a qualified biologist shall assess for bat use before Project activities may resume. If bat species are present, CDFW shall be contacted for coordination, and an appropriate no-distance buffer shall be established surrounding the roosting feature depending on the bat species and current construction activities.</li> </ul>	<p>Prior to Project related activities</p>	<p>Project Proponent</p>
<p><b>MM BIO-13:</b> If encountered, wildlife within the project site shall be allowed to escape unimpeded, relocated by a qualified biologist and placed in a designated safe area away from construction activities, or left in place when required by regulations, policies, permits, and/or conditions of approval. If wildlife relocation of common species is required, the qualified biologist approved by CDFW prior to the start of construction shall approve the method of relocation or oversee the relocation. Any relocation of special-status species would require additional coverage under an Incidental Take Permit or Biological Opinion.</p>	<p>During project related activities</p>	<p>Project Qualified Biologist</p>
<p><b>MM BIO-14:</b> Construction personnel trained by the qualified biologist during the WEAP, shall inspect under vehicles and equipment every time the vehicles or equipment are moved to make sure no special status or common</p>	<p>During Project related activities</p>	<p>Project site workers</p>

<p>wildlife species are present, which could be injured. If an animal is present, site workers shall wait for the individual to move to a safe location. If a special-status species is discovered under equipment or vehicles and does not move on its own, the Applicant shall contact Imperial County, CDFW, and/or USFWS to determine the appropriate action.</p>		
<p><b>MM BIO-15:</b> All excavations (e.g., steep-walled holes, or trenches) more than 6 inches deep shall be covered with plywood or similar materials when not in use or fitted with at least one escape ramp, angled at 30 degrees, constructed of earth dirt fill, wooden planks, or another material that wildlife could ascend to prevent entrapment. All excavations more than 6 inches deep shall be inspected daily for entrapped wildlife by a qualified biologist before construction activities begin and once immediately before being covered with plywood. Before excavations are filled, they shall be thoroughly inspected for entrapped wildlife by a qualified biologist. Any wildlife discovered shall be allowed to escape unimpeded before field activities resume or shall be removed from excavated areas by a qualified biologist and released at a safe nearby location.</p>	<p>During Project related activities</p>	<p>Project site workers and Qualified Biologist</p>
<p><b>MM BIO-16:</b> Where habitat will be temporarily disturbed, restore the disturbed area to pre-project condition, including decompacting soil and revegetating.</p>	<p>During Project related activities</p>	<p>Project Proponent</p>
<p><b>MM BIO-17:</b> All open ends of pipes, culverts, and conduits stored in staging in laydown areas shall be covered/capped to exclude wildlife. The qualified biologist shall inspect that the exclusion material remains in place, daily. Any pipes, culverts, and conduits temporarily installed in open trenches shall be covered/capped at the end of each workday. Any such materials that have not been capped shall be inspected by a qualified biologist for wildlife before being moved, buried, or handled. Should wildlife become trapped, a qualified biologist shall be notified by construction personnel to remove and relocate the individual(s). If a listed species is discovered inside a pipe, that section of pipe shall not be moved. The Project shall contact CDFW and/or USFWS to determine the appropriate action.</p>	<p>During Project related activities</p>	<p>Project site workers and Qualified Biologist</p>
<p><b>MM BIO-18:</b> All food-related trash items (wrappers, cans, bottles, food scraps, cigarettes, etc.), general trash, micro trash</p>	<p>During Project related activities</p>	<p>All Project personnel</p>

<p>(nails, bits of metal and plastic, small construction debris, etc.), and other human-generated debris scheduled to be removed shall be stored in animal-proof containers and removed from the site on a regular basis (weekly during construction, and at least monthly during operations). No deliberate feeding of wildlife or domestic animals shall be allowed.</p>		
<p><b>MM BIO-19:</b> New light sources shall be minimized, and lighting shall be designed (e.g., using shielding and/or downcast lights) to limit the lighted area to the minimum necessary.</p>	<p>During Project related activities</p>	<p>Project Proponent</p>
<p><b>MM BIO-20:</b> Use of chemicals, fuels, lubricants, or biocides shall be in compliance with all local, state, and federal regulations. All uses of such compounds shall observe label and other restrictions mandated by the U.S. Environmental Protection Agency, California Department of Food and Agriculture, and other state and federal legislation.</p>	<p>During Project related activities</p>	<p>Project Proponent</p>
<p><b>MM BIO-21:</b> To prevent harassment and mortality of listed, special status, and common wildlife species and destruction of their habitats, no domesticated animals shall be permitted on the site.</p>	<p>During Project related activities</p>	<p>All Project personnel</p>
<p><b>MM BIO-22:</b> No firearms shall be allowed on the project site, unless otherwise approved for security personnel.</p>	<p>During Project related activities</p>	<p>All Project personnel</p>
<p><b>MM BIO-23:</b> Use only local native, insecticide-free plants for habitat restoration and enhancement actions. If plants are grown via contract, use grow specifications that limit harmful pesticide residues.</p>	<p>Post Project related activities</p>	<p>Project Proponent</p>
<p><b>MM BIO-24:</b> Protect bat species and pollinators and their habitats from pesticides, including insecticides, fungicides, and herbicides. If pesticides are mandated in areas with flowering plants, lessen their potential harm by adhering to the following guidance:</p> <ul style="list-style-type: none"> <li>• Avoid the use of neonicotinoids or other systemic insecticides, including coated seeds due to their ecosystem persistence, systemic nature, and toxicity to pollinators (Xerces Systemic Insecticides List [Xerces Society 2025]).</li> <li>• Avoid the use of insecticides that target lepidopterans (e.g., moths and butterflies),</li> </ul>	<p>During Project related activities</p>	<p>Project Proponent</p>

<p>including biological pesticides (Insecticide Resistance Action Committee 2011).</p> <ul style="list-style-type: none"><li>• Use targeted application methods, avoid large-scale broadcast applications, and take precautions to limit off-site movement (e.g., wind drift, discharge from surface water flows).</li><li>• If pesticides are mandated for vector control treatments (e.g., mosquitoes), avoid treatment unless monitoring indicates that the species and numbers exceed a public health threshold. For any mosquito treatments, first employ prevention steps such as reducing standing water. Where possible, draw mosquitoes away from sensitive sites (e.g., using dry ice traps) to limit treatment effects in sensitive habitat areas.</li></ul>		
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