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State of California – Natural Resources Agency
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January 26, 2026

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Subject: Euismod Energy Storage Project (Project)
Notice of Preparation (NOP)
State Clearinghouse No. 2025120791

Dear Keith Alvidrez:

The California Department of Fish and Wildlife (CDFW) received a NOP from Kern 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 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

[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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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 the potential to result in the disturbance or destruction of active nest sites or unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs, or 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, 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: Euismod Project LLC and Euismod Project I, LLC

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Objective: The Project proposes to construct a battery energy storage system (BESS) facility with associated infrastructure, which will use lithium-ion batteries and ancillary equipment to store approximately 1,150 megawatts (MW) or 9,200 megawatt-hours (MWh) of electricity from the regional grid, to be supplied back as needed, on an approximate 120-acre proposed Project site. Project infrastructure includes operations and maintenance (O&M) facilities, telecommunication facilities, energy storage system(s), onsite collector substation(s), and a temporary laydown yard. The proposed Project also includes an approximately 2,000-foot generation-tie (gen-tie) line, on poles of a maximum height of 200 feet, to connect the Project to the existing Southern California Edison (SCE) Whirlwind Substation.

Location: The proposed Project site is at the northern edge of the Antelope Valley, approximately 8 miles west of the unincorporated area of Rosamond, approximately 15 miles west of State Route (SR) 14, and 6 miles north of SR 138. The proposed Project site is within the U.S. Geological Survey Fairmont Butte quadrangle, and in Section 14 of Township 9 North; Range 15 West of the SBBM.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations 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 may also be included to improve the Draft Environmental Impact Report (DEIR) prepared for this Project.

As stated in the NOP, the proposed Project site is relatively flat, undeveloped land in the Mojave Desert on the northern edge of the Antelope Valley. Desert vegetation dominates the regional landscape of the proposed Project site and includes Mojave desert scrub (creosote bush scrub, cheesebush scrub, and Joshua tree woodland alliances) and non-native grassland. Based on a review of the Project description, California Natural Diversity Database (CNDDB) records, and aerial imagery of the Project site and surrounding habitat, the Project is within the geographic range of, and could potentially impact, several special-status animal species including, but not limited to, the State endangered and federally threatened desert tortoise (*Gopherus agassizii*); the State threatened Mohave ground squirrel (*Xerospermophilus mohavensis*) and Swainson's hawk (*buteo Swainsonii*); the State fully protected golden eagle (*Aquila chrysaetos);* the State candidate western burrowing owl (*athene cunicularia hypugaea)* and Crotch's bumblebee (*bombus crotchii)*; the State species of special concern American badger (*Taxidea taxus*), Le Conte's thrasher (*Toxostoma lecontei*), loggerhead shrike (*Lanius ludovicianus*), long-eared owl (*Asio otus*), and short-eared owl (*Asio flammeus*); the State watch list prairie falcon (*Falco mexicanus*) and California horned lark (*Eremophila alpestris actia*); and the State protected furbearing mammal desert kit fox (*Vulpes macrotis arsipus*).

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The Project is also within the geographic range of several special-status plant species, including, but not limited to, the State candidate western Joshua tree (*Yucca brevifolia*); the CRPR 1B.1 Horn's milk-vetch (*Astragalus hornii var. hornii*) and the CRPR 1B.2 alkali mariposa lily (*Calochortus striatus*).

To support the adequate assessment of potential impacts to biological resources in the DEIR, 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 DEIR 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 in the DEIR 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.

Desert Tortoise

The Project site is within the known geographic range of desert tortoise (DT) and there are multiple historical occurrences within the Project site and surrounding area (CDFW 2026). DT are most common in desert scrub, desert wash, and Joshua tree habitats (CDFW 2018a). Based on aerial imagery, the Project site consists of desert scrub communities and Joshua tree woodlands which have the potential to support DT.

CDFW recommends that protocol DT surveys be conducted following the protocol contained in "Preparing for any action that may occur within the range of the desert tortoise (*Gopherus agassizii*)" (USFWS 2019) as part of the biological studies conducted in support of the DEIR and again prior to the initiation of Project activities. If an individual DT or potential DT burrow is detected, consultation with CDFW is recommended for guidance on how to implement the Project and avoid take of the species or for guidance on obtaining an ITP, pursuant to Fish and Game Code section 2081 subdivision (b).

Mohave Ground Squirrel

While the Project site is located west of the SR-14, outside of the identified historical boundary of Mohave ground squirrel (MGS) (Leitner 2021), this boundary is not exact, and MGS populations are known to fluctuate over time. Suitable MGS habitat includes all broadly described plant communities in the western Mojave Desert including saltbush

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scrub, creosote bush scrub, western Joshua tree woodland, and sagebrush scrub (Gustafson 1993). As the Project site appears to contain suitable habitat for MGS, CDFW recommends that a qualified biologist conduct a habitat assessment as part of the biological technical studies conducted in support of the DEIR. CDFW also recommends the DEIR provide an analysis of MGS and the potential for occurrence and Project-related impacts. If it is determined that MGS has the potential to occur within the Project site and be impacted by Project activities, consultation with CDFW is recommended for guidance on surveys, and avoidance, minimization, and mitigation measures. 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.

Swainson's Hawk

The Project is within the known geographic range of Swainson's hawk (SWHA). SWHA are known to travel for miles to forage, exhibit high nest-site fidelity year after year, and lack of suitable nesting habitat in the Antelope Valley and the Kern County portion of the Mohave Desert limits their local distribution and abundance (CDFW 2016). Based on aerial imagery, the Project site and adjacent areas may contain suitable habitat for SWHA nesting and foraging.

As SWHA have the potential to use the Project site, CDFW recommends that a qualified biologist conduct surveys for nesting SWHA following the Swainson's Hawk Survey Protocols, Impact Avoidance, and Minimization Measures for Renewable Energy Projects in the Antelope Valley of Los Angeles and Kern Counties, California (SWHA Survey Protocol; California Energy Commission 2010) as part of the biological technical studies conducted in support of the DEIR. In addition to conducting SWHA surveys, CDFW recommends the DEIR include the following measures:

Recommended Mitigation Measure 1: 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 SWHA Survey Protocol, be repeated the survey season immediately prior to construction.

Recommended Mitigation Measure 2: 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. These buffers should 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

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survival, to prevent nest abandonment and other take of SWHA as a result of Project activities.

Recommended Mitigation Measure 3: 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 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 4: Loss of SWHA Foraging Habitat

CDFW recommends compensation for the loss of SWHA foraging habitat as described in the Swainson's Hawk Survey Protocols, Impact Avoidance, and Minimization Measures for Renewable Energy Projects in the Antelope Valley of Los Angeles and Kern Counties, California (California Energy Commission 2010) to reduce impacts to foraging habitat to less than significant. The SWHA Survey Protocol recommends that loss of SWHA foraging habitat be mitigated by providing habitat mitigation lands within the Antelope Valley SWHA breeding range at a minimum 2:1 ratio for such habitat impacted within a 5-mile radius of active SWHA nest(s). CDFW considers a nest active if it was used one or more times within the last 5 years.

Golden Eagle

The Project site is within the known geographic range of golden eagle (GOEA) and there are several documented occurrences of GOEA in the Project vicinity (CDFW 2026). GOEA are known to inhabit open areas with large trees, utility towers, and cliffs for nesting (Pagel et al. 2010). These habitat features may be present near the Project site, and as such, CDFW recommends that a qualified biologist conduct a habitat assessment to determine whether suitable GOEA nesting habitat is present within the Project site or vicinity. If suitable nesting habitat is identified, CDFW recommends incorporating survey methods outlined in the Protocol for the Interim Golden Eagle Inventory and Monitoring Protocols; and Other Recommendations guidelines (Pagel et al. 2010). If a GOEA nest is detected, consultation with CDFW is recommended for guidance on how to implement the Project and avoid take of the species or for guidance on potentially obtaining an ITP, pursuant to Fish and Game Code section 2081 subdivision (b), if certain conditions are met (see Fish & G. Code §2081.15).

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

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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 2026). 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 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 consulting with CDFW 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. CDFW also recommends assessing presence/absence of BUOW on the Project site, as well 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.

In addition to conducting BUOW surveys, CDFW recommends the DEIR include the following measures:

Recommended Mitigation Measure 5: BUOW Pre-Construction Surveys

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 6: BUOW Avoidance Buffer

Should a BUOW individual or known BUOW burrow (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 7: BUOW Take Authorization

If a BUOW individual or known BUOW burrow (active or inactive) is detected, and the no-disturbance buffers outlined in the 2012 Staff Report are not feasible,

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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 2026). 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.

As CBB may be present within the Project site, CDFW recommends a qualified biologist conduct a habitat assessment 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 2023b) as part of the biological studies conducted in support of the DEIR.

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

Recommended Mitigation Measure 8: CBB Pre-Construction Surveys

Depending on the time between the initial survey efforts, 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 2023b).

Recommended Mitigation Measure 9: CBB Avoidance

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

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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 10: 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.

American Badger

The Project site is within the known geographic range of American badger (AMBA) and there are several documented occurrences near the Project site (CDFW 2026). AMBA occupies 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 AMBA.

CDFW recommends that a qualified biologist assess the presence/absence of 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 AMBA, consultation with the CDFW is recommended for guidance on mitigation measures such as avoidance, minimization, and mitigation.

Desert Kit Fox

The Project site is within the known geographic range of desert kit fox (DKF), and this species is known to inhabit sparsely vegetated scrub habitats within the California desert that support small mammal populations (McGrew 1979). Based on aerial imagery, the Project site appears to have suitable habitat for DKF denning and foraging. CDFW recommends that a qualified biologist assess the presence/absence of DKF 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 DKF, consultation with the CDFW is recommended for guidance on take avoidance measures.

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 2018b). 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

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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. Additional focused survey recommendations for western Joshua tree (WJT) are provided below.

Western Joshua Tree

According to aerial imagery, western Joshua tree (WJT) is confirmed to be present within the Project site. WJT is a candidate species under CESA. Take of any CESA listed species, including candidate species, is prohibited except as authorized by state law (Fish and Game Code, §§ 2080 & 2085). The California state legislature has enacted the Western Joshua Tree Conservation Act (WJTCA), which aims to provide protection of WJT and provides another permitting mechanism for the incidental take of WJT. As WJT could be impacted by Project activities, CDFW recommends consulting with CDFW to discuss how to implement the Project and avoid take, or to obtain appropriate take authorization under CESA or WJTCA. CDFW also recommends that a qualified botanist conduct focused WJT surveys to identify the locations, number, and health of individuals as part of the biological technical studies conducted in support of the DEIR.

Recommended Mitigation Measure 11: WJT Take Authorization

In the absence of an ITP, CDFW recommends avoiding each individual WJT by 290 feet, to avoid any impacts to individual WJT and the seed bank as rodents may transport seeds as far as 290 ft to secondary seed caches (Vander Wall 2006). 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. Alternatively, the Project also has the option to obtain take authorization through issuance of a WJTCA ITP, pursuant to Fish and Game Code section 1927.3.

Editorial Comments and/or Suggestions

Battery Energy Storage System Evaluation: The proposed Project includes installation of an approximately 1,150 MW or 9,200 MWh BESS as part of the Project.

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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.

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.

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,

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and reasonably foreseeable future projects on resources and be focused specifically on the resource, not the Project. The cumulative impacts analysis should specifically include all past, present, and foreseeable renewable energy projects in the Antelope Valley area. An appropriate resource study area should also be identified and mapped for each resource being analyzed and utilized for this analysis. CDFW staff is available for consultation in support of cumulative impacts analyses as a trustee and responsible agency under CEQA.

Lake and Streambed Alteration: Based on a review of aerial photography, the Project site contains numerous streams and associated hydrologic features, and certain stream features, such as alluvial fans and desert washes, may be difficult to delineate using field verification only. Project activities that will substantially change or use any material from 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 or dispose of 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 prior to issuance of a Final Lake or Streambed Alteration Agreement (LSAA); therefore, if the CEQA document 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 Final 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.

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.

The Project site and vicinity are known to support many species of nesting birds, including Le Conte's thrasher, loggerhead shrike, long-eared owl, short-eared owl, prairie falcon, and California horned lark. 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 could potentially be impacted are detected.

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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.

California Natural Diversity Database (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

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mitigation measures include motion sensitive lighting; mounting light fixtures as low as 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 or directed towards 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).

CONCLUSION

CDFW appreciates the opportunity to comment on the NOP 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.

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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)

ec: State Clearinghouse
Land Use and Climate Innovation
state.clearinghouse@lci.ca.gov

Jaime Marquez
California Department of Fish and Wildlife

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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: Euismod Energy Storage Project by Euismod Project LLC and Euismod Project I, LLC

SCH No.: 2025120791

RECOMMENDED MITIGATION MEASURE	**STATUS/DATE/INITIALS**
Before Disturbing Soil or Vegetation	
SWHA	
Recommended Mitigation Measure 1: SWHA Surveys Prior to Construction	
Recommended Mitigation Measure 3: SWHA Take Authorization	
Recommended Mitigation Measure 4: SWHA foraging habitat mitigation	
BUOW	
Recommended Mitigation Measure 5: BUOW Surveys Prior to Construction	
Recommended Mitigation Measure 7: BUOW Take Authorization	
CBB	
Recommended Mitigation Measure 8: CBB Surveys Prior to Construction	
Recommended Mitigation Measure 10: CBB Take Authorization	
WJT	
Recommended Mitigation Measure 11: WJT Take Authorization	
During Construction	
SWHA	
Recommended Mitigation Measure 2: SWHA Avoidance Buffer	
BUOW	
Recommended Mitigation Measure 6: BUOW Avoidance Buffer	
CBB	
Recommended Mitigation Measure 9: CBB Avoidance	