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December 29, 2025

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Subject: Rex Solaire Solar and Storage Project (Project)
Notice of Preparation (NOP)
SCH No.: 2025111031

Dear Noelle Tomlinson:

The California Department of Fish and Wildlife (CDFW) received a Notice of Preparation (NOP) to prepare an Environmental Impact Report (EIR) from Kings County (County) for the above referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.[1]

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

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statue 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

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

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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. Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code may be required.

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

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

Additionally, specified types of infrastructure projects may be eligible for an Incidental Take Permit (ITP) for unavoidable impacts to fully protected species if certain conditions are met (see Fish & G. Code §2081.15). Early consultation with CDFW is recommended if an ITP for fully protected species may be pursued for this Project.

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

Unlisted Species: Species of plants and animals need not be officially listed as Endangered, Rare, or Threatened (E, R, or T) on any State or federal list to be considered E, R, or T under CEQA. If a species can be shown to meet the criteria for E,

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R, or T, as specified in the CEQA Guidelines section 15380, CDFW recommends it be fully considered in the environmental analysis for the Project.

PROJECT DESCRIPTION SUMMARY

Proponent: Rex Solaire Solar and Storage Project, LLC

Objective: The Project proposes to construct, operate, and ultimately decommission a utility-scale photovoltaic (PV) solar power generation and energy storage facility on approximately 18,381 acres in southwestern Kings County. The Project consists of tracking solar PV panel arrays with a nominal output of up to 2,800 megawatts (MW) alternating current (AC) at the point of interconnection and battery energy storage with a capacity of up to 11,200 gigawatt-hours (GWh). Other Project components include Project substations, an underground collection system, and a gen-tie line that would connect the Project substations to up to two switchyards located adjacent to the Pacific Gas and Electric (PG&E) transmission corridor. The Project would also include telecommunication facilities and an operations and maintenance facility.

Location: The proposed Project is sited in southwestern Kings County, approximately ten miles south of Kettleman City and directly east of Interstate 5 and south of Utica Avenue.

COMMENTS AND RECOMMENDATIONS

CDFW previously prepared and submitted a comment letter on the Project's Consultation Notice (CON) on October 3, 2025 (CON Comment Letter), to assist the County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions were also included to improve the DEIR prepared for this Project.

The proposed Project site is within the Tulare Lake Basin and consists of active agricultural lands and fallow fields, as well as undisturbed native and nonnative grassland and wetland habitats. Based on the review of the Project description, California Natural Diversity Database (CNDDB) records, and aerial imagery of the Project site and surrounding habitat, the Project site is within the geographic range of and could potentially impact several special-status animal species including, but not limited to, the State and federally endangered Tipton kangaroo rat (*Dipodomys nitratoides nitratroides*); the State endangered and fully protected blunt-nosed leopard lizard (*Gambelia sila)*; the State threatened and federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*); the State threatened Swainson's hawk (*Buteo swainsonii*), tricolored blackbird (*Agelaius tricolor*), and San Joaquin [Nelson's] antelope squirrel (*Ammospermophilus nelsoni*); the State candidates western burrowing owl (*Athene cunicularia hypugaea)* and Crotch's bumblebee (*Bombus crotchii)*; the State species of

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special concern and federally endangered Buena Vista Lake ornate shrew (*Sorex ornatus relictus)*; the State species of special concern American badger (*Taxidea taxus*), Tulare grasshopper mouse (*Onychomys torridus tularensis*), loggerhead shrike (*Lanius ludovicianus*), coast horned lizard (*Phrynosoma blainvilli*), and San Joaquin coachwhip (*Masticophis flagellum ruddocki*); the State species of special concern and federally proposed threatened western spadefoot (*Spea hammondii*); and federally listed branchiopod species such as vernal pool tadpole shrimp (*Lepidurus packardi*) and vernal pool fairy shrimp (*Branchinecta lynchi*).

The Project is also within the geographic range of several special-status plant species, including, but not limited to, the California Rare Plant Rank (CRPR) 1B.2 recurved larkspur (*Delphinium recurvatum*), the CRPR 1B.2 and federally endangered San Joaquin woolythreads (*Monolopia congdonii*) and Lost Hills crownscale (*Atriplex coronata var. vallicola),* and the CRPR 1B.1 Horn's milk-vetch (*Astragalus hornii var. hornii*), slough thistle (*Cirsium crassicaule*), king's gold (*Tropidocarpum californicum*), Coulter's goldfields (*Lasthenia glabrata ssp. coulteri*) and alkali-sink goldfields (*Lasthenia chrysanta*).

In order to support the adequate assessment of potential impacts to biological resources in the DEIR prepared for the Project, CDFW recommends that a qualified biologist perform relevant database reviews and other research of the Project site and surrounding area, then conduct focused habitat assessments and/or focused biological surveys during the appropriate survey period(s) in order to determine whether any special-status species may be present within the Project site.

CDFW recommends this initial work be documented within the Draft EIR (DEIR) prepared for the Project and used to inform further efforts that may be needed thereafter including the need for additional protocol surveys and/or the development of avoidance, minimization, and/or mitigation measures. This information and analysis may then be used to consider the development of modified or new Project alternatives to avoid and minimize potentially significant environmental impacts on the biological environment. This information is critical to make an informed decision during the CEQA process and to ensure Project compliance with CESA, Fish and Game Code, and other applicable State and federal laws and regulations.

Compensatory Mitigation and CDFW Consultation

As mentioned above, the Project is sited in the Tulare lake basin area and there are many special-status species that utilize the habitats within and surrounding the Project site. CDFW has had early discussions with the Project proponent about obtaining an ITP, pursuant to Fish and Game Code section 2081(b), for Project activities.

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CDFW typically requires compensatory mitigation in ITPs to fully mitigate Project impacts to covered species. Due to the likely Project-related impacts to listed species, the siting of certain Project parcels, and the large size of the Project, the Project would likely require the need for a robust mitigation package that incorporates the careful siting of conserved lands within areas that provide substantial uplift to covered species. As such, CDFW recommends the Project proponent consult with CDFW early in the ITP application process to assist with the development of an adequate mitigation package, if take coverage is to be obtained.

Tipton's Kangaroo Rat

A review of aerial imagery for the Project site indicates that the proposed Project site may contain habitat suitable for Tipton's kangaroo rat (TKR). In addition, the Project site is within the known geographic range of the species and a review of CNDDB indicates that multiple recent TKR observations have been made in areas near the Project site. Suitable TKR habitat includes areas of grassland, upland scrub, and alkali sink habitats that contain requisite habitat elements, such as small mammal burrows. As such, in order to determine if TKR currently utilize the Project site, CDFW recommends that a qualified biologist conduct a habitat assessment for TKR within the Project site and vicinity as part of the biological studies conducted in support of the DEIR. If suitable habitat is identified during these assessments, CDFW recommends including the following measures:

Recommended Mitigation Measure 1: Live Trapping Surveys

CDFW recommends that focused protocol-level live trapping surveys be conducted in areas of suitable habitat and that a trapping plan for determining presence of TKR be submitted to and approved by CDFW prior to subsequent trapping efforts. The trapping plan should also follow the U.S Fish and Wildlife Service (USFWS) (2013) "Survey Protocol for Determining Presence of San Joaquin Kangaroo Rats" survey protocol. CDFW further recommends that surveys for the species be conducted between April 1 and October 31, when the species is most active, and well in advance of ground disturbing activities.

Recommended Mitigation Measure 2: TKR Take Authorization

If surveys indicate the presence or potential presence of TKR, consultation with CDFW is recommended for guidance on the development of mitigation measures such as take avoidance, minimization, and mitigation. If take cannot be avoided, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA.

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Blunt-nosed Leopard Lizard

Blunt-nosed leopard lizard (BNLL) are known to inhabit the grassland habitat located west of and directly adjacent to the Project site. Additionally, the information provided in the NOP and a review of aerial imagery for the Project site indicates that portions of the Project site contain suitable habitat for the species. Suitable BNLL habitat includes all areas of grassland and shrub habitat that contain required habitat elements, such as small mammal burrows and open areas for basking. BNLL are also known to utilize open space patches between suitable habitat features including disturbed sites, unpaved access roadways, and edges of active agriculture.

As BNLL have the potential to occupy the Project site, CDFW recommends that a qualified biologist conduct protocol surveys in accordance with the "Approved Survey Methodology for the Blunt-nosed Leopard Lizard" (CDFW 2019) as part of the biological technical studies conducted in support of the DEIR. This survey protocol, designed to optimize BNLL detectability, reasonably assures CDFW that ground disturbance will not result in take of this fully protected species.

CDFW also recommends the DEIR include the following measures:

Recommended Mitigation Measure 3: BNLL Protocol Surveys

CDFW recommends that a qualified biologist conduct protocol surveys in accordance with the "Approved Survey Methodology for the Blunt-nosed Leopard Lizard" (CDFW 2019) prior to the initiation of any ground-disturbance activities that may occur as part of this Project. This survey protocol, designed to optimize BNLL detectability, reasonably assures CDFW that ground disturbance will not result in take of this fully protected species.

Recommended Mitigation Measure 4: BNLL Avoidance Buffer

CDFW recommends that any BNLL detection, known or potentially occupied burrows, or egg clutch sites have a minimum 395-acre buffer. This buffer is based on unpublished data from Dr. David Germano documenting that "male BNLL have home ranges up to 52 acres and that female BNLL have home ranges exceeding 98 acres, the known maximum home range sizes observed for the species, the unknown specific footprint of the individual BNLL's home range relative to where the lizard was observed on the surface, and the unknown location of the lizard underground when construction commences."

Recommended Mitigation Measure 5: BNLL Take Authorization

With the passage of Senate Bill No. 147, the incidental take of BNLL may be authorized for certain categories of projects, including industrial solar

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photovoltaic projects. If BNLL protocol surveys find that the Project site is occupied by BNLL, or the Project chooses to assume presence for BNLL, consultation with CDFW is recommended to discuss how to implement the Project and avoid take; or if avoidance is not feasible, to potentially acquire an ITP prior to any ground disturbing activities, pursuant Fish and Game Code section 2081 subdivision (b).

San Joaquin Kit Fox

The Project is within the known geographic range of San Joaquin kit fox (SJKF) and a review of aerial imagery of the Project site and the information provided in the NOP indicate that portions of the Project site contain suitable habitat for SJKF. For the purposes of CEQA, it should be assumed that the entire Project site is suitable foraging habitat for SJKF and that SJKF likely utilize the Project site for foraging and possibly for denning.

In addition to natural habitats, SJKF may also be attracted to both construction materials (pipes, etc.) and construction footprints due to the type and level of activity and the loose, friable soils that are created as a result of intensive ground disturbance. SJKF will readily use shipping containers, portable buildings, and stacks of materials (e.g., I-beams, wooden boards) with spaces within or underneath them for denning, in addition to pipes and culverts (Cypher et al. 2023).

To assess and minimize potential Project related impacts to SJKF, CDFW recommends that a qualified biologist assess the presence/absence of denning SJKF by conducting focused surveys to detect SJKF and their sign in all Project areas and a 500-foot buffer of Project areas as part of the biological studies conducted in support of the DEIR prepared for the Project.

CDFW also recommends the DEIR include the following measures:

Recommended Mitigation Measure 6: SJKF Preconstruction Surveys

CDFW recommends assessing presence/absence of denning SJKF by conducting focused den surveys for the species prior to the initiation of Project ground disturbance activities. Specifically, CDFW recommends conducting these surveys over the entirety of the Project site no less than 14-days and no more than 30-days prior to beginning of ground and/or vegetation disturbing activities in each Project phase.

Recommended Mitigation Measure 7: SJKF Avoidance Buffer

CDFW recommends implementing no-disturbance buffers, as described in the USFWS' "Standardized Recommendations for Protection of the San Joaquin Kit

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Fox Prior to or During Ground Disturbance" (2011) (USFWS Protocol) around potentially suitable or known SJKF den sites.

Recommended Mitigation Measure 8: SJKF Take Authorization

If the no-disturbance buffers outlined in the USFWS Protocol are not feasible, consultation with CDFW is warranted to discuss how to implement the Project and avoid take. If take cannot be avoided, acquisition of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b) is required to comply with CESA.

Swainson's Hawk

The Project is within the known geographic range of Swainson's hawk (SWHA) and a review of aerial imagery for the Project site indicates the presence of suitable habitat for SWHA nesting and foraging. As such, CDFW recommends that a qualified biologist conduct surveys for nesting SWHA following the entire survey methodology developed by the SWHA Technical Advisory Committee (SWHA TAC 2000) as part of the biological technical studies conducted in support of the DEIR prepared for the Project. In addition to conducting SWHA surveys, CDFW recommends the DEIR include the following measures:

Recommended Mitigation Measure 9: SWHA Surveys Prior to Construction

Depending on the time between the initial survey efforts conducted in support of the DEIR and Project construction, CDFW recommends that additional surveys, following the survey methodology developed by the SWHA Technical Advisory Committee, be repeated the survey season immediately prior to construction.

Recommended Mitigation Measure 10: SWHA Avoidance Buffer

If Project-specific activities will take place during the SWHA nesting season (i.e., March 1 through September 15), and active SWHA nests are present, CDFW recommends a minimum 0.5-mile no-disturbance buffer be delineated and maintained around each nest, regardless of whether it was detected by surveys or observed incidentally. These buffers would remain in place until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival, to prevent nest abandonment and other take of SWHA as a result of Project activities.

Recommended Mitigation Measure 11: SWHA Take Authorization

In the event an active SWHA nest is detected, and a 0.5-mile no-disturbance buffer is not feasible, consultation with CDFW is warranted to discuss how to

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

Recommended Mitigation Measure 12: SWHA Foraging Habitat Mitigation
Finally, CDFW recommends compensation for the loss of SWHA foraging habitat as described in CDFW's "Staff Report Regarding Mitigation for Impacts to Swainson's Hawks" (CDFG 1994) to reduce impacts to foraging habitat to less than significant. The Staff Report recommends that mitigation for habitat loss occur within a minimum distance of 10 miles from known nest sites. CDFW has the following recommendations based on the Staff Report:

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

Tricolored blackbird

The Project is within the known geographic range of tricolored blackbird (TRBL) and historical and recent occurrences have been documented within approximately five miles of the Project site (CDFW 2025). In the San Joaquin Valley, TRBL historically bred within the vicinity of fresh water, primarily in marshy areas and important sites for nesting colonies included heavy growths of cattails, tules, thistles, willows, blackberries, mustard, nettles, and salt cedar. Foraging typically occurred within flooded lands, grassy fields, and margins of ponds (Grinnel and Miller 1994). However, a large proportion of the San Joaquin Valley TRBL population now nests in agricultural grain fields (Weintraub et al., 2016). Based on aerial imagery, portions of the Project sites could provide potential foraging and nesting habitat to TRBL.

CDFW recommends that a qualified biologist conduct a habitat assessment for TRBL as part of the biological technical studies conducted in support of the DEIR for the Project. If potentially suitable habitat is identified, consultation with CDFW is recommended for guidance on focused survey methods and mitigation measures such avoidance, minimization, and mitigation. If take cannot be avoided, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA.

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San Joaquin Antelope Squirrel

The Project site is within the known geographic range of San Joaquin antelope squirrel (SJAS) and based on a review of aerial imagery, the Project site and adjacent areas may contain suitable habitat for SJAS. To determine if SJAS currently occupy the Project site, CDFW recommends that a qualified biologist conduct a habitat assessment for SJAS within the Project site as part of the biological studies conducted in support of the DEIR. If suitable habitat is determined to be present within the Project Site, CDFW recommends the DEIR include the following measures:

Recommended Mitigation Measure 13: Daytime Visual Surveys

CDFW recommends that a qualified biologist conduct focused daytime visual surveys for SJAS in areas of suitable habitat as part of the biological studies conducted in support of the DEIR.

Recommended Mitigation Measure 14: SJAS Take Authorization

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

Western Burrowing Owl

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

The Project site is within the known geographic range of BUOW, and there are numerous recent and historical occurrences located within and adjacent to the Project site (CDFW 2025). BUOW typically inhabit open grasslands and desert scrublands containing small mammal burrows, a requisite habitat feature used by BUOW for nesting and cover. BUOW may also attempt to use “man-made burrows” such as pipes or culverts. Based on aerial imagery, the Project site and adjacent areas likely contain suitable habitat for BUOW nesting and foraging.

As there is a strong likelihood that BUOW could be impacted by Project activities, CDFW recommends assessing presence/absence of BUOW on the Project site, as well

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as a 500-meter buffer surrounding the Project site, by having a qualified biologist conduct surveys following the 2012 Staff Report on Burrowing Owl Mitigation (2012 Staff Report; CDFG 2012) as part of the biological studies conducted in support of the DEIR prepared for the Project.

In addition to conducting BUOW surveys, CDFW recommends the following measures be included in the DEIR prepared for the Project:

Recommended Mitigation Measure 15: BUOW Surveys Prior to Construction

Depending on the time between the initial survey efforts conducted in support of the DEIR and Project construction, CDFW recommends that additional surveys following the 2012 Staff Report be repeated the survey season immediately prior to construction.

Recommended Mitigation Measure 16: BUOW Avoidance Buffer

Should a BUOW individual or known BUOW den (active or inactive) be detected, either during pre-construction surveys or construction activities, CDFW recommends that no-disturbance buffers, as outlined in the 2012 Staff Report on Burrowing Owl Mitigation, be implemented prior to and during any ground-disturbing activities. CDFW also recommends that these buffers be implemented for both wintering and breeding BUOW.

Recommended Mitigation Measure 17: BUOW Take Authorization

If a BUOW individual or known BUOW den (active or inactive) is detected, and the no-disturbance buffers outlined in the 2012 Staff Report are not feasible, consultation with CDFW is warranted to discuss how to implement the Project and avoid take. If take cannot be avoided, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b), is necessary to comply with CESA.

Crotch's Bumble Bee

The Project site is within the known geographic range of Crotch's bumble bee (CBB) and there are multiple historical occurrences near the Project site (CDFW 2025). CBB inhabit a variety of habitats, including grasslands, scrublands, openings in woodlands, and areas with bare ground such as vacant lots, dirt roads, and levees (Xerces Society et al. 2018). CBB use requisite habitat elements for nesting, such as small mammal burrows and bunch/thatched grasses, which may be present in or near the Project site.

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As CBB may be present within the Project site, CDFW recommends a qualified biologist conduct a habitat assessment as part of the biological studies conducted in support of the DEIR to determine if the Project site and the immediate surrounding vicinity contain habitat suitable to support CBB. Potential nesting sites, which include all small mammal burrows, perennial bunch grasses, thatched annual grasses, brush piles, old bird nests, dead trees, and hollow logs should be documented as part of the assessment. If suitable habitat is identified, CDFW recommends a qualified biologist conduct focused surveys for CBB and their requisite habitat features following the methodology outlined in the Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species (CDFW 2023) as part of the biological studies conducted in support of the DEIR prepared for the Project.

In addition to conducting a CBB habitat assessment and surveys, CDFW recommends the DEIR include the following measures:

Recommended Mitigation Measure 18: CBB Surveys Prior to Construction

Depending on the time between the initial survey efforts, if potentially suitable habitat is identified and regardless of what time of year Project activities will be conducted, CDFW recommends that a qualified biologist conduct focused surveys for CBB and their requisite habitat features following the methodology outlined in the Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species (CDFW 2023).

Recommended Mitigation Measure 19: CBB Avoidance Buffer

If CBB is detected, CDFW recommends that all small mammal burrows and thatched/bunch grasses be avoided by a minimum of 50 feet to avoid take and potentially significant impacts. If CBB are detected during surveys and ground-disturbing activities will occur during the overwintering period (October through February), consultation with CDFW is warranted to discuss how to implement Project activities and avoid take. Any detection of CBB prior to or during Project implementation warrants consultation with CDFW to discuss how to avoid take.

Recommended Mitigation Measure 20: CBB Take Authorization

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

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Buena Vista Lake Ornate Shrew and American Badger

The Project site is within the known geographic range of Buena Vista Lake ornate shrew (BVLS) and American badger (AMBA) and there are multiple historical occurrences near the Project site (CDFW 2025). BVLS occupy moist habitats with suitable cover, such as salt grasses, and can be found in drier grassland and desert scrub habitat within a few hundred feet of seasonal or permanent water sources. AMBA are known to occupy sparsely vegetated land cover with dry, friable soils to excavate dens, which they use for cover, and that support fossorial rodent prey populations (i.e., ground squirrels, pocket gophers, etc.) (Zeiner et al. 1990). Based on aerial imagery, the Project site potentially contains habitat suitable for both species.

CDFW recommends that a qualified biologist assess the presence/absence of BVLS and AMBA by conducting a focused field survey in all areas of potentially suitable habitat as part of the biological studies conducted in support of the DEIR. If surveys indicate the presence or potential presence of either species, consultation with CDFW is recommended for guidance on mitigation measures such as avoidance, minimization, and mitigation.

Other Special-Status Species

The Project site is within the known geographic range of Tulare grasshopper mouse (TGM), coast horned lizard (CHL), San Joaquin coachwhip (SJC), and western spadefoot (WESP) and based on a review of aerial imagery, there may be potential habitat within the Project site. WESP occur primarily in grasslands and in seasonal wetlands, vernal features (e.g. alkali playas), agricultural sumps and irrigation ditches, and seasonally flooded areas with appropriate upland habitat, though they are also known to occur in active agricultural lands in the San Joaquin Valley. TGM, CHL, SJC occur in a variety of habitat types, including sage scrub, annual grassland, chaparral, and saltbush scrub. Microhabitat preferences for CHL and SJF include loose, fine soils for burrowing, open areas for thermoregulation, and shrub cover for refugia. Habitat features that could support both these species are present within the Project site and Project vicinity and, as such, CDFW recommends that a general habitat assessment be conducted as part of the biological technical studies conducted in support of the DEIR prepared for the Project. If the habitat assessment indicates the presence or potential presence of these species, CDFW recommends the following measures be included in the DEIR:

Recommended Mitigation Measure 21: Preconstruction Surveys

Prior to the start of work, CDFW recommends that a qualified biologist conduct focused surveys for the species listed above using appropriate survey

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methodologies, prior to any ground-disturbing activities that may occur as part of the Project.

Recommended Mitigation Measure 22: WESP Avoidance Buffer

If WESP burrows, cracks, loose soil areas or other refugia are found to be used by WESP during focused surveys, avoidance whenever possible is encouraged via delineation and observance of a 50-foot no-disturbance buffer around these resources, including all potential breeding habitat, which can include agricultural sumps and irrigation ditches in addition to any areas that pool water for only a few weeks. Avoidance of potential breeding habitat should occur even when dry, since post-metamorphic WESP juveniles have a unique adaptation to the drying of their temporary breeding pools; they utilize the dried pond bottom as a refuge, burying themselves in the desiccation cracks and damp soil beneath the surface crust (Baumberger et al., 2020). If any life stage of WESP are observed on the Project site, Project activities in their immediate vicinity should cease, allowing individuals to leave the Project site on their own accord.

Recommended Mitigation Measure 23: TGM, CHL, and SJC Avoidance Buffer

If burrows, loose soil areas, or other refugia are found to be used by CHL during focused surveys, avoidance whenever possible is encouraged via delineation and observance of a 50-foot no-disturbance buffer around these resources. If CHL are observed on the Project site, Project activities in their immediate vicinity should cease, allowing individuals to leave the Project site on their own accord.

Branchiopods

The Project site is within the geographic range of vernal pool tadpole shrimp and vernal pool fairy shrimp (branchiopods). Additionally, there are multiple nearby occurrences within the CNDDB, and based on aerial imagery there appears to be suitable habitat throughout the Project site. As such, CDFW recommends that a qualified biologist conduct protocol level surveys within wetted features in accordance with the USFWS "Survey Guidelines for the Listed Large Branchiopods" (USFWS 2017) the survey season prior to construction. These surveys would need to be conducted at the appropriate time of year to determine the existence and extent of branchiopods. If through surveys it is determined that branchiopods are occupying or have the potential to occupy the Project site, coordination with CDFW is recommended well in advance of any planned vegetation- or ground-disturbing activities to determine appropriate avoidance and minimization measures including adequate implementation of no-disturbance buffers.

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Special-Status Plants

CDFW recommends that the Project site be surveyed for special-status plants by a qualified botanist following the Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018). This protocol, which is intended to maximize detectability, includes identification of reference populations to facilitate the likelihood of field investigations occurring during the appropriate floristic period. Please note that adverse conditions from yearly weather patterns may prevent botanical field surveyors from determining the presence of, or accurately identifying, some special status plants in the surveyed area. Disease, drought, predation, fire, herbivory, or other disturbance may also preclude presence or identification of special status plants in any given year. Visiting the survey site in more than one year increases the likelihood of detection. If special-status plants are identified during surveys, consultation with CDFW is recommended for guidance on mitigation measures such as avoidance, minimization, and mitigation. If State endangered, threatened, or rare plants are identified during special status plant surveys and take cannot be avoided, then to ensure compliance with CESA and the Native Plant Protection Act (NPPA), consultation with CDFW for acquisition of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b) and/or California Code of Regulations, Title 14, section 786.9, subdivision (b), is necessary to comply with CESA and the NPPA.

Editorial Comments and/or Suggestions

Battery Energy Storage System Evaluation: The proposed Project includes installation of an approximately 11,200 GWh BESS as part of the Project. CDFW is familiar with the Moss Landing battery plant fire, which was a battery energy storage system (BESS) which had densely stacked batteries within a single warehouse building and which used lithium-ion batteries with Nickel Manganese Cobalt (NMC) chemistry, which are more prone to overheating and thermal runaway. Fires at NMC BESSs cannot be extinguished with water and thus an alternative onsite fire suppression system is critical.

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

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Based on information in the NOP, it appears the BESS configuration for the Project is likely to be constructed of self-contained energy storage modules (i.e., individual battery containers), monitored locally with a battery management system, and monitored remotely via a Supervisory Control and Data Acquisition system (SCADA) which lessens the risk of widespread fire. As part of the BESS configuration, CDFW recommends considering alternative battery technologies to the NMC chemistry, such as Lithium Iron Phosphate (LFP) which uses more benign constituents, is more stable over long life cycles, and has better thermal stability and is less prone to overheating (Evro 2024).

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

Wildlife Friendly Fencing: CDFW recommends that all fencing installed on the perimeter of the Project be designed to allow for passage of small (e.g. rodents) and medium-sized wildlife (e.g. SJKF), while impeding the passage of larger predators such as coyotes. Perimeter fencing should be installed with a four (4) to six (6) inch gap from the bottom of the fencing material and knuckled back to form a smooth edge and allow permeability for wildlife.

Wildlife Connectivity: The Project site and vicinity support significant biological resources and contain habitat connections that support movement across the broader landscape, sustaining both transitory and permanent wildlife populations. CDFW recommends that on-site features that contribute to habitat connectivity should be evaluated and maintained. Aspects of the Project that could create physical barriers to wildlife movement, including direct or indirect Project-related activities, should be identified, and addressed in the DEIR developed for the Project.

Cumulative Impacts: CDFW recommends that a cumulative impact analysis be conducted for all biological resources that will either be significantly or potentially significantly impacted by implementation of the Project, including those whose impacts are determined to be less than significant with mitigation incorporated or for those resources that are rare or in poor or declining health and will be impacted by the Project, even if those impacts are relatively small (i.e., less than significant). Cumulative impacts are recommended to be analyzed using an acceptable methodology to evaluate the impacts of this Project's incremental contribution to habitat loss and past, present, and reasonably foreseeable future projects on resources and be focused specifically on the resource, not the Project. An appropriate resource study area should also be

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identified and mapped for each resource being analyzed and utilized for this analysis. CDFW staff are available for consultation in support of cumulative impacts analyses as a trustee and responsible agency under CEQA.

Lake and Streambed Alteration: The Project site is located within and immediately adjacent to the Tulare Lake Basin which was partially inundated by flooding in 2023. Mapping of the portions of the Tulare Lake Bed that flooded in 2023 indicates that all or most of the Project site remained dry. Project activities that substantially change the bed, bank, and channel of any river, stream, or lake are subject to CDFW's regulatory authority pursuant Fish and Game Code section 1600 et seq. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake (including the removal of riparian vegetation): (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral or intermittent as well as those that are perennial and may include those that are highly modified such as canals and retention basins.

CDFW is required to comply with CEQA in the issuance of a Lake or Streambed Alteration Agreement (LSAA); therefore, if the DEIR approved for the Project does not adequately describe the Project and its impacts to lakes or streams, a subsequent CEQA analysis may be necessary for LSAA issuance. For information on notification requirements, please refer to CDFW's website (https://wildlife.ca.gov/Conservation/LSA) or contact CDFW staff in the Central Region Lake and Streambed Alteration Program at (559) 243-4593.

Groundwater Recharge and Associated Project Retention Basins: The Project site is located in an area that is currently experiencing a significant decline in groundwater sustainability. The DEIR should assess potential impacts from Project activities on groundwater recharge and discuss how retention basins will be incorporated as part of the Project to further facilitate groundwater recharge within the Project footprint and surrounding landscape.

Nesting Birds: CDFW encourages that Project ground-disturbing activities occur during the bird non-nesting season; however, if ground- or vegetation-disturbing activities must occur during the nesting season (February 1st through September 15th), the Project applicant is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Code sections as referenced above.
If the nesting season cannot be avoided, CDFW recommends that a qualified biologist conduct a pre-construction survey for active nests no more than 10 days prior to the start of ground or vegetation disturbance to maximize the probability that nests that

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could potentially be impacted are detected. CDFW also recommends that surveys cover a sufficient area around the Project site to identify nests and determine their status. A sufficient area means any area potentially affected, either directly or indirectly, by the Project. In addition to direct impacts (i.e., nest destruction), noise, vibration, and movement of workers or equipment could also affect nests. CDFW recommends that a qualified biologist establish a behavioral baseline of all identified nests. Once Project activities begin, CDFW recommends having a qualified biologist continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends halting the work causing that change and consulting with CDFW for additional avoidance and minimization measures. If continuous monitoring of identified nests by a qualified biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival. Variance from these no-disturbance buffers is possible when there is a compelling biological or ecological reason to do so, such as when the Project site would be concealed from a nest site by topography. CDFW recommends that a qualified biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

CNDDB: Please note that the CNDDB is populated by records through voluntary submissions of species detections. As a result, species may be present in locations not depicted in the CNDDB but where there is suitable habitat features capable of supporting species. A lack of an occurrence record in the CNDDB does not mean a species is not present. To adequately assess any potential Project-related impacts to biological resources, surveys conducted by a qualified biologist during the appropriate survey period(s) using the appropriate protocol survey methodology are warranted to determine whether any special-status species are present at or near the Project site.

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

CDFW recommends that the DEIR for the Project include an analysis of artificial lighting as it relates to biological resources and incorporate enforceable mitigation measures to decrease the impacts of artificial outdoor lighting on wildlife species. Potentially feasible mitigation measures include motion sensitive lighting; mounting light fixtures as low as

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possible to minimize light trespass; use of light fittings that direct and confine the spread of light downward; and use of long-wavelength light sources. In addition, CDFW recommends that lighting is not installed in ecologically sensitive areas (e.g., streams, wetlands, and habitat used by special-status species, such as nesting/roosting sites and riparian corridors) and the use of the white/blue wavelengths of the light spectrum be avoided.

Project Alternatives Analysis: CDFW recommends that the information and results obtained from the biological technical surveys, studies, and analyses conducted in support of the Project's DEIR be used to develop and modify the Project's alternatives to avoid and minimize impacts to biological resources to the maximum extent possible. When efforts to avoid and minimize have been exhausted, remaining impacts to sensitive biological resources may need to be mitigated to reduce impacts to a less than significant level, if feasible.

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 CNDDB. The CNDDB field survey form can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Submitting-Data. The completed form can be mailed electronically to the CNDDB at the following email address: CNDDB@wildlife.ca.gov. The types of information reported to the CNDDB can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Plants-and-Animals.

FILING FEES

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

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CONCLUSION

CDFW appreciates the opportunity to comment to assist the County in identifying and mitigating Project impacts on biological resources. Please see the enclosed Mitigation Monitoring and Reporting Program (MMRP) table (Attachment 1) which corresponds with the recommended mitigation measures in this comment letter. If you have any questions, please contact Jaime Marquez, Senior Environmental Scientist, at the address provided on this letterhead, by telephone at (559) 580-3200, or by electronic mail at Jaime.Marquez@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Julie Vance
FA83F09FE08945A...

Julie A. Vance
Regional Manager

ATTACHMENT 1 (MMRP)

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Attachment 1

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Attachment 1

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

PROJECT: Rex Solaire Solar and Storage Project by Rex Solaire Solar and Storage, LLC

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
Before Disturbing Soil or Vegetation	
TKR	
Recommended Mitigation Measure 1: TKR Trapping Surveys	
Recommended Mitigation Measure 2: TKR Take Authorization	
BNLL	
Recommended Mitigation Measure 3: BNLL Protocol Surveys	
Recommended Mitigation Measure 5: BNLL Take Authorization	
SJKF	
Recommended Mitigation Measure 6: SJKF Preconstruction Surveys	
Recommended Mitigation Measure 8: SJKF Take Authorization	
SHWA	
Recommended Mitigation Measure 9: SWHA Surveys Prior to Construction	
Recommended Mitigation Measure 11: SWHA Take Authorization	
Recommended Mitigation Measure 12: SWHA Foraging Habitat Mitigation	
SJAS	
Recommended Mitigation Measure 13: Daytime Visual Surveys	
Recommended Mitigation Measure 14: SJAS Take Authorization	
BUOW	
Recommended Mitigation Measure 15: BUOW Surveys Prior to Construction	
Recommended Mitigation Measure 17: BUOW Take Authorization	
CBB	

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RECOMMENDED MITIGATION MEASURE	**STATUS/DATE/INITIALS**
Recommended Mitigation Measure 18: CBB Surveys Prior to Construction	
Recommended Mitigation Measure 20: CBB Take Authorization	
Other Special-Status Species	
Recommended Mitigation Measure 21: Preconstruction Survey	
During Construction	
BNLL	
BNLL Mitigation Measure 4: BNLL Avoidance Buffer	
SJKF	
Recommended Mitigation Measure 7: SJKF Avoidance Buffer	
SWHA	
Recommended Mitigation Measure 10: SWHA Avoidance Buffer	
BUOW	
Recommended Mitigation Measure 16: BUOW Avoidance Buffer	
CBB	
Recommended Mitigation Measure 19: CBB Avoidance Buffer	
Other Special-Status Species	
Recommended Mitigation Measures 22 and 23: Avoidance Buffer	