



STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

GAVIN NEWSOM, Governor
MEGHAN HERTEL, Director

Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
wildlife.ca.gov

May 28, 2026

Adrian Veliz, Senior Planner
Contra Costa County
30 Muir Road
Martinez, CA 94514
Adrian.Veliz@dcd.cccounty.us

Subject: Opson Solar Project, Mitigated Negative Declaration, SCH No. 2026050221, Contra Costa County

Dear Adrian Veliz:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) from Contra Costa County (County) for the Opson Solar Project (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, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a potential **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. To the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

Proponent: Hubbard Farming and Forestry, as represented by John Milochik

Objective: The objective of the Project is to construct a 6.6-megawatt (MW) solar energy generation facility on an approximately 30-acre site comprising two adjacent parcels, a 10-acre northern parcel and a 20-acre southern parcel. The proposed facility includes approximately 11,760 solar panel modules arranged in uniformly spaced arrays with a height

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.

Adrian Veliz, Senior Planner
Contra Costa County
May 28, 2026
Page 2

ranging from 4 feet 6 inches to 7 feet 6 inches depending on the orientation of the panels. A 10 megawatt-hour (MWh) battery energy storage system (BESS) is proposed to be constructed at the northwestern corner of the Project site on a 20-foot by 40-foot concrete pad. The Project is proposed to connect to the existing Pacific Gas and Electric Company's (PG&E's) electrical distribution system located within public rights-of-way adjoining the Project site.

Location: The 20-acre southern parcel is located at 5675 Hope Way in Byron, CA. The 10-acre northern parcel is located at 5595 Byron Hot Springs Road, directly north of and adjoining the southern parcel. The MND states that the 10-acre northern parcel is developed and being utilized by a recycling facility and the 20-acre southern parcel consists of fallow farmlands.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below 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 document.

Biological Resources Analysis

CDFW reviewed the Biological Resources Analysis (BRA) prepared for the Project and offers the following comments:

1. The BRA's description of the acreage of the Project site is inconsistent, both within the document and with the MND. In Section 1.1, paragraph 1 (p. 1), Section 1.2.1, paragraph 1 (p. 2), paragraph 1 (p. 3), the BRA describes the Project site as being 30 acres. However, in Section 1.2, paragraph 1 (p. 2), and Section 1.3, paragraph 1 (p. 3), the BRA states the site is 50 acres. The BRA also describes the northern and southern parcels of the site as 20 and 30 acres in size, respectively. The MND prepared by the County describes the Project site as consisting of the northern and southern parcels sized 10 and 20 acres, respectively, for a total of 30 acres. CDFW recommends the BRA and, if applicable, the MND be updated to clarify the correct size of the Project area.
2. Section 2.2.1 (*Tools Used to Identify Required Studies*) states that the California Natural Diversity Database (CNDDDB) was used to identify potential special-status species and habitat types that may occur on or in the vicinity of the Project area. While the CNDDDB is a valuable tool, it is a positive-occurrence database only and may not contain every observation of special-status species in the Project area. Therefore, solely relying on CNDDDB entries results in underestimating the presence or diversity of special-status species that could occur on or near the Project area. Use of CNDDDB records should also not be a substitute for field surveys by an experienced qualified biologist. CDFW recommends consulting other useful resources including, but not limited to:
 - a. The U.S. Fish and Wildlife Service (USFWS) Information for Planning and Conservation (IPaC) Program (ipac.ecosphere.fws.gov);
 - b. The California Native Plant Society (CNPS) Inventory of Rare and Endangered Plants of California (<https://www.cnps.org/rare-plants/cnps-inventory-of-rare-plants>);
 - c. California Wildlife Habitat Relationships (CWHR) Maps and Data (<https://wildlife.ca.gov/Data/Analysis/CWHR>);
 - d. Calflora observation search (<https://www.calflora.org/entry/observ.html>);
 - e. The eBird citizen-based observation network (<https://ebird.org/home>);

Adrian Veliz, Senior Planner
 Contra Costa County
 May 28, 2026
 Page 3

- f. The iNaturalist citizen-based observation network (<https://www.inaturalist.org/>); and
- g. The UC Davis Tricolored Blackbird Portal (<https://tricolor.ice.ucdavis.edu/>.)
3. Table 2.1 (*Listed Species, Proposed Species, and Critical Habitat Potentially Occurring or Known to Occur near the Project Area*) lists habitat for species analyzed as “Not Likely” to be present in the Project area. Of the 41 species considered, only 6 included the reasoning behind the “Not Likely” designation. For many of the species included in the table, the reason that habitat is considered unlikely to be present is not clear because the “General Habitat Description” included in the table describes habitat elements supporting some of the species as present on or near the Project site. For example, Section 3.1.3 (Hydrology), paragraph 1, page 17 states that drainage on-site “occurs through an overland flow and shallow swales, the property slightly slopes and water is pooled at the eastern side”. Seasonal pooling could offer habitat that is similar to a vernal pool, seasonal wetland, mesic area, or vernal moist area. Section 3.1.4.2 (*Barren*), paragraph 3, page 18, notes the presence during a survey of stalked popcornflower (*Plagiobothrys stipitatus*), a native species associated with vernal pools, on the Project site. Special-status plants associated with vernal pools and similar moist habitats in Table 2.1 include alkali milk-vetch (*Astragalus tener* var. *tener*) (California Rare Plant Rank [CRPR] 1B.2), heartscale (*Atriplex cordulata* var. *cordulata*) (CRPR 1B.2), brittlescale (*Atriplex depressa*) (CRPR 1B.2), spiny-sepaled button-celery (*Eryngium spinosepalum*) (CRPR 1B.2), San Joaquin spearscale (*Extriplex joaquinana*) (CRPR 1B.2), and California alkali grass (*Puccinellia simplex*) (CRPR 1B.2).

The Project site is also likely to include habitat for special-status plant species associated with grasslands. Based on aerial photography of the Project site, surrounding habitat areas appear to be dominated by grasslands. Vegetated areas of the site, including margins that may be less frequently disturbed by disking, are likely to share similar qualities. Grassland-associated species in Table 2.1 that are not already listed above include big tarplant (*Blepharizonia plumosa*) (CRPR 1B.1), recurved larkspur (*Delphinium recurvatum*) (CRPR 1B.2), stinkbells (*Fritillaria agrestis*) (CRPR 4.2), and caper-fruited tropicocarpum (*Tropidocarpum capparideum*) (CRPR 1B.1).

The Project site also appears to have potentially suitable habitat for several special-status wildlife species which were identified in the BRA as being “Not Likely” to support suitable habitat, including, but not limited to, the following:

- Tricolored blackbird (*Agelaius tricolor*) (see Special-Status Species Impacts below);
- Western burrowing owl (*Athene cunicularia hypugaea*) (see Special-Status Species Impacts below);
- Swainson’s hawk (*Buteo swainsoni*) (see Special-Status Species Impacts below);
- California horned lark (*Eremophila alpestris actia*): Table 2.1 states this species inhabits “open, barren, or sparsely vegetated landscapes”;
- Prairie falcon (*Falco mexicanus*): Table 2.1 states this species forages in agricultural fields;

Adrian Veliz, Senior Planner
 Contra Costa County
 May 28, 2026
 Page 4

- American badger (*Taxidea taxus*) (Species of Special Concern): Table 2.1 states this species "inhabits open, dry, treeless areas" and "are often found in agricultural fields and pastures"; and
- Crotch's bumble bee (*Bombus crotchii*): The Project site is within this species' range and, according to the BRA, supports some native and non-native floral resources that Crotch's bumble bee may use such as yellow star-thistle (*Centaurea solstitialis*) and other flowering plants. Sufficient floral resources to support nesting or foraging Crotch's bumble bee may exist both on and surrounding the site. (see also Special-Status Species Impacts below)

CDFW recommends the BRA be updated to include biologically sound justifications for ruling out the potential presence of habitat for the above-listed species on the Project site, or near enough to be impacted by Project activities. CDFW also recommends the table be updated to include any special-status species with observed occurrences in the area that were not previously considered, if any are found, following consultation of the above-listed resources.

Surveys and Site Description

1. Section 2.3 (*Personnel and Survey Dates*) does not list dates of surveys conducted, however, based on discussions in other sections of the BRA it appears that the Project site was visited only once, on February 2, 2026. A single visit, especially during the winter season, is insufficient to conduct meaningful surveys to both detect special-status species and describe the habitat types present on the Project site.

For example, Section 3.1.1 (*Project Action Area*), paragraph 2 describes the southern portion of the site as "100% disked dirt with no vegetation". Section 3.1.4.2, paragraph 1 describes it as "99% barren habitat and less than 1% of ruderal sprout vegetation". Section 4.2.2 (*Tricolored Blackbird [Agelaius tricolor]*) cites the observed lack of vegetation as justification for the site's unsuitability for tricolored blackbird foraging habitat, stating that "tricolored blackbird was not observed on site and not likely to effect (*sic*) habitat due to no vegetation being found during the biological site assessment." However, Section 3.1.4.2 also notes that the southern portion of the Project site had been disked in January 2026. While the BRA states that disking occurs "three to four times a year" and that the process has been repeated "for many years", a review of aerial photography of the site reveals visible vegetation within the last few years, including multiple instances where the site is noticeably green.

A complete habitat assessment should be conducted by visiting the site multiple times and, ideally, during multiple seasons. This would provide a more accurate and representative assessment of growth and development of habitat on the Project site, changes in response to disturbances and types of resources available to wildlife at different times of the year. Otherwise, the MND should be revised to assume presence of special-status species that have potential to be within or in the vicinity of the Project area.

Furthermore, a single visit is insufficient to conduct detection surveys for special-status species with the potential to occur in the area. CDFW recommends that protocol-level surveys be conducted for any special-status wildlife species with the potential to be impacted by Project activities. Both the Project area and surrounding areas, to the extent that they can be accessed, should be surveyed, particularly for species that may be impacted by Project activities (e.g. nesting bird species).

Special-status Species Impacts

Adrian Veliz, Senior Planner
Contra Costa County
May 28, 2026
Page 5

1. Tricolored blackbird (listed as 'threatened' under CESA): The UC Davis Tricolored Blackbird Portal includes a record from April 2025 of a colony near the Byron Airport approximately 0.75 miles southwest of the Project site, which is well within the species' foraging range. Vegetation regrowth between disking events on the site may be sufficient to provide foraging habitat for tricolored blackbirds traveling from a colony to the south or from other areas. The permanent loss of potentially up to 20 acres of tricolored blackbird foraging habitat is a potentially significant impact. CDFW recommends the Project area be more thoroughly evaluated for habitat suitability as described above. If the habitat is potentially suitable for tricolored blackbirds, CDFW recommends the MND be revised to include compensatory mitigation, such as the acquisition and permanent protection of tricolored blackbird nesting and/or foraging habitat under a conservation easement and/or purchase of tricolored blackbird habitat credits from a conservation bank (if credits are available) to offset any permanent or temporary impacts to suitable tricolored blackbird foraging habitat to reduce the impact to a level below significance. Conserved lands should be managed in perpetuity by establishing a non-wasting endowment fund.

If tricolored blackbirds are documented or could potentially be present within the Project area, and impacts of the Project are considered unavoidable, CDFW recommends the Project proponent obtain take authorization in the form of an Incidental Take Permit (ITP) under CESA.

2. Swainson's hawk (listed as 'threatened' under CESA): Based on the open and flat topography of the Project site as well as the BRA's documented presence of Swainson's hawk prey species such as ground squirrels, small birds, and reptiles, as well as the large number of documented occurrences of Swainson's hawk in surrounding areas, the Project site likely supports up to 20 acres of foraging habitat for Swainson's hawk. The permanent loss of Swainson's hawk habitat is a potentially significant impact. CDFW recommends that the MND be revised to include compensatory mitigation following the guidelines established in CDFW's [Staff Report regarding Mitigation for Impacts to Swainson's Hawks \(*Buteo swainsoni*\) in the Central Valley of California](#) to offset any permanent and/or temporary impacts to suitable Swainson's hawk foraging habitat to reduce the impact to a level below significance.

Additionally, Project activities may negatively impact nearby nesting Swainson's hawks, up to and including the risk of causing nest abandonment and the loss of eggs and young. The Swainson's hawk nesting season is typically from March 1 to September 15. Swainson's hawks are skilled at hiding their nests, and nests may be extremely difficult to locate even by experienced surveyors depending on the timing of surveys such as during egg incubation when the female may be well concealed and the male is often away from the nest foraging. For this reason, a single pre-construction nesting bird avoidance survey is insufficient to reliably avoid impacts to nesting Swainson's hawks. CDFW recommends protocol-level surveys be conducted to document any active Swainson's hawk nests in the Project area following the protocol described in the *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley* (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83990&inline>) (Swainson's Hawk Technical Advisory Committee, 2000).

If Swainson's hawks are documented or could potentially be present within the Project area and impacts of the Project are considered unavoidable, CDFW recommends the Project proponent obtain take authorization in the form of an ITP under CESA.

Adrian Veliz, Senior Planner
 Contra Costa County
 May 28, 2026
 Page 6

3. Western burrowing owl (candidate for listing as 'endangered' under CESA): Based on the presence of ground squirrels on the Project site and nearby occurrences of western burrowing owls in the CNDDDB, western burrowing owls may nest or overwinter nearby and use the site for foraging or, depending on the timing and frequency of disking activities, may nest on-site. Western burrowing owls tend to prefer open habitat with sparse or short vegetation (Dechant *et al.* 1999). The permanent loss of western burrowing owl habitat is a potentially significant impact. CDFW recommends that the MND be revised include compensatory mitigation, such as the acquisition and permanent protection of Crotch's bumble bee foraging habitat under a conservation easement to offset any permanent or temporary impacts to suitable western burrowing owl foraging habitat to reduce the impact to a level below significance. Conserved lands should be managed in perpetuity by establishing a non-wasting endowment fund.

Additionally, Project activities may negatively impact nesting western burrowing owls (on-site and/or nearby), up to and including the risk of causing nest abandonment and the loss of eggs and young, as well as overwintering owls. CDFW recommends conducting protocol-level surveys during both the burrowing owl overwintering and nesting seasons to document owl presence at the Project site and surrounding areas following the protocols described in CDFW's 2012 Staff Report on Burrowing Owl Mitigation (CDFW, 2012), available at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline>.

If western burrowing owls are documented could potentially be present and impacts of the Project are considered unavoidable, CDFW recommends the Project obtain take authorization in the form of an ITP under CESA.

4. Crotch's bumble bee (candidate for listing as 'endangered' under CESA). Crotch's bumble bee was not evaluated in the BRA. However, the Project site occurs within the Crotch's bumble bee's current range (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213184&inline>) and may contain suitable habitat. CDFW recommends that the Project area be thoroughly evaluated for habitat suitability for Crotch's bumble bee using the considerations described in CDFW's <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150&inline> (CDFW 2023). Crotch's bumble bee is highly cryptic and very difficult to avoid. If the species is determined to be potentially present within the Project area, CDFW recommends the Project proponent obtain take authorization in the form of an ITP under CESA.

Design Considerations

Power lines and related electrical infrastructure can pose a risk to raptors (birds of prey) and other large birds in the form of electrocutions and collisions with overhead power lines. Avian interaction with power lines may also cause issues such as outages, service interruptions, damage to equipment, and fires. To reduce this impact to a level of less than significant, CDFW recommends the MND be revised to include a measure requiring all power lines and associated infrastructure to be constructed following the guidelines in the Avian Power Line Interaction Committee's (APLIC's) 2024 Suggested Practices for Avian Protection on Power Lines: State of the Art in 2024 (available for download here: <https://www.aplic.org/documents>).

Take Authorization and Mitigation

CDFW recommends that the MND include effective measures to completely avoid "take" of CESA-listed threatened, endangered, or candidate species. If take cannot be completely avoided, CDFW recommends the Project proponent obtain take authorization in the form of an ITP under CESA.

Adrian Veliz, Senior Planner
 Contra Costa County
 May 28, 2026
 Page 7

Alternatively, if the Project may result in take of species covered by the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (ECCC HCP/NCCP) including, but not limited to tricolored blackbird, Swainson's hawk, and western burrowing owl, the Project proponent may choose to consult with the East Contra Costa Habitat Conservancy to evaluate the Project's suitability for coverage. Participating in the ECCC HCP/NCCP as a Participating Special Entity could allow the Project to obtain both take coverage and habitat mitigation credit in a more cost-effective manner than by obtaining individual take coverage due to economy of scale. More information about the ECCC HCP/NCCP may be found at <https://cocohcp.org/>.

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 CNDDDB. The CNDDDB field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

ENVIRONMENTAL DOCUMENT FILING FEES

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

CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist the County in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Gabriele Quillman, Senior Environmental Scientist Specialist, at (707) 815-9867 or at Gabriele.Quillman@wildlife.ca.gov; or Brenda Blinn, Senior Environmental Scientist (Supervisory), at (707) 339-0334 or at Brenda.Blinn@wildlife.ca.gov.

Sincerely,

DocuSigned by:

 B77E9A6211EF486...
 Erin Chappell
 Regional Manager
 Bay Delta Region

ec: Office of Land Use and Climate Innovation (SCH No. 2025090227)
 Melissa Farinha, CDFW Bay Delta Region – Melissa.Farinha@wildlife.ca.gov

REFERENCES

Avian Power Line Interaction Committee, 2006. *Suggested practices for avian protection on power lines: the state of the art in 2006*. Avian Power Line Interaction Committee.

CDFW. 2012. Staff Report on Burrowing Owl Mitigation. State of California Natural Resources Agency. <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline>.

Adrian Veliz, Senior Planner
Contra Costa County
May 28, 2026
Page 8

CDFW. 2023. Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species. State of California Natural Resources Agency.
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150&inline>.

Dechant, J. A., M. L. Sondreal, D. H. Johnson, L. D. Igl, C. M. Goldade, P. A. Rabie, and B. R. Euliss. 1999 (revised 2002). Effects of management practices on grassland birds: Burrowing Owl. Northern Prairie Wildlife Research Center, Jamestown, ND. 33 pages.

Swainson's Hawk Technical Advisory Committee. "Recommended timing and methodology for Swainson's hawk nesting surveys in California's Central Valley." 2000.
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83990&inline>.