Appendix A

Notice of Preparation and Responses

April 9, 2013

NOTICE OF PREPARATION AND SCOPING MEETING

SUBJECT: Notice of preparation of a Draft Environmental Impact Report (DEIR) for the California Flats Solar Project. The County of Monterey will be the Lead Agency and will prepare an EIR for the project identified below. The County would like input on the scope and content of the environmental analysis.

PROJECT NAME: California Flats Solar Project

PROJECT LOCATION: The proposed project would be located in the southeastern corner of Monterey County; approximately 7 miles southeast of the community of Parkfield and 25 miles northeast of the City of Paso Robles, near the borders of Monterey, San Luis Obispo, Kings and Fresno counties (refer to Figure 1). The proposed project would be built and operated on a 2,670-acre portion of an existing 72,000-acre cattle ranch, known as "Jack Ranch." The proposed project would be located on all or a portion of 24 parcels (Assessor's Parcel Numbers 143-011-001-000 through 143-011-003-000, 423-191-037-000 through 423-191-039-000, 424-181-012-000 through 424-181-016-000, 424-081-018-000, 424-081-036-000, 424-181-038-000, 424-191-015-000, 424-191-016-000, 424-201-007-000, 424-201-009-000 through 424-211-001-000, and 424-211-004-000). The Monterey County General Plan designates the site as agricultural, and the site is zoned Farmland/160 (F/160) and Permanent Grazing/160 (PG/160). The site is located in the South County Area Plan.

Primary vehicle access to the project site is available off of California State Route 41 (Highway 41), by way of an existing 5.6-mile private driveway that would be improved as part of the proposed project. Emergency access to the project site is also available from an existing County road, Turkey Flat Road.

DUE DATE FOR COMMENTS: Due to the time limits mandated by State law, your response must be sent at the earliest possible date but not later than: **May 10, 2013**

PROJECT DESCRIPTION: The proposed project is a 280-megawatt (MW) alternating current (AC) photovoltaic (PV) solar power facility. The project would consist of poly crystalline PV solar panels and single-axis trackers to position PV panels with the sun's movement, or fixed-tilt supports, clustered in a series of blocks distributed over approximately 2,030 acres of the approximately 2,670-acre site (including a 135 acre transmission line corridor). Primary infrastructure improvements would include: an internal electrical collector system; pad-mounted inverters and transformers; two substations; a 4,000 square foot operations and maintenance (O&M) building; security fencing; security lighting (at the O&M facility, switching station, substations and main project entry location at Highway 41); improvements to and reconfiguration of existing internal access roads; and other infrastructure needed to serve the proposed project. In addition, Pacific Gas & Electric Company (PG&E) would construct a switching station at the site connecting the proposed project to the existing Morro Bay-Gates 230 kilovolt (kV) transmission line. The Morro Bay-Gates transmission line currently transects the project site (refer to Figure 2), and connects the Morro Bay power plant in San Luis Obispo County to PG&E's Gates substation in Fresno County. The proposed project also would include improvements to the existing private access road and within California Department of Transportation ("Caltrans") right-of-way at Highway 41.

Construction. Construction of the proposed project would take approximately 12 to 18 months, and the project proponent proposes to begin construction in 2014 and conclude construction by early 2016. All construction staging would occur within the proposed project site, and a 38-acre designated construction staging/laydown area would be provided in the southeastern corner of the project site. Project construction would begin with the

initial site preparation work, such as grading (approximately 470,000 cubic yards of cut and 470,000 cubic yards of fill) and vegetation removal (no trees are proposed for removal) and the construction of general site improvements, such as access road improvements and water infrastructure. The solar system (solar arrays, substations, and collection and transmission systems) would likely be installed next along with access roads within the arrays. The solar facilities would be constructed in 20 MW blocks and multiple blocks could be constructed simultaneously.

Operation and Maintenance. The proposed project would operate seven days a week during daylight hours. On-site staff would include a site manager, approximately six technicians, and about four staff, on an average daily basis, to clean and maintain the PV panels and other equipment. Panel cleaning or equipment maintenance and repair may require additional personnel on a temporary, as-needed, basis. Other operational activities would include meter reading, production reporting, equipment inspecting and testing, and similar activities. General site maintenance would include vegetation and landscaping management, road maintenance, and general upkeep of the O&M facility.

Decommissioning and Site Restoration. At the end of the project's useful life (anticipated to be 30 to 40 years), it would be decommissioned. Decommissioning would include removing the solar arrays, transformers, electrical collection system, underground lines, fencing, lighting and substations, and possibly the O&M facility from the site. Standard decommissioning practices would be utilized, including dismantling and repurposing, salvaging/recycling, or disposing of its solar energy improvements, and site restoration. However, actual decommissioning and site restoration activities would be conducted in accordance with all applicable requirements in effect at the time of project termination, and a final decommissioning plan, based on then-current technology, site conditions, and regulations, would be prepared prior to actual decommissioning.

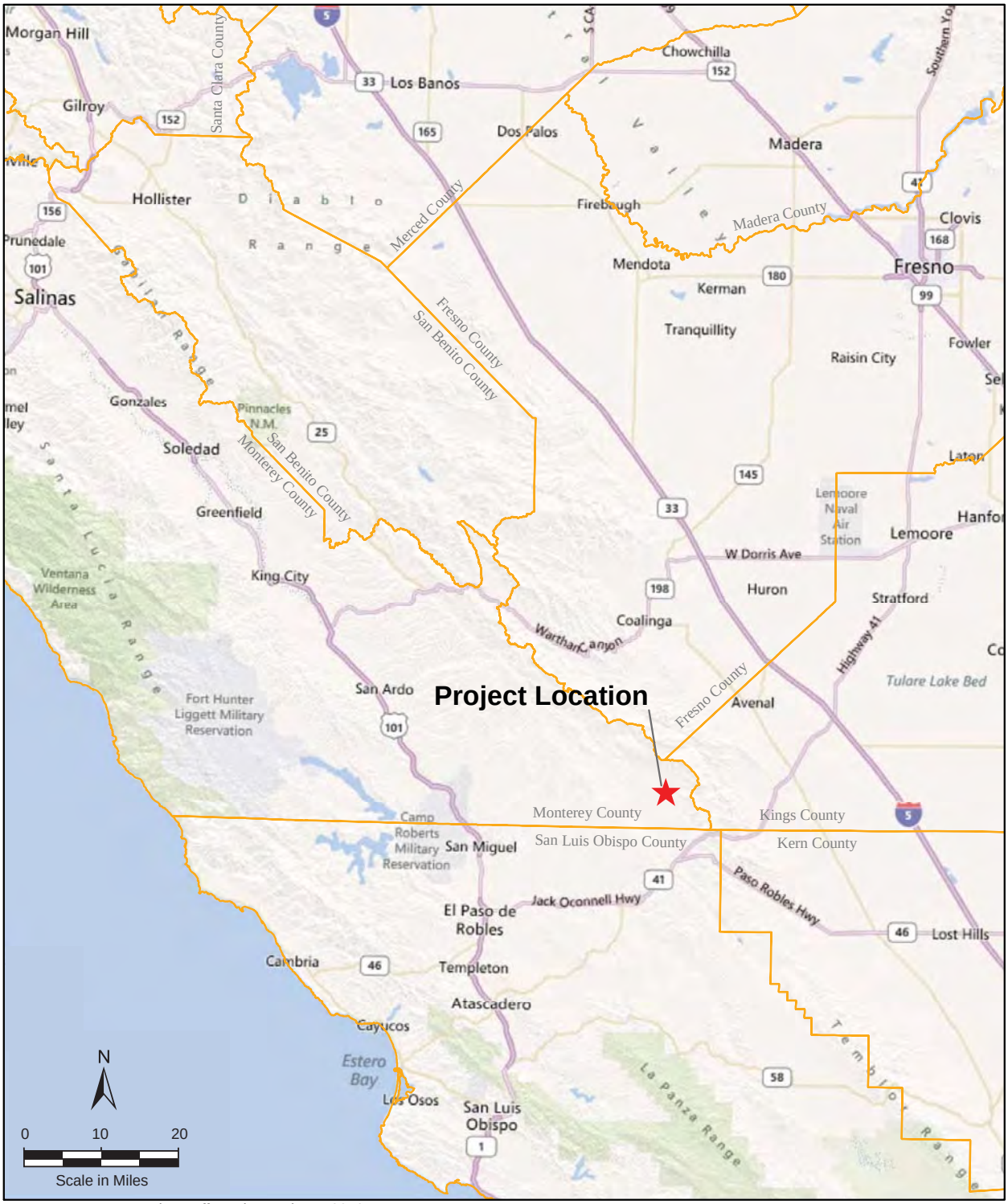
ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED: Aesthetics, Agricultural Resources, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Noise, Public Services, Transportation/Traffic, and Utilities and Service Systems.

PUBLIC SCOPING MEETING: Pursuant to the public participation goals of CEQA, the County of Monterey will host an EIR Scoping Meetings to gather additional input on the content and focus of the environmental analysis to be conducted and presented in the EIR. The date, time, and location of the scoping meetings are listed below.

Wednesday, April 17, 2013, 7:00 PM
Bradley Union School District Community Building
65600 Dixie Street (formerly 224 Dixie St.)
Bradley, CA

COMMENTING ON THE SCOPE OF THE EIR: The County of Monterey welcomes all comments regarding the potential environmental impacts of the proposed project. All comments will be considered in the preparation of the EIR. **Written comments** must be submitted by **May 10, 2013**. Please direct your comments to:

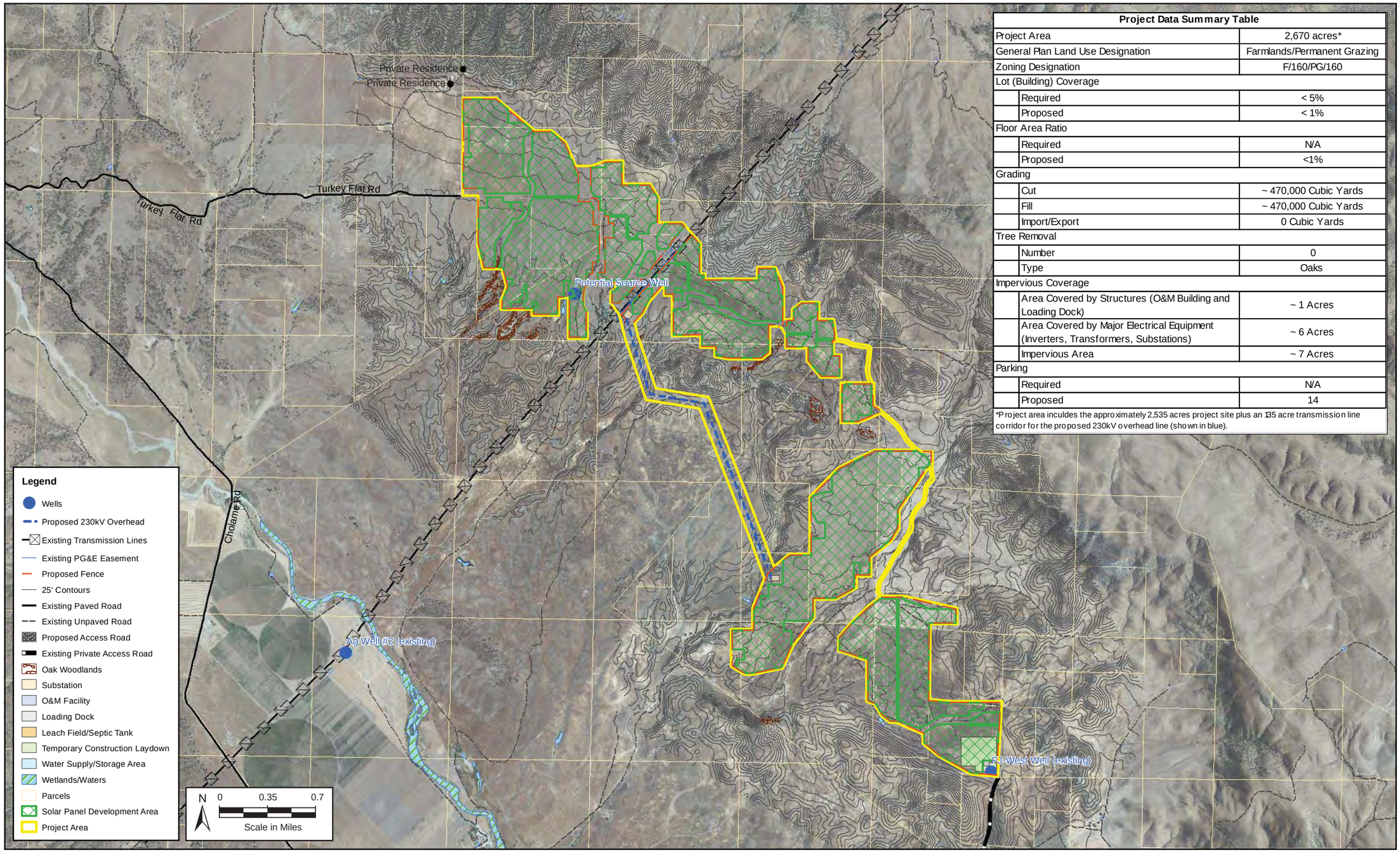
Taven M. Kinison Brown, Senior Planner
Monterey County Resource Management Agency – Planning Department
168 W. Alisal St., 2nd Floor
Salinas, CA 93901
kinisonbrowntm@co.monterey.ca.us



Base map source: Denise Duffy and Associates, 2012.

Project Location

Figure 1



Project Data Summary Table		
Project Area		2,670 acres*
General Plan Land Use Designation		Farmlands/Permanent Grazing
Zoning Designation		F/160/PG/160
Lot (Building) Coverage		
	Required	< 5%
	Proposed	< 1%
Floor Area Ratio		
	Required	N/A
	Proposed	<1%
Grading		
	Cut	~ 470,000 Cubic Yards
	Fill	~ 470,000 Cubic Yards
	Import/Export	0 Cubic Yards
Tree Removal		
	Number	0
	Type	Oaks
Impervious Coverage		
	Area Covered by Structures (O&M Building and Loading Dock)	~ 1 Acres
	Area Covered by Major Electrical Equipment (Inverters, Transformers, Substations)	~ 6 Acres
	Impervious Area	~ 7 Acres
Parking		
	Required	N/A
	Proposed	14

*Project area inculdes the approximately 2,535 acres project site plus an 135 acre transmission line corridor for the proposed 230kV overhead line (shown in blue).

Site Plan
Figure 2

Base map source: Denise Duffy and Associates, 2013, NAIP 2010 (Imagery); US Fish & Wildlife Service (Wetlands), Intermap DEM (Contours); Esri (Roads).

CENTER *for* BIOLOGICAL DIVERSITY *Because life is good.*

protecting and restoring natural ecosystems and imperiled species through science, education, policy, and environmental law

Submitted via email and USPS

May 10, 2013

Taven M. Kinison Brown, Senior Planner
Monterey County Resource Management Agency – Planning Department
168 W. Alisal St., 2nd Floor
Salinas, CA 93901
kinisonbrowntm@co.monterey.ca.us

RE: Scoping Comments on the Notice of Preparation (NOP) of an Environmental Impact Report for the California Flats Solar Project Development Application, Planning File Number: PLN120294.

Dear Taven M. Kinison Brown,

Please accept the following scoping comments on the Notice of Preparation (NOP) for an Environmental Impact Report (EIR) for the California Flats Solar Project Development Application, Planning File Number: PLN120294, on behalf of the Center for Biological Diversity (the "Center"). The Center is a non-profit environmental organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. These scoping comments are submitted on behalf of the Center's 474,000 staff, members and online activists throughout California and the western United States. Many of the Center's members live and spend time in Monterey County including in the southeastern portion of the County where the project is proposed. Both members and staff enjoy seeing the suite of rare species including the San Joaquin kit fox, tiger salamander, red legged frogs, vernal pools and the species that they support, and others. We are concerned about impacts from this project detrimentally affecting these species that are already struggling for existence.

The development of renewable energy is a critical component of efforts to reduce greenhouse gas emissions, avoid the worst consequences of global warming, and to assist California in meeting emission reductions. The Center strongly supports the development of renewable energy production, and the generation of electricity from solar power, in particular. However, like any project, proposed solar power projects should be thoughtfully planned to minimize impacts to the environment. In particular, renewable energy projects should avoid impacts to sensitive species and habitat, and should be sited in proximity to the areas of electricity end-use in order to reduce the need for extensive new transmission corridors and the efficiency loss associated with extended energy transmission. Only by maintaining the highest environmental standards with regard to local impacts, and effects on species and habitat, can renewable energy production be truly sustainable.

Ileene Anderson, Staff Biologist
8033 Sunset Blvd., #447 • Los Angeles, CA 90046-2401
tel: (323) 654.5943 *fax:* (323) 650.4620 *email:* ianderson@biologicaldiversity.org
www.BiologicalDiversity.org

The California Flats Solar Ranch is a proposed solar photovoltaic (PV) power-generating facility using tracker panels with a capacity of 280 megawatts (MW) of electricity. The proposed project boundary includes approximately a 2,670 acres site (including a 135 acre transmission line corridor) of which a series of blocks of tracker panels would be clustered over approximately 2,030 acres in the southeastern portion of unincorporated Monterey County. In addition two substations of unidentified size, a 4,000 square foot operations and maintenance (O&M) building; security fencing; security lighting (at the O&M facility, switching station, substations and main project entry location at Highway 41) are proposed to be constructed. The EIR will also include analysis of Pacific Gas & Electric Company (PG&E) construction of a switching station at the site connecting the proposed project to the existing Morro Bay-Gates 230 kilovolt (kV) transmission line, which crosses the proposed project site. The proposed project is habitat for and provides movement corridor opportunities for a variety of highly imperiled threatened and endangered species.

Biological Resources

Based on the records from the California Natural Diversity Database, the Notice of Preparation and other sources, it appears that this site maintains ecologically important landscape features and hosts a suite of rare and unique species. Careful documentation of the current seasonal site resources is imperative in order to analyze how best to site the project to avoid and minimize impacts. If unavoidable impacts remain, then adequate meaningful mitigation will be required.

Biological Surveys and Mapping

In order to present a full picture of the biological impacts of the project, thorough, seasonally-appropriate surveys must be performed for sensitive plant species and vegetation communities, and animal species. The Center requests that thorough, seasonal surveys be performed for sensitive plant species and vegetation communities, and animal species under the direction and supervision of the County and resource agencies such as the US Fish and Wildlife Service[1] and the California Department of Fish and Wildlife[2]. For those species that have agency-identified survey protocols, those protocol level surveys must be required, implemented and disclosed in the DEIR. Full disclosure of survey methods and results to the public and other agencies without limitations imposed by the applicant must be implemented to assure full CEQA compliance.

Confidentiality agreements should not be allowed for any survey in support of the proposed project. Surveys for the plants and plant communities should follow California Native Plant Society (CNPS)[3] and California Department of Fish and Wildlife (CDFW) floristic survey guidelines[4] and should be documented as recommended by CNPS[5] and California Botanical Society policy guidelines. A full floral inventory of all species encountered needs to be documented and included in the EIR. Surveys for animals should include an evaluation of the

1 http://www.fws.gov/ventura/species_information/protocols_guidelines/
2 http://www.dfg.ca.gov/wildlife/nongame/survey_monitor.html
3 http://www.cnps.org/cnps/rareplants/inventory/guidelines.php
4 http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/Protocols_for_Surveying_and_Evaluating_Impacts.pdf
5 http://www.cnps.org/cnps/archive/collecting.php

California Wildlife Habitat Relationship System's (CWHR) Habitat Classification Scheme. All rare species (plants or animals) need to be documented with a California Natural Diversity Data Base form and submitted to the California Department of Fish and Wildlife using the CNDDB Form[6] as per the State's instructions[7].

In order for the public to properly evaluate the data, the vegetation maps must be at a large enough scale to be useful for evaluating the impacts. Vegetation/wetland habitat mapping should be at such a scale to provide an accurate accounting of wetland and adjacent habitat types that will be directly or indirectly affected by the proposed activities. A half-acre minimum mapping unit size is recommended, such as has been used for other development projects. Habitat classification should follow CNPS' *Manual of California Vegetation* and should follow the CDFW protocol[8].

Adequate surveys must be implemented, not just a single season of surveys, in order to evaluate the existing on-site conditions. Due to unpredictable precipitation in this arid environment, organisms in the proposed project area have evolved to survive in harsh conditions and if surveys are performed at inappropriate times or year or in particularly dry years many plants that are in fact on-site may not be apparent during surveys (ex. annual and herbaceous perennial plants).

Impact Analysis

The EIR must evaluate all direct, indirect, and cumulative impacts to sensitive habitats, including impacts associated with the establishment of intermitted recreational activities, the introduction of non-native plants, the introduction of lighting, noise, and the loss and disruption of essential habitat due to edge effects.

A number of rare resources are known to occur or have high potential to occur on the proposed California Flats solar project site including but not limited to:

Common Name	**Scientific Name**	**Federal/State/Other Status**
California tiger salamander	*Ambystoma californiense*	Threatened/Threatened/
Grasshopper sparrow	*Ammodramus savannarum*	None/SSC/na
Nelson's antelope squirrel	*Ammospermophilus nelsoni*	None/Threatened/na
Silvery legless lizard	*Anniella pulchra pulchra*	None/SSC/na
Oval-leaved snapdragon	*Antirrhinum ovatum*	None/None/4.2
pallid bat	*Antrozous pallidus*	None/SSC/na
burrowing owl	*Athene cunicularia*	MTBA/SSC/na
Swainson's hawk	*Buteo swainsoni*	None/Threatened/na
Round-leaved filaree	*California macrophylla*	None/None/1B.1
longhorn fairy shrimp	*Branchinecta longiantenna*	Endangered/None/na
vernal pool fairy shrimp	*Branchinecta lynchi*	Threatened/None/na
round-leaved filaree	*California macrophylla*	None/None/1B.1
California jewel-flower	*Caulanthus californicus*	Endangered/Endangered/1B.1
Lemmon's jewel-flower	*Caulanthus lemmonii*	None/None/1B.2

6 http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDB_FieldSurveyForm.pdf
7 http://www.dfg.ca.gov/biogeodata/cnddb/submitting_data_to_cnddb.asp
8 http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/Protocols_for_Surveying_and_Evaluating_Impacts.pdf

mountain plover	*Charadrius montanus*	MTBA/SSC/na
Hernandez spineflower	*Chorizanthe biloba var. immemora*	None/None/1B.2
straight-awned spineflower	*Chorizanthe rectispina*	None/None/1B.3
Hall's tarplant	*Dienandra halliana*	None/None/1B.1
recurved larkspur	*Delphinium recurvatum*	None/None/1B.2
giant kangaroo rat	*Dipodomys ingens*	Endangered/Endangered/na
western pond turtle	*Emys marmorata*	None/SSC/na
Temblor buckwheat	*Eriogonum temblorense*	None/None/1B.2
prairie falcon	*Falco mexicanus*	BCC & MTBA/WL/na
blunt-nosed leopard lizard	*Gambelia sila*	Endangered/Endangered & FP/na
pale-yellow layia	*Layia heterotricha*	None/None/1B.1
Munz's tidy-tips	*Layia munzii*	None/None/1B.2
Panoche pepper-grass	*Lepidium jaredii ssp. album*	None/None/1B.2
showy golden madia	*Madia radiata*	None/None/1B.1
San Joaquin whipsnake	*Masticophis flagellum ruddocki*	None/SSC/na
Shining navarretia	*Navarretia nigelliformis ssp. radians*	None/None/1B.2
San Joaquin woollythreads	*Monolopia congdonii*	Endangered/None/1B.2
Northern Claypan Vernal Pool	*Northern Claypan Vernal Pool*	None/None/na
Tulare grasshopper mouse	*Onychomys torridus tularensis*	None/SSC/na
San Joaquin pocket mouse	*Perognathus inornatus inornatus*	None/None/na
coast horned lizard	*Phrynosoma blainvillii*	None/SSC/na
California red-legged frog	*Rana draytonii*	Threatened/SSC/na
Bank swallow	*Riparia riparia*	None/Threatened/na
western spadefoot	*Spea hammondii*	None/SSC/na
oil neststraw	*Stylocline citroleum*	None/None/1B.1
American badger	*Taxidea taxus*	None/SSC/na
Valley Sink Scrub	*Valley Sink Scrub*	None/None/na
San Joaquin kit fox	*Vulpes macrotis mutica*	Endangered/Threatened/na

Federal Designation

Endangered - Federally listed as endangered.
Threatened - Federally listed as threatened.
MBTA - Migratory Bird Treaty Act of 1918. Protects native birds, eggs, and their nests.
BCC - U.S. Fish and Wildlife Service Bird of Conservation Concern.

State Designation

Endangered- State listed as endangered. Species whose continued existence in California is jeopardized.
Threatened - State listed as threatened. Species that although not presently threatened in California with extinction are likely to become endangered in the foreseeable future.
SSC California Department of Fish and Wildlife's "Species of Special Concern." Species with declining populations in California.
FP Fully protected against take pursuant to the Fish and Game Code Sections 3503.5, 3511, 4700, 5050, 5515.

Other

California Rare Plant Rank

1B.1 Rare and endangered in California and elsewhere, and very threatened in CA
1B.2 Rare and endangered in California and elsewhere, and fairly threatened in CA
4.2 Plants of a limited distribution, and fairly threatened in CA.

na – not applicable

All of these species have a high probability to occur on the site.[9] This incredibly robust rare species list identifies that this area of the county (and state) is rich in rare biological resources and may be inappropriate for developments of this size and potential impact. Therefore, the EIR must adequately address the impacts and propose effective ways to avoid, minimize, and mitigate the impacts to these resources through alternatives including alternative siting, distributed generation alternatives, and alternative on-site configurations. Many of the rare species are in decline despite decades of state and federal protection. The EIR must analyze how the proposed project complies with the recommendations of the Recovery Plan for the Upland Species of the San Joaquin Valley[10].

Any acquisition of lands that will be managed in perpetuity for conservation must be included as part of the strategy to avoid, minimize and mitigate impacts to the other species found on site as well. Acquisition is particularly important for these species because the proposed project appears to have little compatibility with any type of on-site conservation of plant communities or wildlife. Management plans for the conservation investments must be included as part of the public review EIR.

For rare plants, avoidance is preferable because of the general lack of success in transplanting rare plants[11]. If transplantation is to be a part of the mitigation strategy, a detailed plan must be included as part of the EIR on the methodology for determination of appropriate conservation areas where plants may be transplanted, when/how plant are to be transplanted and identification of success criteria for transplantation. Monitoring of the transplanted plants needs to occur for a time period that is realistic to evaluate *long-term success* of the plants.

Locally Rare Species

The Center requests that the EIR evaluate the impact of the proposed permitted activities on locally rare species (not merely federal- and state-listed threatened and endangered species). The preservation of regional and local scales of genetic diversity is very important to maintaining species. Therefore, we request that all species found at the edge of their ranges or that occur as disjunct locations be evaluated for impacts by the proposed permitted activities.

Water Resources

The project is likely to impact on-site drainages. The EIR must clarify the impacts to the jurisdictional Waters of U.S. and the Waters of the State of California, and avoid, minimize and mitigate any impacts. Efforts to avoid impacts to the greatest extent possible need to be included and if impacts remain they must be mitigated. In doing so, any reroute of waters and drainages on the site must assure that downstream processes are not impacted.

An evaluation of the effect of additional groundwater pumping (in conjunction with other groundwater issues in the basin) on the water quality in the basin and surface water resources, and its effect on the local water availability and for native plant and animal species and their habitats need to be included in the EIR.

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9 CNDDB 2013
10 http://ecos.fws.gov/docs/recovery_plan/980930a.pdf
11 Fiedler 1991

Alternatives

The EIR must include a robust analysis of alternatives, including other private lands alternative, a brownfields alternative, and a disturbed lands alternative. The stated objectives of the project must not unreasonably constrain the range of feasible alternatives evaluated in the EIR. The County must establish an independent set of objectives that do not unreasonably limit the EIR's analysis of feasible alternatives including alternative sites. At a minimum, alternatives including the no-action alternative, an environmentally preferred alternative, a distributed generation alternative, and an alternative where power generation is sited adjacent to existing substations closer to the point of electrical consumption - all need to be included.

Other Issues

The construction and operation of the proposed facilities will also increase greenhouse gas emissions and those emissions should be quantified and off-set. This would include the manufacture and shipping of components of the project and the car and truck trips associated with construction and operations. Similarly, such activities will also impact air quality and traffic in the area and these impacts should be disclosed, minimized and mitigated as well. For mobile sources, since consistency with the AQMP will not necessarily achieve the maximum feasible reduction in mobile source greenhouse emissions, the EIR should evaluate specific mitigation measures to reduce greenhouse emissions from mobile sources.

Non-Native Plants

The EIR must identify and evaluate impacts to species and ecosystems from invasive exotics species. Many of these species invade disturbed areas, and then spread into wildlands. Fragmentation of intact, ecologically functioning communities further aides the spread and degradation of plant communities[12]. Additionally, landscaping with exotic species is often the vector for introducing invasive exotics into adjacent habitats. Invasive landscape species displace native vegetation, degrade functioning ecosystems, provide little or no habitat for native animals, and increase fire danger and carrying capacity. All of these factors for wildland weeds are present in the project, and their affect must be evaluated in the EIR.

Wildlife Movement

A thorough and independent evaluation of the projects' impacts on wildlife movement is essential. The EIR must evaluate all direct, indirect, and cumulative impacts to wildlife movement corridors. The analysis should cover movement of large mammals, including rare species, as well as other taxonomic groups, including small mammals, birds, reptiles, amphibians, invertebrates, and vegetation communities. The EIR should first evaluate habitat suitability for multiple species, including all listed and sensitive species. The habitat suitability maps generated for each species should then be used to evaluate the size of suitable habitat patches in relation to the species average territory size to determine whether the linkages provide both live-in and move-through habitat. The analyses should also evaluate if suitable habitat patches are within the dispersal distance of each species. The EIR should address both individual and intergenerational movement (i.e., will the linkages support metapopulations of smaller, less vagile species). The EIR should identify which species would potentially utilize the proposed

12 Bossard et al 2000

wildlife movement corridors under baseline conditions and after build out, and for which species they would not. In addition, the EIR should consider how wildlife movement will be affected by other planned approved, planned, and proposed development in the region as part of the cumulative impacts.

The EIR should analyze whether any proposed wildlife movement corridors are wide enough to minimize edge effects and allow natural processes of disturbance and subsequent recruitment to function. The EIR should also evaluate whether the proposed wildlife movement corridors would provide key resources for species, such as host plants, pollinators, or other elements. For example, many species commonly found in washes depend on upland habitats during some portion of their cycle. Therefore, in areas with intermittent streams, upland habitat protection is needed for these species. Upland habitat protection is also necessary to prevent the degradation of aquatic habitat quality in downstream areas off the project site.

Cumulative Impacts

Because of the number of projects that are currently being built or proposed in the proposed project's vicinity, a thorough analysis of the cumulative impacts from all of these projects on the resources needs to be included. Please include an analysis of projects, not just in Monterey County, but in all of the adjacent counties that also have habitat for these rare and endangered species.

Thank you for your consideration of these comments. Please add the Center to the distribution list for the EIR and all notices associated with this project as well as others in the area at the above address.

Sincerely,

Ileene Anderson
Biologist/Public Lands Desert Director
Center for Biological Diversity
8033 Sunset Blvd., #447
Los Angeles, CA 90046
323-654-5943
ianderson@biologicaldiversity.org

cc: (electronically via email)
Ken Sanchez USFWS, Kenneth_Sanchez@fws.gov
Julie Vance, CDFW, jvance@dfg.gov

References

Bossard, C.C., J.M. Randall and M.C. Hoshovsky. 2000. Invasive Plants of California's Wildlands. University of California Press. Berkeley, CA. Pgs. 360.

California Natural Diversity Data Base (CNDDB) 2013. List of species in the general area. http://www.dfg.ca.gov/biogeodata/cnddb/

Fiedler, P.L. 1991. Mitigation-related transplantation, relocation and reintroduction projects involving endangered and threatened, and rare plant species in California. June 14, 1991. Funded by California Endangered Species Tax Check-off Fund Constract No. FG-8611. Pgs. 144.

RECEIVED
MAY 06 2013
MONTEREY COUNTY
PLANNING DEPARTMENT

To: Taven Kinison Brown, Senior Planner
Monterey County Resource Management, Monterey County Planning Department
168 W. Alisal Street, 2nd Floor, Salinas, CA 93901

Date: April 23, 2013

From: Parkfield Community Club, Parkfield California

Subject: Public Notification and Meeting Location

Parkfield Community Club requests the following notifications and considerations:

1) Notification of all meetings pertaining to any project in the Parkfield area, including, but not limited to, the California Flats Proposed Solar Project.

2) The Community requests meetings pertaining to any project in the Parkfield area, including, but not limited to, the California Flats Proposed Solar Project, be held in Parkfield. The Parkfield Community Hall is available for any public meeting at no charge and this would save travel of numerous Parkfield residents to a location such as Bradley that is approximately 45 or more miles from central Parkfield.

3) Notification of any or all public studies and reports pertaining to the Parkfield area, including, but not limited to, the California Flats Proposed Solar Project.

Written notifications can be mailed to:

Parkfield Community Club
c/o John Varian, President
70420 Parkfield Road, Parkfield, CA 93451

My home phone number is (805) 463-2476 and cell phone number is (805) 459-0451.

Thank you in advance for your cooperation.

Sincerely,

Sheryl Easterbrook, Secretary
Parkfield Community Club

Kinison Brown, Taven M. x5173

From: Gymer, Lisa@Wildlife [Lisa.Gymer@wildlife.ca.gov]
Sent: Wednesday, May 08, 2013 2:36 PM
To: Kinison Brown, Taven M. x5173
Subject: California Flats Solar Project

Good afternoon,

As discussed on the phone a few moments ago, I am sending this email to request an extension to the comment period for the Notice of Preparation for the subject project. Although the document was received by the Department in a timely manner on April 12, 2013, it took some time to be logged into our database and routed to me. To add to the delay, I was on vacation last week and only just found the document waiting for me yesterday, which is when I noticed the comment deadline of May 9th. To accommodate review of the scoping document, preparation of written comments, and internal review of said written comments, the Department respectfully requests no more than 10 days to provide you with our comment letter for the California Flats Solar Project.

Thank you for your consideration,

Lisa

Lisa Gymer
Staff Environmental Scientist
California Department of Fish and Wildlife
Renewable Energy Branch
1234 East Shaw Avenue
Fresno, California 93710
Ph: 559-243-4014 x238
Fax: 559-243-4020
Lisa.Gymer@wildlife.ca.gov

Kinison Brown, Taven M. x5173

From: jane@woosterranch.com
Sent: Wednesday, May 08, 2013 1:34 PM
To: 'Denise Duffy'; Novo, Mike x5192; Kinison Brown, Taven M. x5173
Cc: Lopez, Christopher M. x5729
Subject: RE: PLN120294 - California Flats Solar Project Comments on items to be included in draft EIR
Attachments: Comments CA Flats Solar Project 582013.docx

Mr. Kinison Brown
I have attached comments on items we would like addressed in the draft EIR for the California Flats Solar Project. You have already received additional comments and questions which I trust you will also include.

Thank you.

Jane Wooster

JANE WOOSTER
PO BOX 340
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To: Taven M. Kinison Brown, Senior Planner
Monterey County Resource Management Agency-Planning Department

Re: PLN120294 California Flats Solar Project - Comments on issues we would like addressed in the EIR
for this project.

These comments are being made on behalf of Jane Wooster, Ann Myhre, Mary Russell and Ethel Russell who own approximately 235 acres (T24, R15E, portions of Sections 3 & 4) at the end of Turkey Flat Road immediately adjacent to the subject property.

While we have literally dozens of concerns regarding this development, we would like to address four major issues. We have already submitted written comments at the community meeting in Bradley and have also submitted several emails directly to the office of Taven Kinison Brown.

1.) **<u>Consideration should be given to how this project will affect our springs which are currently our only sources of water on our property</u> and which we believe come from the same water source as the water on the development property. Consideration should be given to what can be done to prevent adverse effects to our water supply, and to what contingencies will be put in place to prevent this project from decreasing our water supply. The amount of water that the developers use on their project should not only be carefully reevaluated, it should be monitored during the life of the project.**

The EIR must carefully evaluate what the water usage on this project will be and how it will be monitored to not affect the neighboring land owners who rely on springs to water their cattle and to provide domestic water. Even if the water use is only five acre inches per year this is a huge amount of water for this arid area and there should be a careful evaluation of whether the area can sustain this water use.

Special attention should be given to the fact that if water for the project is pumped from wells, it could very well have the effect of drying up our springs which are currently free-flowing year-round which will affect not only our use of the property but also the wildlife species who water there.

2.) <u>The buffer space between our property and this project is inadequate.</u> According to a review of the current plans and discussions with Element Power employees, this project borders our property for about a mile. The plans indicate there will be our existing barbed wire division fence, a road that runs parallel to this fence, a seven to eight foot high fence that runs parallel to that, and then solar panels. The proximity of the solar panel fence to our fence line should be increased to at least 300 feet. This is not only an issue of ascetics though we are concerned about what this is doing to our view. It is also an issue of the disruption of vehicles and the creation of dust. We are greatly concerned about our health and the health of the cattle on our property. This project will certainly disturb the surface of the soil thus releasing spores. In this area of California, Valley Fever (coccidioidomycocis) is of great concern. Coccidioidomycois is a soil-dwelling fungus that when dirt is disturbed becomes wind-born. Spores inhaled into the lungs cause the disease

We are also worried about the spread of Anthrax which is a bacterium that forms spores. Anthrax is generally thought to live in the soil in this area of California. It can infect both humans and animals and while there are different ways of contacting the disease, approximately half of the humans who contact it through inhalation die.

We do not think the buffer space between our property and the project is adequate for a project of this scope. Visually it is intrusive and it will certainly reduce the value of our property. Basically this is a conversion from agricultural to industrial use. But most importantly, it imposes a risk to the health of people and animals that we do not feel we should have to bear.

3.) <u>We have reviewed the plans for this project and it looks to us like the secondary emergency road crosses our property for about 100 feet.</u> A survey should be made and if this is the case the secondary exit road needs to be moved so that it first, does not cross our property and secondly, so we can continue to have the right to an easement to access our property using the full width of that portion of the closed county road that fronts our property. (This was agreed to at a meeting with Ethel Russell in January of 1998 between representatives of the county and the adjoining property owner when they conceded that because Mrs. Russell had specifically indicated to the County that she objected to the county road being closed at her gate and not at her property line, and because county roads have historically not been closed if there is an objection, she would have the right to use the county road all the way to the end

of her property line.) We first brought this issue to the County's attention on September 19, 2012 at a meeting in Bradley, CA. We have also met with representatives of Element Power on site to explain this problem.

4.) <u>All alternative needs to be found for a secondary emergency exit.</u> Local residents know Turkey Flat Road is a dangerous road. Approximately a half-mile to a mile west of our property the single lane road goes straight up over a hill and there is NO visibility of on-coming vehicles The rest of the seven-mile road is twisting, narrow and has many hills and dips where there is no visibility. A better alternate road can be established for the safety not only of the local residents but also for anyone who needs to evacuate, or be evacuated in an emergency situation.

Already Turkey Flat Road is being used as a primary road by persons accessing the project. (Element Power representatives maintained at the April 17, 2013 Bradley meeting that this access was not being used but local residents insist that there have been many days when several vehicles have been parked at the end of this road while individuals go onto the Jack Ranch property to do pre-EIR scoping.)

We appreciate the opportunity to raise these issues and hope that serious consideration will

be given to solving these problems in the planning stages of this project.

One could anticipate that in a project of this size there would be many, many unforeseen problems and we suggest that the developers post a bond large enough to not only address these problems as they arise, but also to ensure that the project is dismantled at the end of its useful life.

Date: May 6, 2013

To: Taven M. Kinison Brown, Senior Planner
Monterey County Resource Management Agency

Re: California Flats Solar PLN 120294
Response to April 9, 2013 letter

From: VAN BOXTEL FAMILY LIMITED PARTNERSHIP
W. J. Van Boxtel, General Partner/Owner Oropesa Ranch

The impacts to the Oropesa, the family, friends and visitors would be profound; visually, emotionally, and financially.

a). visually-aesthetically we will be able to see the industrial nature of the solar field from almost everywhere on our ranch. There will be no escaping the contrary nature of the solar field stretching out miles below us.

b) It has been said the Oropesa is one of the ten most beautiful ranches in the Central Coast. We worked hard and invested a tremendous amount of money and time to make it that way. The solar field will vastly diminish our capital investment and our day to day visual enjoyment of the ranch. The solar project will greatly decrease the value and marketability of the ranch.

c) Most people negatively impacted by the loss of this pristine, open, natural valley will soon forget. They do not drive by it every day for it to impact them. Even the Yocute and Salinas Indians who inhabited the valley and the Oropesa Ranch for over 500 years can drive away in hopes of forgetting the loss of their ancestral homeland. We, on the other hand, will have to live with it every day for many years to come. Regrettably, the investors, even the fabricators and material suppliers that will hale from all parts of America will never give a second thought to the devastating long-term effects (at least 30 years their efforts have caused).

While we will be impacted far greater than any other affected party, all Californians who like and enjoy open space will be impacted.

Enclosed is map showing part of 8.25 miles of our property line adjacent to the project boundaries and pictures of the view from our home.

Respectfully,

W. J. Van Boxtel, General Partner/Owner
VAN BOXTEL FAMILY LIMITED PARTNERSHIP
90681 Turkey Flat Rd
San Miguel, CA 93451
(805) 463-2500

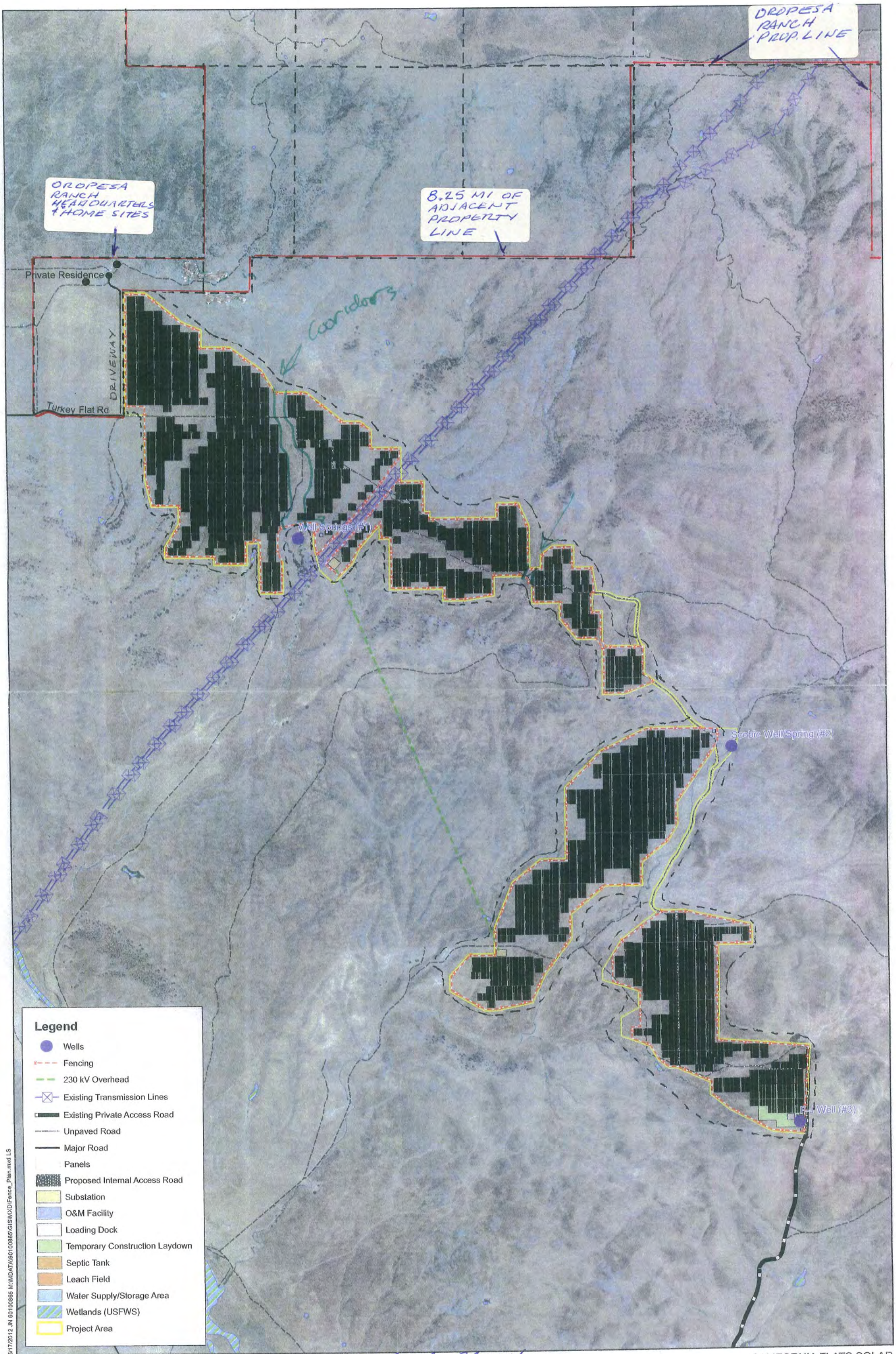
OROPESA RANCH
VAN BOXTEL FAMILY LTD PARTNERSHIP
90681 TURKEY FLAT RD. SAN MIGUEL CA 93451

ONE OF HUNDREDS OF VIEWS OF CHALAME VALLEY FROM OROPESA RANCH PROPERTY WHICH RISES FROM THE VALLEY @ 1800' ELEV TO CASTLE MOUNTAIN @ 4326' ELEV UP HILL FROM THIS PICTURE.

OROPESA RANCH
VAN BOXTEL FAMILY LTD. PARTNERSHIP
9091 TURKEY FLAT RD., SAN MIGUEL, CA 93451

VIEW OF CHALAME VALLEY (PROPOSED CALIF. FLATS SOLAR FIELD) FROM OROPESA RANCH RESIDENCE

OROPESA RANCH · VAN BOXTEL FAMILY LIMITED PARTNERSHIP (OWNER)



OROPESA RANCH -
VAN BOXTEL FAMILY LTD PARTNERSHIP
90681 TURKEY FLAT RD
SAN MIGUEL, CA 93451

CALIFORNIA FLATS SOLAR

Fencing Plan

5/17/2012 • Exhibit 1

May 9, 2013

Taven Kinison Brown, Senior Planner
Monterey County Resource Management Agency, Planning Department
168 W. Alisal St., 2nd Floor
Salinas, CA 93901

Delivered via email to kinisonbrowntm@co.monterey.ca.us

RE: California Flats Solar Project NOP Scoping Comments

Dear Mr. Kinison Brown:

Thank you for the opportunity to provide scoping comments for the Draft Environmental Impact Report (DEIR) being prepared for the California Flats Solar Ranch (Project). These comments are submitted on behalf of Defenders of Wildlife (Defenders) and our more than one million members and supporters in the United States, 200,000 of which reside in California.

Defenders is dedicated to protecting all wild animals and plants in their natural communities. To that end, Defenders employs science, public education and participation, media, legislative advocacy, litigation, and proactive on-the-ground solutions in order to prevent the extinction of species, associated loss of biological diversity, and habitat alteration and destruction.

We also strongly support the emission reduction goals found in the Global Warming Solutions Act of 2006 (AB 32), including the development of renewable energy in California. We urge that in seeking to meet our renewable energy portfolio standard in California, renewable energy projects be designed in the most sustainable manner possible. This is essential to ensure that project approvals move forward expeditiously and in a manner that does not sacrifice our fragile landscapes, wildlife, native plant species and prime agricultural lands in the rush to meet our renewable energy goals.

As we transition toward a clean energy future, it is imperative for our future and the future of our wild places, native plants and wildlife that we strike a balance between addressing the near term impact of industrial-scale solar development with the long-term impacts of climate change on our biological diversity, fish and wildlife habitat, natural landscapes, and productive prime agricultural lands. We believe that there are many excellent, lower impact sites in Monterey County which can fulfill these goals.

California Program Office
1303 J Street, Suite 270
Sacramento, CA 95814
Telephone 916-313-5800
Fax 916-313-5812
www.defenders.org/california

We understand the County is currently reviewing the proposed 2,675 ± acre, 280MW California Flats Solar Project which would be located in the unincorporated area of southeastern Monterey County, approximately 7 miles southeast of the community of Parkfield and 25 miles northeast of the City of Paso Robles, near the borders of Monterey, San Luis Obispo, Kings and Fresno counties. The proposed project site is part of the existing Jack Ranch cattle operation and has historically been used for grazing and dry land farming.

The proposed Project site is a substantial, intact area of natural habitat in eastern Monterey County and is a part of the recovery area for highly endangered San Joaquin kit fox (*Vulpes macrotis mutica*). As documented by the materials submitted by the applicants, including the July 2012 Description and the July 26, 2012 Preliminary Biotic Report prepared by HT Harvey, the proposed Project site and it's vicinity support multiple special status species and important habitat for those species including Golden Eagle (*Aquila chrysaetos*), burrowing owl (*Athene cunicularia*), Western pond turtle (*Emys marmorata*), San Joaquin kit fox, and a variety of native plants. In addition, numerous special status species such as American badger (*Taxidea taxus*), California tiger salamander (*Ambystoma califoriense*) California red-legged frog (*Rana aurora draytonii*), California condor (*Gymnogyps californianus*), and Swainson's hawk (*Buteo swainsoni*) are expected to occur on the proposed Project site. The proposed Project site also part of a key connectivity corridor for species such as the San Joaquin kit fox. Defenders is deeply concerned about the potential development of this site into a solar power plant and the extraordinary impact to special status species such as the San Joaquin kit fox and Golden Eagle.

The DEIR should provide the following:

Science Based Baseline Biological Information

The proposed Project is located within the known territory of numerous special status species. The July 26, 2012 Preliminary Biotic Report's Biological Study Area (BSA) is defined in Section 1.2.1 and 1.2.2 and shown in Figures 3a – 3d of the Preliminary Biotic Report. The description of the BSA does not provide sufficient detail on relationship of the boundaries of the BSA to the Project site and does not explain the methodology of the location of the BSA boundaries shown in Figures 3a – 3d in relation to the Project site. It appears that in many locations the BSA does not encompass standard survey zones for special status species and their habitat. The biological studies for the DEIR must cover both the entire Project – including the new transmission line – and a buffer zone of at least 0.5 miles surrounding the boundaries of the entire Project area including access roads and transmission lines. This information is necessary for any CEQA document to assess and disclose potential impacts from the proposed Project and to identify appropriate mitigation.

Protocol level surveys for these species must be completed for the EIR. The analysis, and any mitigation strategies, in the DEIR must be based on these studies. Without protocol survey information, any impact analysis would be tenuous and incomplete and it would not be possible to ascertain if any proposed mitigation measures are appropriate. We recommend the applicant and the County engage in full consultation with the US Fish and Wildlife Service (FWS) and the California Department of Fish and Wildlife (CDFW) for guidance on impact assessment and mitigation and that the appropriate protocol level surveys be completed in advance of the DEIR.

Locally Rare Species
The DEIR should evaluate the impact of the proposed Project on locally rare species and not just federal and state listed threatened and endangered species. The preservation of regional and local scales of genetic diversity is very important to maintaining species. Therefore, impacts from the proposed Project to all species found at the edge of their ranges or that occur as disjunct locations must be evaluated.

Alternatives Analysis
The proposed Project does not currently have a Power Purchase Agreement (PPA) or interconnection agreements and thus does not have contractual requirements which could limit potential project alternatives. Given the proposed Project site's highly valuable habitat, project alternatives including alternative locations, reduced project size, reconfigured project, and "no project" must be rigorously considered.

Cumulative Impacts
The potential cumulative impacts of the proposed Project must be considered in conjunction with other renewable energy, residential, commercial, industrial, and transportation projects located in Monterey County <u>and within the region</u>. In particular, several large solar projects are either proposed, have been approved, or are under construction including Maricopa Sun, California Valley Solar Ranch, Topaz Solar Farm, Quinto Farms, Kern Solar Ranch, Wright Solar Project, and Panoche (see attached) which would have significant impacts on San Joaquin kit fox and other special status species. These projects must be considered as part of a meaningful and defensible cumulative impact analysis.

Compensatory Mitigation for Loss of Habitat
Habitat loss is the primary cause of San Joaquin Valley upland species endangerment (U.S. Fish & Wildlife 1998). It is essential that habitat for endangered and special status species in the Project area is protected to ensure survival and recovery of the species. To ensure habitat protection, land use must maintain or enhance the value of the land. The recommended approach for safeguarding such habitat is to protect land in large blocks whenever possible. This minimizes edge effects, increases the likelihood that ecosystem functions will remain intact and facilitates management.

The proposed Project site impacts habitat for a number of State and Federal threatened and endangered species. This loss of habitat, including foraging habitat, would be significant and must be mitigated through the establishment of permanent compensatory mitigation at prescribed ratios. Again, this mitigation should be determined through consultation with FWS and DFW.

Project Construction and Operation Protocols Must be Wildlife Friendly
The DEIR, in consultation with FWS and DFW, must identify project construction and operation protocols to avoid and minimize impacts to wildlife. Protocols should include special status species construction protocols, buffer zones, shielded lighting, and a prohibition on the use of rodenticides.

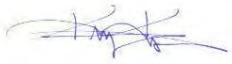
Security Fence Must be Wildlife Friendly
The proposed Project includes security fences around the site's perimeter. This represents a significant barrier to wildlife. The security fences must be designed to be wildlife friendly and allow safe passage of San Joaquin Valley kit fox and other wildlife. Again consultation with the wildlife Agencies is recommended to identify appropriate fence design. The fence must not be electrified.

Conclusion
The California Flats Solar Project is well-intentioned. But good intentions are not enough to overcome the potential permanent impacts the proposed Project would have on the biological resources of the region. This area is home to some of the most imperiled species in California. We strongly encourage the applicant and the County to coordinate and work closely with CDFW and FWS to incorporate the necessary protocol level surveys and appropriate strategies to avoid, minimize and mitigate any impacts to biological resources from the proposed Project.

We look forward to reviewing the DEIR and request to be included in any notices for the proposed Project.

Thank you once again for the opportunity to provide comments on the California Flats Solar Project and for considering our comments. If you have any questions, please me at (530) 902-1615 or via email at kate@kgconsulting.net.

Respectfully submitted,

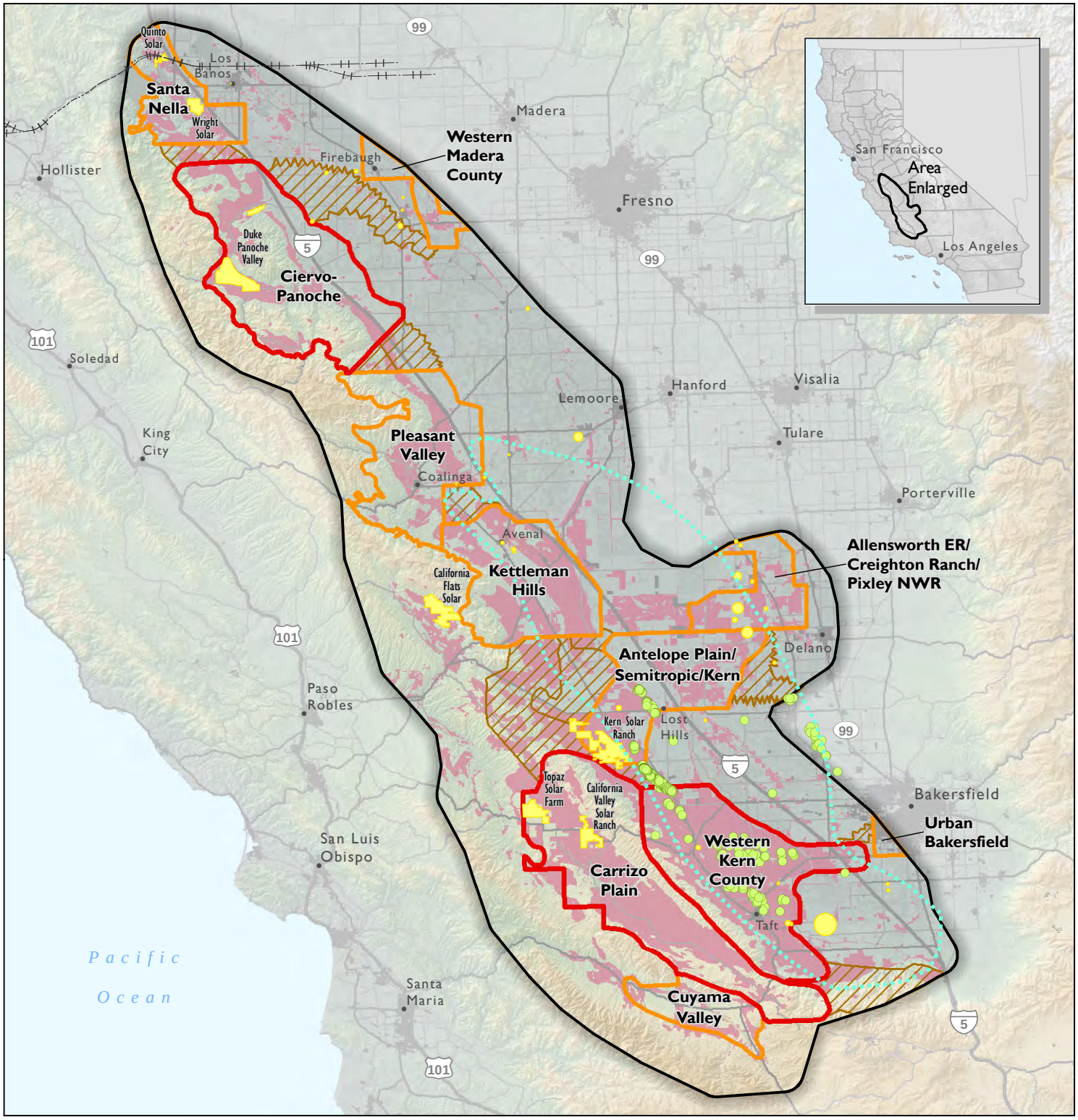


Kate Kelly
Project Manager

Cc:
Todd Mattson, Element Power
John Gaglioti, Element Power
Ken Sanchez, USFWS
Thomas Leeman, USFWS
Bill Condon, CDFW
Julie Vance, CDFW
Lisa Gymer, CDFW

TNC Western San Joaquin Valley Solar Assessment

Kit Fox Habitat and Solar Project Siting



TNC WSJV Assessment Area (TNC 2013)

SJKF Moderate-High Suitable Habitat (ESRP 2012)

Solar Projects

Footprint Known

Footprint Unknown*

Renewable Energy Action Team (REAT) Projects (circles scaled to proposed project areas)

FWS Recovery Areas (2007)

Core

Satellite

Link

Fracking Wells (SkyTruth 2013)

Monterey Shale Formation (US EIA 2012)

Proposed High Speed Rail Alignment (HSR Authority 2009)

0 5 10 20 Miles

N

Map created by TNC, California Science, March 2013

N:\Central_Coast\Projects\SJV_solar\mxds\wsjv_Solar_KitFox_DFWmeeting.mxd

State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
1234 East Shaw Avenue
Fresno, California 93710
(559) 243-4005
www.wildlife.ca.gov

EDMUND G. BROWN, JR., Governor
CHARLTON H. BONHAM, Director

May 16, 2013

Taven M. Kinison Brown
Monterey County Resource Management Agency
Planning Department
168 West Alisal Street, 2nd Floor
Salinas, California 93901

Subject: Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR) for the California Flats Solar Project
SCH No. 2013041031

Dear Mr. Kinison Brown:

The California Department of Fish and Wildlife (Department) has reviewed the NOP submitted by the Monterey County Resource Management Agency (Lead Agency) for the California Flats Solar Project (Project) located in the southeastern corner of Monterey County; approximately 7 miles southeast of the community of Parkfield and 25 miles northeast of the City of Paso Robles, near the borders of Monterey, San Luis Obispo, Kings and Fresno counties. Project approval would allow the construction and operation of a 280-megawatt photovoltaic (PV) solar power facility on a 2,670-acre portion of an existing 72,000-acre cattle ranch known as Jack Ranch. The 2,670-acre Project site includes approximately 135 acres to accommodate a new transmission line corridor. Infrastructure improvements include PV modules; an internal electrical collector system; pad-mounted inverters and transformers; two substations; an on-site switching station (constructed by Pacific Gas and Electric Company) to connect the Project site to the existing Morro Bay-Gates 230-kilovolt transmission line that transects the Project site; an operations and maintenance building; security lighting; security fencing; water infrastructure; and improvements to and reconfiguring of existing internal access roads. Primary vehicle access to the Project site is off of California State Route 41 (Highway 41), by way of an existing 5.6-mile dirt road that would be improved.

The NOP states that biological resources, among other resources, will be potentially impacted through implementation of the Project. The Department agrees and recommends the Lead Agency include an analysis of all potential Project-related impacts on biological resources in the DEIR. The current land use on the Project site is listed as grazing. Construction is anticipated to begin in 2014 and is scheduled to be completed over a 12- to 18-month period.

At this time, the Department is aware that biological surveys have been and continue to be performed on the Project site and we have been presented orally with preliminary Project-specific data. The Department has obtained from the Lead Agency a copy of a Preliminary Biotic Report dated July 26, 2012, that was prepared by H.T. Harvey and Associates for this Project. The Department recommends that the Lead Agency include the

results of all field surveys in the DEIR and use them as biological baseline in the DEIR when analyzing Project-specific and cumulative impacts, including impacts to population connectivity and movement, for species with the potential to be impacted through implementation of the Project including, but not limited to, the following: San Joaquin kit fox (*Vulpes macrotis mutica*, SJKF), which is listed as threatened under the California Endangered Species Act (CESA) and endangered under the federal Endangered Species Act (ESA); California tiger salamander (*Ambystoma califoriense,* CTS), which is listed as threatened under CESA and ESA; golden eagle (*Aquila chrysaetos*) and white-tailed kite (*Elanus leucurus*), both of which are State fully protected species; California condor (*Gymnogyps californianus*), which is listed as endangered under CESA and ESA and is a State fully protected species; California red-legged frog (*Rana aurora draytonii*), which is listed as threatened under ESA and is a State Species of Special Concern; Swainson's hawk (*Buteo swainsoni*, SWHA), which is listed as threatened under CESA; burrowing owl (*Athene cunicularia*, BUOW), western pond turtle (*Emys marmorata*), coast horned lizard (*Phrynsosoma blainvillii*), San Joaquin whipsnake (*Masticophis flagellum*), and American badger (*Taxidea taxus*), all of which are State Species of Special Concern; and a variety of native plants, both listed under CESA and/or ESA or otherwise considered special-status. Adobe navarretia (*Navarretia nigelliformis* ssp. *Nigelliformis*), Hogwallow starfish (*Hesperevax caulescens*), and round-leaved filaree (*California macrophylla*) were observed on the Project site during surveys conducted for the Preliminary Biotic Report.

Department Jurisdiction

Trustee Agency Authority: The Department is a Trustee Agency with the responsibility under the California Environmental Quality Act (CEQA) for commenting on projects that could impact plant, fish and wildlife resources. Pursuant to Fish and Game Code Section 1802, the Department has jurisdiction over the conservation, protection and management of fish, wildlife, native plants and habitat necessary for biologically sustainable populations of those species. As a Trustee Agency for plant, fish and wildlife resources, the Department is responsible for providing, as available, biological expertise to review and comment on environmental documents and impacts arising from project activities, as those terms are used under CEQA.

Responsible Agency Authority:

CESA The Department has regulatory authority over projects that could result in "take" of any species listed or is a candidate for listing by the State (State-listed) as threatened or endangered, pursuant to CESA. For this or any other project which impacts listed species, an Incidental Take Permit (ITP) is the mechanism for providing take authorization under CESA. CEQA requires a Mandatory Finding of Significance if a project is likely to substantially impact threatened or endangered species (sections 21001{c}, 21083, Guidelines sections 15380, 15064, 15065). Impacts must be avoided or mitigated to less than significant levels unless the CEQA Lead Agency makes and supports a Statement of Overriding Consideration (SOC). A CEQA Lead Agency's SOC would not preclude the Project proponent's obligation to comply with CESA.

Lake and Streambed Alteration Agreement (LSAA) The Department has regulatory authority with regard to activities occurring in streams and/or lakes that could adversely affect any fish or wildlife resource, pursuant to Fish and Game Code Section 1600 *et seq.* If the proposed Project would substantially divert water and/or alter the bed, bank, or channel of a lake and/or stream or associated riparian vegetation, an LSAA Notification would be warranted. The Department is required to comply with CEQA in the issuance or the renewal of an LSAA. Therefore, for efficiency in environmental compliance, we recommend that the Final Environmental Impact Report prepared for this Project describe and propose mitigation for any Project activities under the Department's regulatory authority under Fish and Game Code Section 1600 *et seq.* This would reduce the need for the Department to require extensive additional environmental review for an LSAA for this Project in the future.

Other Rare Species: Species of plants and animals need not be listed as Endangered, Rare or Threatened (E, R or T) pursuant to CESA and/or the federal ESA to be considered E, R or T under CEQA. If a species can be shown to meet the criteria for a listing as E, R or T under CESA and/or ESA as specified in the CEQA Guidelines (California Code of Regulations [CCR], Title 14, Chapter 3, Section 15380), it should be fully considered in the environmental analysis for the Project.

Fully Protected Species: The Department has jurisdiction over fully protected species of birds, mammals, amphibians, reptiles, and fish, pursuant to Fish and Game Code sections 3511, 4700, 5050, and 5515. Take of any fully protected species is prohibited, and the Department cannot authorize their take except under the provisions of a Natural Communities Conservation Plan (NCCP). The Project is not within an NCCP area. The fully protected species California condor, golden eagle, and white-tailed kite are all known to occupy habitat contiguous with the suitable habitat on the Project site, and likely occur on the Project site. The DEIR should evaluate and address potential Project-related impacts to fully protected species and should include appropriate avoidance measures. Additional comments on potential Project-related impacts to California condor, golden eagle, and white-tailed kite are provided below.

Potential Impacts and Recommendations

The Project has the potential to impact several special-status species, including those mentioned in the introduction of this letter. All of the species mentioned in the introduction are known to occur or could potentially occur on the proposed Project site and in the Project vicinity. Given the importance of the Project area for many special-status species, the Department recommends that the DEIR's biological impact analysis include a robust assessment of the proposed Project's potential to substantially reduce and adversely modify habitat for special-status species, reduce populations of special-status species, and reduce the number and range of special-status species while taking into account the likelihood that special-status species on adjacent and nearby natural lands rely upon the habitat that occurs on the proposed Project site.

For each State-listed species potentially impacted by the Project, the Department recommends the Lead Agency demonstrate in the DEIR that Project impacts would be fully mitigated as

required by CESA. In addition, given the size and location of this Project and the degree to which habitat for the suite of Valley Floor listed species is being affected by a variety of land uses including renewable energy development, we recommend a robust, population-level analysis for these listed species that addresses population viability in relation to recovery objectives, a detailed cumulative effects analysis addressing the impacts of this Project in relation to other projects and their effect on sensitive species, and measures that would be undertaken through project actions and other mechanisms to ensure that the effects of this Project would not contribute to declining sensitive species populations or preclude recovery of these species.

San Joaquin Kit Fox: The Project site is located within intact SJKF habitat that is adjacent to a habitat linkage between the Western Kern core population and the Salinas Valley satellite population, a linkage identified as essential to the recovery of the SJKF and several other State- and federally listed species according to the United States Fish and Wildlife Service's (USFWS) *Recovery Plan for Upland Species of the San Joaquin Valley, California* (Recovery Action a.xiii in USFWS 1998). Impeding or severing connectivity between these core and satellite populations would result in decreased genetic and habitat connectivity between and within the core habitat areas. The continued movement of SJKF between these core and satellite populations is critical to prevent localized extinctions of SJKF and to allow for recolonization of restored habitat where SJKF were previously extirpated.

The generalized goals of the Recovery Plan identify the steps necessary to downgrade the federal listing status of species from endangered to threatened, and to delist the species. The primary step toward achieving these goals is to secure and protect specified recovery areas from incompatible uses. For the SJKF, this includes the protection of the three core populations and three satellite populations identified in the Recovery Plan. With pressures due to climate change along with development and conversion of natural lands to agricultural activities, the Project area may be more important than previously recognized. A recovery objective is to conserve natural lands around the edges of the core and satellite populations. The Department recommends that the DEIR address the Project's compatibility with the Recovery Plan's goals and avoid precluding recovery of SJKF and other species considered in the Recovery Plan. We also recommend that the DEIR address the effects of large-scale habitat modification and the potential for take during construction, operation and decommissioning of the solar arrays and associated Project features.

If take avoidance is infeasible, acquisition of an ITP would be warranted prior to Project implementation. Title 14, CCR, Section 783.4 requires that applicants fully mitigate the impacts of the permitted take of a State-listed species, including all impacts on the species that result from any act that would cause the proposed taking. The analysis and ultimate determination of full mitigation considers both direct and indirect impacts (including spatial, temporal, sub-lethal, and cumulative impacts). The desired outcome of full mitigation is to ensure that the status of the covered species is preserved such that it is able to continue to survive and thrive after completion of the Project. Full mitigation for this Project would include offsetting take of individual SJKFs and the loss of carrying capacity by enhancing the capacity of remaining habitat to support SJKF.

The Department recommends that any proposal to fully mitigate potential SJKF impacts from this Project include the location and acreage of mitigation lands. If the DEIR does not specify conservation of specific areas, identification of the larger area within which mitigation lands could be acquired (including the amount of proposed mitigation lands) would suffice. We further recommend the DEIR impact analysis and mitigation proposal demonstrate how the acreage, location, and management of mitigation lands would increase the number of SJKFs on those lands in perpetuity at a rate which fully offsets the Project's individual and cumulative impacts to the SJKF population, including the direct and indirect effects discussed above.

California Tiger Salamander: CTS are known to occur in the Project site vicinity and the Project site contains suitable upland habitat and potential breeding ponds. The Department recommends that qualified biologists conduct surveys for CTS according to the *Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander* (USFWS 2003). If conducting surveys to this protocol prior to finalizing the CEQA document is not feasible, the Project proponent can assume presence of CTS whereby issuance of an ITP would be warranted. Title 14, CCR, Section 783.4 requires that applicants fully mitigate the impacts of the permitted take of a State-listed species, including all impacts on the species that result from any act that would cause the proposed taking. The analysis and ultimate determination of full mitigation considers both direct and indirect impacts (including spatial, temporal, sub-lethal, and cumulative impacts). The desired outcome of full mitigation is to ensure that the status of the covered species is preserved such that it is able to continue to survive and thrive after completion of the Project. Full mitigation for this Project would include offsetting take of individual CTS and the loss of carrying capacity by enhancing the capacity of remaining habitat to support CTS.

Swainson's Hawk: SWHA are currently found nesting in the Sacramento and San Joaquin Valleys and while the Project site is located outside of these valleys, it contains appropriate nest structures and foraging habitat for SWHA and is located 11 miles west of a known SWHA nest site (CNDDB 2012). The Department recommends that a qualified biologist conduct SWHA nest surveys according to the *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley* (SWHATAC 2000) in the breeding season prior to starting Project-related activities. The Department recommends that the Lead Agency include avoidance, minimization, and mitigation measures should a SWHA nest be found during surveys in the DEIR. The Department recommends implementing a minimum no-disturbance buffer of 2,640 feet around any SWHA nest trees. We recommend clearly delineating the buffer on the ground using fencing, stakes, or flagging and maintaining this demarcation throughout the breeding season (March 1 through August 31) or until a qualified biologist has determined and the Department has concurred in writing that the nest has failed or the young have fledged and are no longer dependent on the nest or the parents for survival. If this buffer cannot be maintained, then acquisition of an ITP may be warranted.

If a SWHA nest is found during surveys, then appropriate foraging habitat mitigation would be warranted. The Department recommends that the Lead Agency include as a mitigation measure in the DEIR a requirement for habitat compensation through purchase of property with

like or better foraging habitat or placement of an agricultural easement over like or better foraging habitat, to be conserved and funded for in perpetuity management. Guidance for mitigation can be found in the Department's *Staff Report regarding Mitigation for Impacts to Swainson's Hawks (Buteo swainsoni) in the Central Valley of California* (CDFG 1994).

California Condor, Golden Eagle, and White-Tailed Kite: These three avian species have been documented within the vicinity of the Project site. Please note that the Department cannot authorize take of California condor, golden eagle, or white-tailed kite because they are fully protected species (Fish and Game Code Section 5050). To establish the status and precise distribution of these species on the Project site and avoid take during Project activities, the Department recommends conducting intensive visual nest surveys during each respective nesting season on the Project site and within 2,600 feet of the Project site.

We also recommend the DEIR include measures to preclude take on the Project site during construction, operation, maintenance and decommissioning activities. The Department recommends the DEIR analyze the potential for take as a result of habitat modification. If a project's modification of occupied habitat causes mortality of individuals, then the project will be considered the cause of the take. Therefore, to avoid take, we recommend construction, operation, maintenance, and decommissioning activities avoid all nests of California condor, golden eagle, or white-tailed kite by implementing a no-disturbance buffer around nest structures. Install fencing, stakes, flags, etc., at least 2,600 feet from all nest structures and maintain throughout the breeding season or until the young have fledged and are no longer dependent on the parents or nest structure for survival.

Burrowing Owl: BUOWs are known to nest within the Project site vicinity. To establish the status of BUOWs on the Project site and to provide for a CEQA baseline, the Department recommends completing BUOW surveys following the methods in the "*Staff Report on Burrowing Owl Mitigation* dated March 7, 2012 (http://www.dfg.ca.gov/wildlife/nongame/survey_monitor.html#Birds). If the Project site contains BUOWs or potential BUOW burrows, the Department recommends that a qualified biologist conduct another survey no more than 30 days before the onset of any Project activities. If Project activities are delayed or suspended for more than 30 days, the area should be resurveyed. If BUOW or their burrows are found, implement the avoidance and minimization measures included in the BUOW Staff Report. Mitigation in the form of compensatory land to be protected, managed, and funded in perpetuity would also be warranted.

California Red-Legged Frog: This species is known to occur in the Project site vicinity and the Project site contains suitable aquatic, riparian, and upland habitat. The Department recommends that qualified biologists conduct surveys for California red-legged frog according to the *Revised Guidance on Site Assessments and Field Surveys for the California Red-legged Frog* (USFWS 2005). If conducting surveys to this protocol prior to finalizing the CEQA document is not feasible, the Project proponent can assume presence of California red-legged frog. If they are assumed present, the Department recommends that the Lead Agency include appropriate avoidance and minimization, or mitigation measures needed to reduce potentially significant impacts to this species to less than significant levels. The Department recommends

including no-disturbance buffers around all appropriate aquatic, riparian, and upland habitat that is clearly delineated on the ground and maintained throughout the life of the Project. The Department recommends that the Project applicant coordinate with the USFWS on survey methods, mitigation measures, and determining whether federal take authorization is warranted.

Special-Status Plants and Natural Communities: To assess the presence of rare, threatened, and endangered plants and natural communities on the Project site, botanical surveys following the guidelines developed by the Department (CDFW 2009) and the USFWS (USFWS 1996) are recommended. The Department recommends botanical surveys cover the entire area of direct and indirect Project effects and be timed appropriately to detect all species which may occur on the Project site before CEQA analysis occurs. Use of reference sites is recommended for species which are known to occur in the vicinity or which otherwise have a high potential of occurring on-site. The Department recommends natural communities be classified according to the *List of Natural Communities Recognized by the California Natural Diversity Database* (CDFG 2010) and the *List of California Vegetation Alliances* (CDFG 2007). The Department considers those natural communities noted with an asterisk in CDFG 2010, or with a State rank of S1-S3 in CDFG 2007, to be of conservation concern and recommends the CEQA analysis consider these communities as sensitive.

Pronghorn: The Project site is located within known habitat of an isolated population of pronghorn. Implementation of the Project would convert approximately 20 percent of the main habitat patch occupied by this isolated population. Given the low number of pronghorn and the limited habitat availability, the Project could substantially reduce the number of pronghorn that the Cholame Valley could support and thereby threaten to reduce the population to unsustainable levels. The Department recommends the Lead Agency include a thorough analysis of Project-related and cumulative impacts to pronghorn and require habitat mitigation to reduce impacts to less than significant levels in the DEIR.

Fencing: Perimeter fencing installed around a Project this size could result in significant impacts to wildlife movement. The Department recommends that the Lead Agency include as a mitigation measure in the DEIR requiring perimeter fencing to be of a wildlife friendly design to allow unhindered movement into and through the Project site species such as SJKF and pronghorn.

Lighting: Nighttime lighting has the potential to interfere with activities such as feeding in nocturnal amphibian species. Nighttime lighting may also increase predation risk. The Department recommends the Lead Agency include a mitigation measure in the DEIR that requires minimizing the amount of nighttime lighting and requiring lights to be shielded and aimed toward the ground and motion sensor activated set to turn on only when a larger moving object is detected (55 pounds or greater).

Rodenticide Use: The Department strongly discourages the use of rodenticides especially in areas where special-status species are likely to occur. The Department recommends that the Lead Agency include a mitigation measure in the DEIR that prohibits the use of rodenticides or

other pesticides that would impact non-target species or use of which would warrant issuance of an ITP.

Vertical Tubes: Vertical solar mounts and chain-link fencing poles have the potential to attract and trap bird species resulting in mortality. To prevent the death of bird species, the Department recommends the Lead Agency include a mitigation measure in the DEIR requiring that hollow vertical tubes be capped immediately upon installation.

Cumulative Impacts: Cumulative impacts are changes in the environment that result from the incremental impact of the Project when added to other closely related past, present, and reasonably foreseeable, probable future impacts. The Department recommends that the DEIR prepared for the Project adequately address and quantify cumulative impacts to the State-listed or other special-status species addressed above, including from other solar projects along the western edge of the San Joaquin Valley, such as the Panoche Valley Solar Project, the Wright Solar Project, Quinto Solar Project, California Valley Solar Ranch, Topaz Solar Farm, and the Chevron solar-thermal project in Coalinga. We recommend that the cumulative impacts analysis also consider that the above species are rapidly losing habitat in the same region as rangelands are converted to agricultural crops.

Thank you for the opportunity to comment on the California Flats Solar Project NOP. If you have any questions regarding these comments, please contact Lisa Gymer, Staff Environmental Scientist at (559) 243-4014, extension 350, or Lisa.Gymer@wildlife.ca.gov.

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