

COUNTY OF TULARE
RESOURCE MANAGEMENT AGENCY



5961 South Mooney Boulevard
Visalia, CA 93277

Rexford 2 Solar Farm Project
Final Supplemental
Environmental Impact Report
SCH# 2020020326

September 2022

Prepared by:



Prepared for:

County of Tulare Resource Management Agency
Economic Development and Planning Branch
Environmental Planning Division

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Rexford 2 Solar Farm
Final Supplemental Environmental Impact Report (SCH #2020020326)

These attached documents complete the Final Supplemental Environmental Impact Report (Final SEIR) for the above referenced project.

- I. Introduction and Responses to Comments (Chapter 10 of the Final SEIR)
- II. Mitigation Monitoring and Reporting Program (Chapter 8 of the Final SEIR)
- III. Errata (Corrections made to pages of the Draft SEIR)

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10 Introduction and Response to Comments

10.1 Introduction

The Draft Supplemental Environmental Impact Report (Draft SEIR or SEIR) for the Rexford 2 Solar Farm (Project) was made available for public review and comment for a period of 45 days starting on July 15, 2022, and ending on August 30, 2022. The purpose of this document is to present public comments and responses to comments received on the Project's Draft SEIR (SCH # 2020020326).

Individual responses to each of the comment letters received regarding the Draft SEIR are included in this chapter. Comments that do not directly relate to the analysis in this document (i.e., that are outside the scope of this document) will be considered.

In order to provide commenters with a complete understanding of the comment raised, the County of Tulare Resource Management Agency (RMA), Planning Branch staff prepared a comprehensive response regarding particular subjects. These comprehensive responses provide some background regarding an issue, identify how the comment was addressed in the Draft SEIR, and provide additional explanation/elaboration while responding to a comment. In some instances, these comprehensive responses have also been prepared to address specific land use or planning issues associated with the proposed Project, but unrelated to the SEIR or environmental issues associated with the proposed Project.

Comments received that present opinions regarding the Project that are not associated with environmental issues or raise issues that are not directly associated with the substance of the SEIR are noted without a detailed response.

10.2 Revisions to the Project

Revisions and clarifications to the Draft SEIR made in response to comments and information received on the Draft SEIR are indicated by ~~strikeout~~ text (e.g. ~~strikeout~~), indicating deletions, and underline text (e.g. underline), indicating additions. Corrections of typographical errors that have been made throughout the document are not indicated by ~~strikeout~~ or underline text. The specific revisions and clarifications are included as Errata pages within this Final SEIR.

10.3 Public Review of the Draft Supplemental Environmental Impact Report

Consistent with the California Environmental Quality Act (CEQA), the potential environmental effects of the Rexford 2 Solar Farm Project have been analyzed in a Draft SEIR (SCH# 2020020326) dated July 2022. Consistent with Section 15205 of the State CEQA Guidelines, the Draft SEIR for the Rexford 2 Solar Farm Project is subject to a public review period. Section 21091(e) of the Public Resources Code specifies a minimum 30-day shortened period for an EIR; however, if an EIR is submitted to the State Clearinghouse (SCH) for review, the review period shall be a minimum of 45-days. Pursuant to CEQA Guidelines and approval by the Office of Planning and Research (OPR), SCH and Planning Unit, the County of Tulare provided a 45-day review period.

The Rexford 2 Solar Farm Project Draft SEIR was distributed to responsible and trustee agencies, other affected agencies/departments/branches within the County of Tulare and RMA, interested

parties, and all parties who requested a copy of the Draft SEIR in accordance with Section 21092 of the California Public Resources Code. As required by CEQA, a Notice of Availability (NOA) for the Draft SEIR was published in the Sun-Gazette (a newspaper of general circulation) on July 13, 2022.

During the 45-day review period, the Draft SEIR and technical studies were made available for review at the Tulare County RMA, 5961 South Mooney Blvd., Visalia, CA 93277.

In addition, the Draft SEIR and technical appendices were posted on the following websites:

- Tulare County Web Site:
<https://tularecounty.ca.gov/rma/planning-building/environmental-planning/environmental-impact-reports/rexford-2-solar-farm-project-psp-22-006/>
- State Clearinghouse Web Site: <https://ceqanet.opr.ca.gov/> (enter the SCH # in the search bar)

10.4 Relevant CEQA Sections (Summary)

Following is a summary of CEQA Guidelines Sections 15088-15384, et. seq. The complete CEQA Guidelines can be accessed at:

[https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I95DAA70D48811DEBC02831C6D6C108E&originationContext=documenttoc&transitionType=Default&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I95DAA70D48811DEBC02831C6D6C108E&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default))

Section 15088. Evaluation of and Response to Comments.

- The lead agency shall evaluate comments on environmental issues received from persons who reviewed the draft EIR and shall prepare a written response...
- The lead agency shall provide a written proposed response... to a public agency on comments made by that public agency at least 10 days prior to certifying...
- The written response shall describe the disposition of significant environmental issues raised... In particular, the major environmental issues raised when the Lead Agency's position is at variance with recommendations and objections raised in the comments must be addressed in detail...

Section 15088.5. Recirculation of an EIR Prior to Certification.

- A lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification;
- Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR; and
- A decision not to recirculate an EIR must be supported by substantial evidence in the administrative record.

Section 15089. Preparation of Final EIR.

- The Lead Agency shall prepare a final EIR before approving the project. The contents of a final EIR are specified in Section 15132 of these Guidelines.

Section 15090. Certification of the Final EIR.

- Prior to approving a project, the lead agency shall certify that:
 - The final EIR has been completed in compliance with CEQA;

- (2) The final EIR was presented to the decision making body ...and that the decision making body reviewed and considered the information contained in the final EIR prior to approving the project; and
- (3) The final EIR reflects the lead agency's independent judgment and analysis.

Section 15091. Findings.

- (a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding.
- (b) The findings required by subdivision (a) shall be supported by substantial evidence in the record.

Section 15092. Approval.

- (b) A public agency shall not decide to approve or carry out a project for which an EIR was prepared unless either:
 - (1) The project as approved will not have a significant effect on the environment, or
 - (2) The agency has
 - (A) Eliminated or substantially lessened all significant effects on the environment where feasible as shown in findings under Section 15091, and
 - (B) Determined that any remaining significant effects on the environment found to be unavoidable under Section 15091 are acceptable due to overriding concerns as described in Section 15093.

Section 15093. Statement of Overriding Considerations.

- (a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposal project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."
- (b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.
- (c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

Section 15095. Disposition of a Final EIR.

The lead agency shall:

- (a) File a copy of the final EIR with the appropriate planning agency of any city, county, or city and county where significant effects on the environment may occur.
- (b) Include the final EIR as part of the regular project report which is used in the existing project review and budgetary process if such a report is used.
- (c) Retain one or more copies of the final EIR as public records for a reasonable period of time.
- (d) Require the applicant to provide a copy of the certified, final EIR to each responsible agency.

Section 15151. Standards for Adequacy of an EIR.

An EIR should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure.

Section 15364. Feasible.

"Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, and environmental, legal, social, and technological factors.

Section 15384. Substantial Evidence.

"Substantial evidence"... means enough relevant information and reasonable inferences that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency. Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence.

10.5 Response to Comments

10.5.1 Comment Letters Received on the Draft SEIR

The County of Tulare received two (2) written comments on the Draft SEIR from Responsible or Trustee Agencies (see Attachments 2 and 3). In addition, any correspondence or conversations regarding comments from the public are also provided in this document (see Attachment 3). Each comment letter is also numbered. For example, comment letter 1 is from the California Department of Conservation, Geologic Energy Management Division, August 22, 2022.

Consistent with Section 15132 of the CEQA Guidelines, the following is a list of persons, organizations, and public agencies that submitted comments regarding the Draft SEIR received as of close of the public review period on August 30, 2022.

Oral comments were received from or conversations occurred with the following individuals:

None were received.

Comments from Federal, State, or County Agencies:

- Comment Letter 1* *California Department of Conservation, Geologic Energy Management Division, August 22, 2022 (See Attachment 2)*
- Comment Letter 2* *California Department of Transportation, District 6, August 29, 2022 (See Attachment 3)*

Comments from adjacent property owners or other interested parties:

- Comment Letter 3* *Defenders of Wildlife, California Division, August 30, 2022 (See Attachment 4)*

In addition to the comment letters received, this chapter concludes with a list of agencies, tribes, and other interested persons whom were notified during the Notice of Preparation process and/or received a copy of the NOA for the Draft SEIR.

The reader is reminded that the County strictly adheres to and depends upon substantial evidence in drawing conclusions in regards to CEQA documents. Therefore, the County relies on the definition of substantial evidence as provided in CEQA Guidelines Section 15384. (Substantial Evidence) which states: "Substantial evidence"...means enough relevant information and reasonable inferences that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency. Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence." As such, the County also expects commenters such as public agencies, public entities, or other interested persons/parties to also adhere with the substantial evidence definition as provided in CEQA Guidelines Section 15384.

10.5.2 Comprehensive List of Responses

Comment Letter 1: California Department of Conservation, Geologic Energy Management Division, August 22, 2022

Comment #1: Public Resources Code (PRC) § 3208.1 establishes well reabandonment responsibility when a previously plugged and abandoned well will be impacted by planned property development or construction activities. Local permitting agencies, property owners, and/or developers should be aware of, and fully understand, that significant and potentially dangerous issues may be associated with development near oil, gas, and geothermal wells.

Response: The County recognizes that any development of those portions of the Project with the presence of the oil/gas well would be conducted in accordance with the well reabandonment responsibilities pursuant to Public Resources Code (PRC) § 3208.1, which would ensure that no potential hazards risk associated with the well would occur.

Comment #2: The California Geologic Energy Management Division (CalGEM) has received and reviewed the above referenced project dated 7/27/2022. To assist local permitting agencies, property owners, and developers in making wise land use decisions regarding potential development near oil, gas, or geothermal wells, the Division provides the following well evaluation.

The project is located in Tulare County, within the boundaries of the following fields:

Any field

In addition to the plugged & abandoned well(s), there might be pipelines associated to oil and gas production.

Our records indicate there are 1 known oil or gas wells located within the project boundary as identified in the application.

- Number of wells Not Abandoned to Current Division Requirements as Prescribed by Law and Projected to Be Built Over or Have Future Access Impeded by this project: 1
- Number of wells Not Abandoned to Current Division Requirements as Prescribed by Law and Not Projected to Be Built Over or Have Future Access Impeded by this project: 0
- Number of wells Abandoned to Current Division Requirements as Prescribed by Law and Projected to Be Built Over or Have Future Access Impeded by this project: 0
- Number of wells Abandoned to Current Division Requirements as Prescribed by Law and Not Projected to Be Built Over or Have Future Access Impeded by this project: 0

Response: As indicated on Draft SEIR page 3.9-3, a Phase I Environmental Site Assessment (ESA) was prepared for the project (see Draft SEIR Appendix I). Although not considered a Recognized Environmental Concern (REC), one oil/gas well was identified on the Department of Conservation, Division of Oil, Gas, and Geothermal Resources (DOGGR) website located on the Project site (APN 321-010-005) (see Figure 2 in Appendix I of the Draft SEIR). This information (presence of one oil/gas well on-site) is consistent with the information provided in Comment #2. According to the project-specific Phase I ESA, it is unknown if the soils at the Project site were impacted by the oil field operations.

Any project activities involving potential disturbance to the existing oil/gas well would be the responsibility of the applicant and conducted in compliance with PRC § 3208.1.

Comment #3: The Division categorically advises against building over, or in any way impeding access to, oil, gas, or geothermal wells. Impeding access to a well could result in the need to remove any structure or obstacle that prevents or impedes access including, but not limited to, buildings, housing, fencing, landscaping, trees, pools, patios, sidewalks, roadways, and decking. Maintaining sufficient access is considered the ability for a well servicing unit and associated necessary equipment to reach a well from a public street or access way, solely over the parcel on which the well is located. A well servicing unit, and any necessary equipment, should be able to pass unimpeded along and over the route, and should be able to access the well without disturbing the integrity of surrounding infrastructure.

Response: As indicated on Draft SEIR page 3.9-8, the proposed Project will not involve the alteration or removal of the on-site oil/gas well. The proposed Project would not build over the existing well. Therefore, the proposed Project would not impede access to the on-site oil/gas well.

Comment #4: There are no guarantees a well abandoned in compliance with current Division requirements as prescribed by law will not start leaking in the future. It always remains a possibility that any well may start to leak oil, gas, and/or water after abandonment, no matter how thoroughly the well was plugged and abandoned. The Division acknowledges wells plugged and abandoned to the most current Division requirements as prescribed by law have a lower probability of leaking in the future, however there is no guarantees that such abandonments will not leak.

The Division advises that all wells identified on the development parcel prior to, or during, development activities be tested for liquid and gas leakage. Surveyed locations should be provided to the Division



in Latitude and Longitude, NAD 83 decimal format. The Division expects any wells found leaking to be reported to it immediately.

Failure to plug and reabandon the well may result in enforcement action, including an order to perform reabandonment well work, pursuant to PRC § 3208.1, and 3224.

Response: As indicated on Draft SEIR page 3.9-8, the proposed Project will not involve the demolition of existing on-site structures or the alteration or removal of the on-site oil/gas well. The County recognizes that any development of the portion of the Project with the presence of the oil/gas well would be conducted in accordance with the well reabandonment responsibilities pursuant to Public Resources Code (PRC) § 3208.1.

Comment #5: PRC § 3208.1 give the Division the authority to order or permit the re-abandonment of any well where it has reason to question the integrity of the previous abandonment, or if the well is not accessible or visible. Responsibility for re-abandonment costs may be affected by the choices made by the local permitting agency, property owner, and/or developer in considering the general advice set forth in this letter. The PRC continues to define the person or entity responsible for reabandonment as:

1. The property owner - If the well was plugged and abandoned in conformance with Division requirements at the time of abandonment, and in its current condition does not pose an immediate danger to life, health, and property, but requires additional work solely because the owner of the property on which the well is located proposes construction on the property that would prevent or impede access to the well for purposes of remedying a currently perceived future problem, then the owner of the property on which the well is located shall obtain all rights necessary to reabandon the well and be responsible for the reabandonment.
2. The person or entity causing construction over or near the well - If the well was plugged and abandoned in conformance with Division requirements at the time of plugging and abandonment, and the property owner, developer, or local agency permitting the construction failed either to obtain an opinion from the supervisor or district deputy as to whether the previously abandoned well is required to be reabandoned, or to follow the advice of the supervisor or district deputy not to undertake the construction, then the person or entity causing the construction over or near the well shall obtain all rights necessary to reabandon the well and be responsible for the reabandonment.
3. The party or parties responsible for disturbing the integrity of the abandonment - If the well was plugged and abandoned in conformance with Division requirements at the time of plugging and abandonment, and after that time someone other than the operator or an affiliate of the operator disturbed the integrity of the abandonment in the course of developing the property, then the party or parties responsible for disturbing the integrity of the abandonment shall be responsible for the reabandonment.

Response: Comment noted. Please see responses to comments #2 through #4.

Comment #6: No well work may be performed on any oil, gas, or geothermal well without written approval from the Division. Well work requiring approval includes, but is not limited to, mitigating leaking gas or other fluids from abandoned wells, modifications to well casings, and/or any other re-abandonment work. The Division also regulates the top of a plugged and abandoned well's minimum and maximum depth below final grade. CCR §1723.5 states well casings shall be cut off at least 5 feet but no more than 10 feet below grade. If any well needs to be lowered or raised (i.e., casing cut down

or casing riser added) to meet this regulation, a permit from the Division is required before work can start.

Response: Comment noted. The proposed Project will not involve the demolition of existing on-site structures or the alteration or removal of the on-site oil/gas well; however, the County acknowledges that any well work would require a permit from the Division.

Comment #7: The Division makes the following additional recommendations to the local permitting agency, property owner, and developer:

1. To ensure that present and future property owners are aware of (a) the existence of all wells located on the property, and (b) potentially significant issues associated with any improvements near oil or gas wells, the Division recommends that information regarding the above identified well(s), and any other pertinent information obtained after the issuance of this letter, be communicated to the appropriate county recorder for inclusion in the title information of the subject real property.

Response: Comment noted. The County has notified the Project applicant of the well located on-site and has provided the applicant this correspondence to inform potential permit requirements and other information identified in the letter. As a condition of approval of the Project, the County has required the applicant to include the presence of the well as part of the title information for the subject parcel where the well is located.

Comment #8: The Division recommends that any soil containing hydrocarbons be disposed of in accordance with local, state, and federal laws. Please notify the appropriate authorities if soil containing significant amounts of hydrocarbons is discovered during development.

As indicated in PRC § 3106, the Division has statutory authority over the drilling, operation, maintenance, and abandonment of oil, gas, and geothermal wells, and attendant facilities, to prevent, as far as possible, damage to life, health, property, and natural resources; damage to underground oil, gas, and geothermal deposits; and damage to underground and surface waters suitable for irrigation or domestic purposes. In addition to the Division's authority to order work on wells pursuant to PRC §§ 3208.1 and 3224, it has authority to issue civil and criminal penalties under PRC §§ 3236, 3236.5, and 3359 for violations within the Division's jurisdictional authority. The Division does not regulate grading, excavations, or other land use issues.

Response: Comment noted. As a condition of approval of the Project, the County has required that soils containing significant amounts of hydrocarbons (above recommended threshold levels) be handled and/or disposed of (as required) in accordance with local, state, and federal laws.

Comment #9: If during development activities, any wells are encountered that were not part of this review, the property owner is expected to immediately notify the Division's construction site well review engineer in the Inland district office, and file for Division review an amended site plan with well casing diagrams. The District office will send a follow-up well evaluation letter to the property owner and local permitting agency.

Response: Comment noted.

Comment #10: Should you have any questions, please contact Victor Medrano at (661) 326-6016 or via email at Victor.Medrano@conservation.ca.gov

Response: Comment noted. We appreciate receiving Mr. Medrano's contact information.

Comment #11: The wells listed below are not abandoned to current Division requirements as prescribed by law, and based upon information provided, are projected to be built over or have future



access impeded. **The Division expects these wells to be reabandoned in compliance with current California law, prior to development activities.**

API	WELL DESIGNATION	OPERATOR	WELL EVALUATIONS
0410700401	Hunsaker 1		Well is NOT plugged and abandoned to current division standards --- Surface plug is not present (CCR § 1723.5). NOTE: No well leak test reported.

Response: The proposed Project will not involve the demolition of existing on-site structures or the alteration or removal of the on-site oil/gas well. Please also refer to responses to comments #1 through #9.

Comment Letter 2: California Department of Transportation, District 6, August 29, 2022

Intro Comment:

Thank you for the opportunity to review the Supplemental Environmental Impact Report (SEIR) for the proposed Rexford 2 Solar Facility (Project) which is the subsequent development phase of the Rexford 1 facility which was approved per Special Use Permit No. PSP 19-073.

The Rexford 2 facility will construct up to a 500 megawatt-alternating current (MW-AC) photovoltaic (PV) solar facility and is intended to share some of facilities that were already approved with the Rexford 1 project.

The approximately 1,200-acre site for the Rexford 2 facility is west and north of the Rexford 1 facility, specifically located north of Avenue 64, and approximately 1.5 miles west of the State Route (SR) 65/Avenue 64 intersection, northwest of the unincorporated community of Ducor, Tulare County.

The mission of Caltrans is to provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability. Caltrans provides the following comments consistent with the State's smart mobility goals that support a vibrant economy and sustainable communities:

1. The Tulare County Resource Management Agency (RMA), as lead agency, has determined that a Supplemental Environmental Impact Report (Supplemental EIR or SEIR) must be prepared for the proposed Rexford 2 Solar Farm Project.
2. The proposed Project will include construction of a ground mounted PV solar power generating system, supporting structures, inverter modules, pad mounted transformers, an energy storage system, access roads and fencing, an on-site substation, an operations and maintenance (O&M) building and both transmission and collector lines. The transmission/collector lines would be located along portions of Road 192, Road 200, Road 208, Road 232, Avenue 24, Avenue 42, Avenue 46, Avenue 56, Avenue 64, Avenue 68, and Avenue 72. The total length of the transmission and/or collector lines would be approximately 31 miles in length.
3. Construction-related vehicles will primarily access the Project sites from the local county roads via SR 65.

Response: This introductory comment summarizes the general project characteristics and states Caltrans' mission to provide a safe, sustainable, integrated and efficient transportation system to

enhance California's economy and livability. This comment does not address the adequacy of the Draft SEIR; therefore, no further response is necessary.

Comment #1: Construction of the Project is expected to generate a total passenger car equivalent (PCE) volume of approximately 1,226 average daily trips (ADT), which includes 1,075 passenger car trips and 70 heavy vehicle trips per day during construction-related activities. The construction time frame is estimated to last 12-24 months. As such, trips generated during the construction phase will be temporary, short-term, and intermittent.

Upon completion of construction-related activities, Project trips will decrease to 50 ADT, with the ongoing operation and maintenance-related activities. The Project is anticipated to require an operational staff of up to 20 full-time employees. The facility will operate seven days a week, 24 hours a day. Maintenance activities may occur seven days a week, 24 hours a day to ensure PV panel output when solar energy is available.

Response: Comment noted. This comment correctly summarizes the Project's average daily trips during construction and operations. This comment does not address the adequacy of the Draft SEIR. As such, no further response is necessary.

Comment #2: Prior to undertaking a detailed VMT analysis, in accordance with the County of Tulare's SB 743 guidelines, dated June 8, 2020, located at: <https://tularecounty.ca.gov/rma/rma-documents/planning-documents/tulare-county-sb-743-guidelines-final/>, a screening process was completed. The County's SB 743 guidelines recommend projects that generate or attract fewer than 500 trips per day generally may be assumed to cause a less-than-significant transportation impact.

The screening process used the conservative estimate of the Project's daily trip generation of approximately 50 trips per day when the facility is fully operational which allowed the Project to be 'screen out' of the VMT analysis.

Response: Comment noted. As indicated on Draft SEIR page 3.17-7, a conservative estimate of the Project's daily trip generation is approximately 50 trips per day for the full facility when operational. Therefore, the Project will generate substantially fewer than the 500-trip-perday threshold and can be assumed to result in a Less than Significant Impact related to CEQA Guidelines section 15064.3, subdivision (b).

Comment #3: As a point of information, the SR 65 Transportation Concept Report (TCR) indicates that segment 6 of SR 65, in the vicinity of this project, is currently a 2-lane facility. Caltrans right-of-way maps shows this segment of SR 65 existing at approximately 236 feet of right-of-way.

Response: Comment noted. This comment does not address the adequacy of the Draft SEIR. As such, no further response is necessary.

Comment #4: Caltrans and the Tulare Association of Governments (TCAG) have completed improvements of SR 65 from the SR 65/SR 190 interchange, south to Avenue 124. No further improvements to this segment of SR 65 are planned at this time.

Response: Comment noted. This comment does not address the adequacy of the Draft SEIR. As such, no further response is necessary.

Comment #5: Caltrans recommends that a Traffic Management Plan and Traffic Control Plan be prepared and provided to our office for review prior to the start of construction.

Response: We concur. As a condition of project approval, all construction in the public road right-of-way will require the applicant to apply for and obtain an Encroachment Permit through the Road

Department. Typically, a construction Traffic Management Plan (which includes provisions for traffic control) will be prepared for the proposed Project prior to the commencement of construction activities. As such, this plan will be provided to Caltrans for review for any construction activities that would involve Caltrans facilities.

Comment #6: Caltrans recommends that truck and equipment trips be restricted to off peak traffic hours and should be spaced to avoid vehicle congestion on SR 65 and to minimize interference with commuter traffic.

Response: While the Project will result in an increase in traffic during construction, roadways in the vicinity of the Project site will continue to operate at an acceptable level of service. Refer to Draft SEIR page 3.17-5.

Comment #7: Water trucks should be present on site and utilized during the construction activities, especially grading and/or earth work to minimize dust in the area.

Response: As indicated on Draft SEIR page 3.3-11, the Project applicant will be required to control fugitive dust through compliance with San Joaquin Valley Unified Air Pollution Control District's Regulation VIII (Fugitive PM₁₀ Prohibitions). Regulation VIII is the most robust and stringent regulation regarding control of fugitive dust emissions in the nation. Also, the Draft SEIR includes Table 3.3-3 which address the use of water trucks with dust control measures specified in Rule 8021 of Regulation VIII. As such, the Draft SEIR's discussion concerning dust control remains adequate.

Comment #8: Personal or construction related vehicles shall not be permitted to park along SR 65.

Response: The County will include a condition of approval prohibiting the Applicant from allowing any personal or construction-related vehicles associated with the Project to park along SR 65 throughout the duration of Project construction-related activities.

Comment #9: An encroachment permit will be required for work to construct Project transmission and/or collector lines located within or along SR 65.

Response: The proposed Project would not involve the construction of transmission and/or collector lines located within or along SR 65. However, the County acknowledges that any work performed by the Applicant located within or along SR 65 requires approval of an encroachment permit.

Comment #10: An encroachment permit must be obtained for all proposed activities for placement of encroachments within, under or over the State highway rights-of-way. The Streets and Highways Code Section 670 provides Caltrans discretionary approval authority for projects that encroach on the State Highway System. Encroachment permits do not run with the land. A change of ownership requires a new permit application. Only the legal property owner or his/her authorized agent can pursue obtaining an encroachment permit. The Permit Department and the Environmental Planning Branch will review and approve the activity and work in the State right-of-way before an encroachment permit is issued.

Please call the Caltrans Encroachment Permit Office - District 6: 1352 W. Olive, Fresno, CA 93778, at (559) 488-4058. [emphasis provided by commenter]

Response: Comment noted. The proposed Project does not involve any improvements that encroach on the State Highway system. However, the County acknowledges the general stipulations of the encroachment permit, which will be the responsibility of the Project applicant.

Comment #11: Prior to an encroachment permit application submittal, the Project proponent is required to schedule a "Pre-Submittal" meeting with District 6 Encroachment Permit Office. Please contact District 6 Encroachment Permit Office at (559) 488-4058 to schedule this meeting. Please review the permit application checklist at:

<http://forms.dot.ca.gov/v2Forms/servlet/FormRenderer?frmId=TR0402&distpath=MAOTO&brapath=PERM>

Response: The County acknowledges that the Applicant is required to schedule a “Pre-Submittal” meeting with District 6 Encroachment Permit Office prior to encroachment permit application submittal.

Comment #12: If you have any other questions, please call David Deel, Associate Transportation Planner at (559) 981-1041.

Response: Comment noted; we appreciate receiving Mr. Deel’s contact information.

Comment Letter 3: Defenders of Wildlife, California Division, August 30, 2022

Intro Comment:

Thank you for the opportunity to comment on the Draft Supplemental Environmental Impact Report (SEIR) for the proposed Rexford 2 Solar Farm Project (Project). These comments are submitted on behalf of Defenders of Wildlife (Defenders) and our nearly 2.2 million members and supporters in the United States, 323,000 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 to prevent the extinction of species, associated loss of biological diversity, and habitat alteration and destruction.

Defenders strongly supports responsible energy development that will help meet California’s emission reduction goals. A low carbon energy future is critical for California – for our economy, our communities, and the environment. Achieving this future—and how we achieve it—is critical for protecting California’s internationally treasured wildlife, landscapes, productive farmlands, and diverse habitats.

As we transition toward a clean energy future, it is imperative for our future and the future of our wild places and wildlife that we strike a balance between addressing the near-term impact of solar development with the long-term impacts of climate change on our biological diversity, fish and wildlife habitat, and natural landscapes. To ensure that the proper balance is achieved, we need smart planning for renewable power that avoids and minimizes adverse impacts on wildlife and lands with known high-resource values. We believe energy projects must be sited in a manner that avoids or minimizes impacts to wildlife and wild habitat, and where necessary, unavoidable impacts should be offset through mitigation.

Response: This introductory comment summarizes the Defenders of Wildlife’s mission to protect all wild animals and plants in their natural communities and states their support for responsible energy development. This comment does not address the adequacy of the Draft SEIR; therefore, no further response is necessary.

Comment #1: The Project is an expansion of the previously approved Rexford 1 Solar Farm Project (Rexford 1). The Final Environmental Impact Report for Rexford 1 was approved in 2020 and is a 700 MW solar photovoltaic facility that includes 700 MW storage. Rexford 1 is located on 3,614 acres of land historically used as agricultural farmland in unincorporated Tulare County. The Project site is in close proximity to the Rexford 1 project and proposes to share facilities that have already been approved for construction. Two parcels of the Project are immediately adjacent to Rexford 1. Together, these two projects are known as the Rexford Cluster and may share infrastructure including but not limited to gen-ties, collector lines, photovoltaic panels, energy storage facilities and voltage equipment.



The Project would be a substantial photovoltaic (PV) solar power plant generating up to 500 MW and includes up to 500 MW storage capacity on approximately 1,200 acres between the unincorporated communities of Ducor and Terra Bella. The Project would include 230 kilovolt collector lines which will run overhead and/or underground to a project substation and then connect to the SCE Vestal Substation via an overhead or underground gen-tie line. The Project would involve the construction of both transmission and collector lines that will be approximately 31 miles in length. The Project is located on active agricultural land that is designated as Prime Farmland, Farmland of Statewide Importance and Farmland of Local Importance. The land is primarily made up of heavily disturbed agricultural fields containing grain fields, vineyards and citrus orchards. The Project site is under Williamson Act contracts with the exception of two parcels.

Response: Comment noted. This comment provides a general summary of the proposed Project. This comment does not address the adequacy of the Draft SEIR; therefore, no further response is necessary.

Comment #2: The proposed Project site may provide habitat and may function as a connectivity wildlife corridor to numerous special status wildlife species including but not limited to the following:

Common Name	Scientific Name	Status
Burrowing Owl	<i>Athene cunicularia</i>	Species of Special Concern
Loggerheaded shrike	<i>Lanius ludovicianus</i>	Species of Special Concern
Northern harrier	<i>Circus hudsonius</i>	Species of Special Concern
San Joaquin Kit Fox	<i>Vulpes macrotis mutica</i>	Federally Endangered and State Threatened
Swainson's hawk	<i>Buteo swainsoni</i>	State Threatened
Tricolored blackbird	<i>Agelaius tricolor</i>	Species of Special Concern
Vernal pool fairy shrimp	<i>Branchinecta lynchi</i>	Federally Threatened

Response: Comment acknowledged. This comment identifies the special-status wildlife species that may have the potential to occur on the Project site. The information provided in the table is consistent with the information contained in the SEIR, and where applicable, potential impacts and mitigation measures for these species is addressed (including as responded to below in responses #4, #5 and #6). This comment does not otherwise address the adequacy of the Draft SEIR. As such, no further response is necessary.

Comment #3: We offer the following comments on the Draft SEIR for the Project:

Permanent conversion from agriculture to industrial land use

The Draft SEIR states the Project would result in a temporary conversion of farmland to non-agricultural use. This is not accurate. California's aggressive renewable goals will require ever increasing renewable energy for the foreseeable future. Solar projects that are currently being constructed are expected to be repowered/upgraded and continue to operate beyond the end of the current contract. In the unlikely event the project is decommissioned, it is still unlikely that project site will return to agricultural use given the industrial scale infrastructure will already be constructed on the site and to serve the site, and the lands will have already been disturbed. Once the habitat and wildlife are destroyed, the land will not return to the current state. It is imperative to recognize the Project will reasonably foreseeably result in a permanent change to the site and the land-use.

Response: The Tulare County Board of Supervisors has adopted the following Resolutions which allow photovoltaic land uses in designated agricultural lands. The Resolutions are provided in their entirety in Appendix “A” of the Draft SEIR:

- Resolution No. 89-1275 Uniform Rules for Agricultural Preserves;
- Resolution No. 99-0620 Establishing Rules on Farmland Security Zones;
- Resolution No. 2010-0458 Interpretation to the Tulare County Zoning Ordinance No. 352 for Solar and Wind Electrical Generation Facilities County Wide;
- Resolution No. 2010-0590 Amendment to Resolution Interpretation to Tulare County Zoning Ordinance No. 352;
- Resolution No. 2010-0591 Compatibility for Public and Private Utility Structures Located on Agricultural Zoned Lands and Lands Under Williamson Act Contracts;
- Resolution No. 2010-0717 Establishing Criteria for Public and Private Utility Structures Proposed on Agricultural Zoned Lands and Lands Under Williamson Act Contracts; and,
- Resolution No. 2013-0104 Recommendation from the Agricultural Policy Advisory Committee Regarding Siting of Utility Scale Solar Facilities.

Under Resolution No. 2010-0590, the Tulare County Board of Supervisors determined that solar generating facilities are a compatible use in Exclusive Agriculture Zone Districts subject to conditions of approval set forth in Special Use Permits.

The proposed solar facility represents a temporary conversion of farmland with a life of approximately 35 years. This conversion is planned as temporary and in accordance with existing land use policies and regulations adopted via plans, zoning, and resolutions by the Tulare County Board of Supervisors (identified above and in the Draft SEIR).

The Project proponent may, at its discretion (and with approval by Tulare County), choose to extend the life of the facility, update technology and re-commission, or decommission and remove the system and its components. As a condition of approval, a Reclamation Plan would be submitted as a part of the permit application materials. This Reclamation Plan would provide financial assurances along with a detailed plan to remediate soils and return the land to its original pre-construction condition upon termination of the Project.

As described in Chapter 2.0 Project Description of the SEIR, at the end of the Project’s life, all infrastructure associated with the Project would be removed and the site would be restored to its original state allowing it to return to agricultural use. These reclamation activities would be in accordance with the Reclamation Plan submitted as a conditional of approval of the Special Use Permit. At the end of the Project life, all infrastructure associated with the Project would be removed, the topsoil will be restored, revegetated and seeded in order to return the land to its pre-construction condition.

Any future action that would extend the Project’s operational life would require subsequent environmental analysis under CEQA. Therefore, it would be pre-decisional, and outside of the scope of the SEIR, to consider impacts to agricultural uses permanent. Additionally, the comment does not provide additional information to support the equivalency between agricultural use and wildlife habitat. Therefore, no revisions to the SEIR have been made in response to this comment.

Comment #4: Conduct additional surveys and mapping of vernal pools around the Project site and construct above-ground collector lines and/or transmission lines that are in close proximity to potential vernal pool fairy shrimp habitat.

The biological study area (BSA) includes 38.35 miles of generation tie-in/collector line corridor alternatives that run along existing roads, and species-specific buffer zones. The Draft SEIR states there is an absence of vernal pools within the BSA, however there is a vernal pool located in close proximity to the proposed transmission and/or collector line route.

Additionally, according to California Natural Diversity Database (CNDDDB), vernal pool fairy shrimp are located within the same topographic quad as the Project. Vernal pool fairy shrimp are a small freshwater crustacean that are found in vernal pools in California and is federally listed as Threatened.

Defenders recommends protocol level surveys for vernal pools around the Project site including all proposed transmission and collector lines, as well as a survey analyzing the indirect and direct impacts to water sheds around any identified vernal pools. The survey should be conducted by a vernal pool and soil expert biologist with several years' experience performing vernal pool surveys. Even if there are currently no vernal pools near the Project site due to the hydrology being altered or modified, there can still be pooling that may support vernal pool fairy shrimp. It is therefore imperative the survey still be conducted if the hydrology has been modified and should be conducted by an expert in soils and vernal pools.

Due to the proximity of the vernal pools and vernal pool fairy shrimp to the proposed transmission and/or collector lines, there is potential for significant impact on the species and their habitat, particularly if the lines are constructed underground. Defenders recommends above ground transmission and collector lines for routes in close proximity to potential vernal pool fairy shrimp habitat and avoiding potential impacts to vernal pools by siting power poles or towers to avoid and minimize impacts to the habitat and population.

Response: The Biological Resource Assessment prepared for the Project (see Appendix "E.1" of the Draft SEIR) evaluated potential impacts to vernal pool fairy shrimp from Project development and operation, including along the gen-tie alternatives. As described on page D-6 of the Biological Resource Assessment, vernal pool habitat was not observed within the Project footprint. Therefore, the Project would not result in potential impacts on vernal pool fairy shrimp and would avoid the potential impacts to vernal pools/fairy shrimp identified in the comment. Therefore, no revisions to the Draft SEIR have been made in response to this comment.

Comment #5: Conduct an updated survey for Swainson's Hawk

The field reconnaissance surveys were conducted on December 17 and 23, 2020 in which no Swainson's hawk or raptor nests were observed. The Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley recommends surveys should be completed for at least the two survey periods prior to the project's initiation:

- Period I: January – March 20
- Period II: March 20 – April 5
- Period III: April 5 – April 20
- Period IV: April 21 – June 10
- Period V: June 10 – July 30

It is recommended specifically that the surveys be completed in Periods II, III, and V and should not be conducted in Period IV. If the updated surveys determine the Project may impact Swainson's hawk foraging habitat, consultation with the CDFW for the appropriate mitigation ratio for habitat management land is necessary.

Response: The comment correctly identifies when field reconnaissance surveys were conducted on the Project site. The Biological Resources Assessment prepared for the Project (see Appendix "E.1" of the Draft SEIR) identifies that reconnaissance survey for nesting raptors, including Swainson's hawk, was conducted within ½ mile of the Project site to assess the Project's potential for impacts. While no raptor nests were observed within ½ mile of the Project site during the reconnaissance survey, the Draft SEIR disclosed the potential for impacts to Swainson's hawk (see page 3.4-8 of the Draft SEIR) if nesting hawks were present during construction, and Mitigation Measure BIO 3.4-5 is required to ensure appropriate avoidance buffers are established for any active Swainson's hawk nests within ½ mile of the Project site. The Draft SEIR adequately identifies the potential for impacts on Swainson's hawk, and includes mitigation to avoid and reduce impacts in the unlikely event they are detected during Project construction. Therefore, no revisions to the Draft SEIR have been made in response to this comment.

Comment #6: Revise Mitigation Measure BIO 3.4-2. a.

The speed limit should be reduced to 10-mph for night-time activity. The San Joaquin Kit Fox (SJKF) has the potential to occur on-site and is listed as endangered under the federal Endangered Species Act and threatened under the California Endangered Species Act, and therefore is protected by federal and state statutes. The U.S. Fish and Wildlife (USFWS) Sacramento Office established standardized recommendations for the protection of the SJKF prior to or during ground disturbance. The recommendations state that night-time construction should be minimized to the extent possible; however, if night-time activity does occur, then the speed limit should be reduced to 10-mph. San Joaquin kit foxes are most active at night and therefore more vulnerable to traffic related incidents at night. The speed limit for the Project should follow the recommendations outlined by the U.S. Fish and Wildlife Services to mitigate the potential impact of night-time construction activity and significantly decrease the potential mortality of the SJKF population.

Response: Although no night-time construction activity is anticipated for construction of the Project, the County herein revises Mitigation Measure 3.4-2. a. to require speed limits of 10-mph during night-time activity to be consistent with USFWS guidance. Mitigation Measure 3.4-2. a. has been revised as follows:

3.4-2. a. Project-related vehicles shall observe a ~~1020~~-mph speed limit in all Project areas, except on County roads and State and Federal highways; this is particularly important at night when kit fox are most active. To the extent possible, night-time construction-related activity shall be minimized. Off-road traffic outside of designated Project areas shall be prohibited.

Comment #7: Revise Project Characteristic 2.3.8

We recommend this section be revised to read:

"Additionally, the Project may include additional security measures consistent with County of Tulare regulations including, but not limited to, barbed wire, ~~low voltage fencing with warning reflective signage~~, controlled access points, security alarms, security camera systems, and security guard vehicle patrols to deter trespassing and/or unauthorized activities that could interfere with operation of the Project. **Perimeter fencing shall not be electrified**

and shall be raised 4 to 7 inches above the ground for the entire length of the fencing to allow SJKF movement throughout the Project area.” (Emphasis Added.)

Fencing that is not electrified and that is raised above the ground is permeable and is designed to accommodate and encourage SJKF movement though the Project site. Additionally, limiting the gap to 7 inches restricts the passage of larger species that are potential predators of SJKF, such as coyotes.

Response: The Project analyzed in the Draft SEIR includes security fencing that would discourage most wildlife species from entering the site. The comment does not provide any justification or evidence to support wildlife permeable fencing. The Project site, in the context of the surrounding land use and wildlife corridors, would not significantly impact wildlife movement, including San Joaquin kit fox, in the region. Wildlife accessible fencing increases the potential for operations and maintenance (O&M) phase impacts, while reducing the security of the Project site. Therefore, no revisions to the Draft SEIR have been made in response to this comment.

Comment #8: Williamson Act Compatibility.

As discussed above, the Project would result in a permanent conversion of agricultural land to an industrial use. The Williamson Act is one of California’s strongest tools for land preservation and permanent conversion of these lands will not only impact agricultural uses but will also result in permanent conversion of habitat for special- status species. We recommend the analysis revisit the Williamson Act compatibility analysis.

Response: The Tulare County Board of Supervisors defined allowable uses on contracted lands in Resolution No. 89-1275, which established Uniform Rules for Agricultural Use. Resolutions No. 89-1275 and No. 99-0620 established the construction of gas, electric, water, and community utility facilities as compatible uses for lands under a Williamson Act Contract. Public and private utility structures were determined to be a compatible use on lands under Williamson Act Contract with Resolution No 2010-0717.

As discussed on Draft SEIR page 3.2-11, Resolutions No. 2010-0717 and No. 2013-0104 subsequently created a two-level process through which solar facility projects can be found as a compatible use on Williamson Act contracted lands. This allows impaired agricultural lands to be put to the highest and best use without cancelling the Williamson Act contract, therefore preserving the option to return to farming the land in the future. Pending the approval of the Special Use Permit for the proposed Project and the approval of findings of compatibility under the Williamson Act, the Project will present a temporary change in land use that has been found to be compatible with the terms of the existing Williamson Act contract on the Project site. Furthermore, as a condition of approval, a Reclamation Plan would be submitted as a part of the permit application materials. This Reclamation Plan would provide financial assurances along with a detailed plan to remediate soils and return the land to its original pre-construction condition upon termination of the Project.

Comment #9: Revise Mitigation Measure 3.4-4. c.

We recommend this section be revised to read:

“If construction-related activities cannot avoid the active BUOW nest, CDFW shall be consulted regarding passive eviction and mitigation. If necessary, BUOW may be passively relocated from burrows after an exclusion plan is prepared **and approved by the CDFW and with the permanent protection of adjacent foraging habitat.”** (Emphasis Added.)

The State of California's Staff Report on Burrowing Owl Mitigation discourages using relocation to artificial burrows as a mitigation measure without including protection of adjacent foraging habitat. Ensuring foraging habitat in close proximity to the artificial burrows is imperative to increase the likelihood that the new burrows will be utilized.

Response: The Draft SEIR identifies the potential for impacts to burrowing owl and includes mitigation measures to avoid and reduce impacts on individuals. Mitigation Measure 3.4-4c sufficiently mitigates for potential impacts on burrowing owl. Specifically, the measure requires the development of an exclusion plan to be reviewed and approved by the CDFW. Traditionally, such CDFW review can include conservation of mitigation lands, where appropriate. Therefore, no revisions to Mitigation Measure 3.4-4. c. have been made in response to this comment.

Comment #10: Ensure appropriate buffers around the White River in consultation with CDFW.

The Project site is in close proximity to the White River, which serves as an important species corridor. According to the California Essential Habitat Connectivity Project, the White River is a natural area smaller than 2,000 acres that otherwise meet the Natural Landscape Block Criteria. The Draft SEIR states that there are no Essential Connectivity Areas or Natural Landscape Blocks mapped within the project. However, the draft SEIR fails to recognize this area that meets the requirements of a Natural Landscape Block, aside from the acreage, that supports important habitats and species and have conservation value. A map showing this designation of Small (less than 2,000 acers) Natural Areas of California is located here:

<https://databasin.org/datasets/e39a186482494487bdfecd3c063ab/>

Defenders recommends, in consultation with the CDFW, appropriate buffers are placed surrounding the White River and to ensure the Project will not directly or indirectly impact the water quality and/or species that supported by the White River.

Response: The Draft SEIR identifies potential impacts to the White River and associated riparian habitat. The only portion of the Rexford 2 Project in proximity to the White River are the potential gen-tie crossings. As designed, the Project would avoid impacts within the jurisdictional limits of the White River. Above ground gen-tie crossings at the White River would not result in any physical barrier to wildlife movement within or adjacent to the White River.

The Draft SEIR, and the mitigation measures therein, do not identify any significant impacts on species listed as Threatened or endangered under CESA; therefore, the Draft SEIR does not prescribe additional consultation with CDFW (except as otherwise noted [Mitigation Measure 3.4-5]). The applicant is required by law to consult with regulatory agencies should Project designs result in direct impacts to jurisdictional waters of the state or waters of the US. The comment does not provide any evidence to demonstrate how the Project may impact species regulated by CDFW, nor does it suggest that a potentially significant impact would occur. As described in Section 3.10, Hydrology and Water Quality of the Draft SEIR, the Project would be required to comply with applicable laws and regulations, specifically those that govern water quality. The Project will be required to prepare a Storm Water Pollution Prevention Plan (SWPPP) consistent with the National Pollutant Discharge Elimination System (NPDES) Construction General Permit. The SWPPP will outline best management practices designed to avoid and reduce impacts to surface and groundwater quality, in compliance with the Construction General Permit. Therefore, no revisions to the Draft SEIR have been made in response to this comment.

Comment #11: Consultation with CDFW and the USFWS on compensatory mitigation for loss of special species habitat.

The Project would result in the permanent conversion of 1,200 acres of habitat for special-status species or threatened species including burrowing owl, SJKF and Swainson's hawk. Defenders recommends consultation with the CDFW and USFWS for mitigation requirements for loss of these three special-species' habitat including purchase of credits at a CDFW approved mitigation bank. Habitat should not be altered or destroyed until mitigations lands have been legally secured and managed for the benefit of wildlife.

Response: As addressed in the response to comment 3, the Project would not permanently convert agricultural land to solar use. The comment incorrectly commingles existing agricultural land with suitable habitat for special-status species. The County cannot stipulate consultation with an outside regulatory agency, nor can the County specify mitigation that another agency should require of an applicant. CDFW does not regulate listed species' habitat, and only requires mitigation for burrowing owl if owls must be passively evicted, a determination that cannot be made until immediately prior to the commencement of construction. Under CEQA, conversion of these agricultural lands to renewable energy does not constitute a significant impact requiring compensatory mitigation for habitat loss. Therefore, no revisions to the Draft SEIR have been made in response to this comment.

Comment #12: Thank you once again for the opportunity to provide comments on the Project's Draft SEIR and for considering our comments. We look forward to reviewing the Final SEIR and request to be notified when it is available. If you have any questions, please contact me at 408-603-4694 or via email at smarkowska@defenders.org.

Response: Comment noted; we appreciate receiving Ms. Markowska's contact information.

10.6 Project Summary

The County of Tulare is considering approval of the proposed Rexford 2 Solar Farm Project to allow the construction and operation of an up to 500 megawatts-alternating current (MW-AC) solar photovoltaic (PV) facility, including an energy storage system with up to 500 MW-AC storage capacity on approximately 1,200 acres near the unincorporated community of Ducor. Power generated by the proposed Project would be transmitted to the Southern California Edison (SCE) Vestal Substation via an up to 230 kilovolt (kV) overhead and/or underground gen-tie line.

10.7 Local Regulatory Context

The Tulare County General Plan Update 2030 was adopted on August 28, 2012. As part of the General Plan, an EIR, and an accompanying Background Report were also prepared. The General Plan Background Report contained contextual environmental analysis for the General Plan Update. The Housing Element for 2009-2014 was adopted on May 8, 2012, and certified by the State of California Department of Housing and Community Development on June 1, 2012. The Health and Safety Element was amended November 15, 2016, under GPA 16-004.

10.8 Scope and Methodology

The County of Tulare has determined that a project level EIR fulfills the requirements of CEQA and is the appropriate level evaluation to address the potential environmental impacts of the proposed Project. A project level EIR is described in Section 15161 of the State CEQA Guidelines as one that examines the environmental impacts of a specific development project. A project level EIR must examine all phases of the project, including planning, construction, and operation.

This document addresses environmental impacts to the level that they can be assessed without undue speculation (CEQA Guidelines Section 15145). The degree of specificity in an EIR corresponds to the degree of specificity of the underlying activity being evaluated (CEQA Guidelines Section 15146). Also, the adequacy of an EIR is determined in terms of what is reasonably feasible, in light of factors such as the magnitude of the project at issue, the severity of its likely environmental impacts, and the geographic scope of the project (CEQA Guidelines Sections 15151 and 15204(a)).

CEQA Guidelines Section 15002(a) specifies that, “[t]he basic purposes of CEQA are to:

- (1) Inform governmental decision makers and the public about the potential, significant environmental effects of proposed activities.
- (2) Identify ways that environmental damage can be avoided or significantly reduced.
- (3) Prevent significant, avoidable damage to the environment by requiring changes in projects through the use of alternatives or mitigation measures when the governmental agency finds the changes to be feasible.
- (4) Disclose to the public the reasons why a governmental agency approved the project in the manner the agency chose if significant environmental effects are involved.”¹

CEQA Guidelines Section 15002(f) specifies that, “[a]n environmental impact report (EIR) is the public document used by the governmental agency to analyze the significant environmental effects of a proposed project, to identify alternatives, and to disclose possible ways to reduce or avoid the possible environmental damage... An EIR is prepared when the public agency finds substantial evidence that the project may have a significant effect on the environment... When the agency finds that there is no substantial evidence that a project may have a significant environmental effect, the agency will prepare a “Negative Declaration” instead of an EIR...”²

Pursuant to CEQA Guidelines Section 15021 Duty to Minimize Environmental Damage and Balance Competing Public Objectives:

- “(a) CEQA establishes a duty for public agencies to avoid or minimize environmental damage where feasible.
- (1) In regulating public or private activities, agencies are required to give major consideration to preventing environmental damage.
 - (2) A public agency should not approve a project as proposed if there are feasible alternatives or mitigation measures available that would substantially lessen any significant effects that the project would have on the environment.
- (b) In deciding whether changes in a project are feasible, an agency may consider specific economic, environmental, legal, social, and technological factors.
- (c) The duty to prevent or minimize environmental damage is implemented through the findings required by Section 15091.
- (d) CEQA recognizes that in determining whether and how a project should be approved, a public agency has an obligation to balance a variety of public objectives, including economic, environmental, and social factors and in particular the goal of providing a decent home and

¹ CEQA Guidelines, Section 15002(a).

² Ibid. Section 15002(f).

satisfying living environment for every Californian. An agency shall prepare a statement of overriding considerations as described in Section 15093 to reflect the ultimate balancing of competing public objectives when the agency decides to approve a project that will cause one or more significant effects on the environment.”³

10.9 Identification of Potentially Significant Impacts

CEQA Guidelines Section 15002(h) addresses potentially significant impacts, to wit, “CEQA requires more than merely preparing environmental documents. The EIR by itself does not control the way in which a project can be built or carried out. Rather, when an EIR shows that a project could cause substantial adverse changes in the environment, the governmental agency must respond to the information by one or more of the following methods:

- (1) Changing a proposed project;
- (2) Imposing conditions on the approval of the project;
- (3) Adopting plans or ordinances to control a broader class of projects to avoid the adverse changes;
- (4) Choosing an alternative way of meeting the same need;
- (5) Disapproving the project;
- (6) Finding that changing or altering the project is not feasible; and,
- (7) Finding that the unavoidable significant environmental damage is acceptable as provided in Section 15093.”⁴ (See Chapter 7)

This *Final EIR* identifies potentially significant impacts that will be anticipated to result from implementation of the proposed Project. Significant impacts are defined as a “substantial or potentially substantial, adverse change in the environment.”⁵ Significant impacts must be determined by applying explicit significance criteria to compare the future plan conditions to the existing environmental setting.⁶

The existing setting is described in detail in each resource section of Chapter 3 of this document and represents the most recent, reliable, and representative data to describe current regional conditions. The criteria for determining significance are also included in each resource section in Chapter 3 of this document.

10.10 Consideration of Significant Impacts

Pursuant to CEQA Guidelines Section 15126.2, “[a]n EIR shall identify and focus on the significant effects of the proposed project on the environment. In assessing the impact of a proposed project on the environment, the lead agency should normally limit its examination to changes in the existing physical conditions in the affected area as they exist at the time the notice of preparation is published, or where no notice of preparation is published, at the time environmental analysis is commenced. Direct and indirect significant effects of the project on the environment shall be clearly identified and described, giving due consideration to both the short-term and long-term effects. The discussion

³ Op. Cit. Section 15021.

⁴ Op. Cit. Section 15002(h).

⁵ Public Resources Code Section 21068.

⁶ CEQA Guidelines, Section 15126.2(a).

should include relevant specifics of the area, the resources involved, physical changes, alterations to ecological systems, and changes induced in population distribution, population concentration, the human use of the land (including commercial and residential development), health and safety problems caused by the physical changes, and other aspects of the resource base such as water, historical resources, scenic quality, and public services. The EIR shall also analyze any significant environmental effects the project might cause or risk exacerbating by bringing development and people into the area affected.”⁷

As the Project will have no significant and unavoidable effects; a Statement of Overriding Considerations is not necessary or required as part of this Final SEIR.

10.11 Mitigation Measures

CEQA Guidelines Section 15126.4 specifies that:

“(1) An EIR shall describe feasible measures which could minimize significant adverse impacts, including where relevant, inefficient and unnecessary consumption of energy.

(A) The discussion of mitigation measures shall distinguish between the measures which are proposed by project proponents to be included in the project and other measures proposed by the lead, responsible or trustee agency or other persons which are not included but the lead agency determines could reasonably be expected to reduce adverse impacts if required as conditions of approving the project. This discussion shall identify mitigation measures for each significant environmental effect identified in the EIR.

(B) Where several measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified. Formulation of mitigation measures shall not be deferred until some future time. The specific details of a mitigation measure, however, may be developed after project approval when it is impractical or infeasible to include those details during the project’s environmental review provided that the agency (1) commits itself to the mitigation, (2) adopts specific performance standards the mitigation will achieve, and (3) identifies the type(s) of potential action(s) that can feasibly achieve that performance standard and that will be considered, analyzed, and potentially incorporated in the mitigation measure. Compliance with a regulatory permit or other similar process may be identified as mitigation if compliance would result in implementation of measures that would be reasonably expected, based on substantial evidence in the record, to reduce the significant impact to the specified performance standards.

(C) Energy conservation measures, as well as other appropriate mitigation measures, shall be discussed when relevant. Examples of energy conservation measures are provided in Appendix “F.”

(D) If a mitigation measure would cause one or more significant effects in addition to those that would be caused by the project as proposed, the effects of the mitigation measure shall be discussed but in less detail than the significant effects of the project as proposed. (*Stevens v. City of Glendale* (1981) 125 Cal.App.3d 986.)

(2) Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments. In the case of the adoption of a plan, policy, regulation, or other public project, mitigation measures can be incorporated into the plan, policy, regulation, or project design.

⁷ Ibid. Section 15126.2.

- (3) Mitigation measures are not required for effects which are not found to be significant.
- (4) Mitigation measures must be consistent with all applicable constitutional requirements, including the following:
 - (A) There must be an essential nexus (i.e., connection) between the mitigation measure and a legitimate governmental interest. *Nolan v. California Coastal Commission*, 483 U.S. 825 (1987); and
 - (B) The mitigation measure must be “roughly proportional” to the impacts of the project. *Dolan v. City of Tigard*, 512 U.S. 374 (1994). Where the mitigation measures in an ad hoc exaction, it must be “roughly proportional” to the impacts of the project. *Ehrlich v. City of Culver City* (1996) 12 Cal. 4th 854.
- (5) If the lead agency determines that a mitigation measure cannot be legally imposed, the measure need not be proposed or analyzed. Instead, the EIR may simply reference that fact and briefly explain the reasons underlying the lead agency’s determination.”⁸

10.12 Organization of the SEIR

With the exception of Chapter 10, Response to Comments, the SEIR consists of the following sections:

Executive Summary

The Executive Summary Chapter provides a summary of the proposed Project, including a summary of Project impacts, mitigation measures, and Project alternatives.

Chapter 1

Chapter 1 provides a brief introduction to the Environmental Analysis required by CEQA.

Chapter 2

Chapter 2 describes the proposed Project. The chapter also includes the objectives of the proposed Project. The environmental setting is described and the regulatory context within which the proposed Project is evaluated is outlined.

Chapter 3

Includes the Environmental Analysis in response to each Checklist Item. Within each analysis the following is included:

Summary of Findings

Each chapter notes a summary of findings.

Introduction

Each chapter will begin with a summary of impacts, pertinent CEQA requirements, applicable definitions and/or acronyms, and thresholds of significance.

Environmental Setting

Each environmental factor analysis in Chapter 3 will outline the environmental setting for each environmental factor. In addition, methodology is explained when complex analysis is required.

⁸ Op. Cit. Section 15126.4.

Existing Conditions

Each environmental factor analysis in Chapter 3 will outline the existing conditions for each environmental factor.

Regulatory Setting

Each environmental analysis topic in Chapter 3 will outline the regulatory setting for that resource.

Project Impact Analysis

Each evaluation criteria will be reviewed for potential Project-specific impacts.

Cumulative Impact Analysis

Each evaluation criteria will be reviewed for potential cumulative impacts.

Mitigation Measures

Mitigation Measures will be proposed as deemed applicable.

Conclusion

Each conclusion will outline whether recommended mitigation measures will, based on the impact evaluation criteria, substantially reduce or eliminate potentially significant environmental impacts. If impacts cannot be mitigated, unavoidable significant impacts will be identified.

Chapter 4

Chapter 4 summarizes the cumulative impacts addressed in Chapter 3.

Chapter 5

Chapter 5 describes and evaluates alternatives to the proposed Project. The proposed Project is compared to each alternative, and the potential environmental impacts of each are analyzed.

Chapter 6

Chapter 6 evaluates or describes CEQA-required subject areas: Economic Effects, Social Effects, and Growth Inducement.

Chapter 7

Chapter 7 evaluates or describes CEQA-required subject areas: Environmental Effects That Cannot be Avoided, Irreversible Impacts, and Statement of Overriding Considerations.

Chapter 8

Chapter 8 provides a mitigation monitoring and reporting program that summarizes the environmental issues, the significant mitigation measures, and the agency or agencies responsible for monitoring and reporting on the implementation of the mitigation measures.

Chapter 9

Chapter 9 lists all the individuals and companies involved in the preparation of the SEIR, as well as individuals and agencies consulted and cited in the SEIR.

Chapter 10

Chapter 10 contains the Response to Comments received on the Draft SEIR during the 45-day review period.

Technical Appendices

Following the text of this SEIR, several appendices (A through N) which contain technical studies or other reference materials have been included as part of the SEIR.

10.13 Environmental Review Process

Pursuant to CEQA Guidelines §15082, the Notice of Preparation (NOP) for the proposed Project was circulated for review and comment on March 16, 2022 and circulated for a 30-day comment period ending April 15, 2022. Tulare County RMA received (4) four comment letters on the NOP. Comments were received from the following agencies, individuals, and/or organizations:

- Native American Heritage Commission
- State of California Department of Conservation, Division of Land Resources
- San Joaquin Valley Air Pollution Control District
- Defenders of Wildlife

A copy of the NOP is included in Appendix “N” of this SEIR, along with copies of letters received in response to the NOP.

Consistent with CEQA Guidelines Section 15103, “Responsible and Trustee Agencies, and the Office of Planning and Research shall provide a response to a Notice of Preparation to the Lead Agency within 30 days after receipt of the notice. If they fail to reply within the 30 days with either a response or a well justified request for additional time, the lead agency may assume that none of those entities have a response to make and may ignore a late response.”⁹

A scoping meeting was duly noticed in a newspaper of general circulation and held on March 31, 2022. No comments were received during this meeting.

Section 15093 of the State CEQA Guidelines requires decision-makers to balance the benefits of a proposed project against any unavoidable adverse environmental effects of the project. If the benefits of the project outweigh the unavoidable adverse environmental effects, then the decision-makers may adopt a statement of overriding considerations, finding that the environmental effects are acceptable in light of the project’s benefits to the public.

As noted in CEQA Guidelines § 15105 (a), a Draft EIR that is submitted to the State Clearinghouse shall have a minimum review period of 45 days. This *Draft SEIR* was circulated publicly for comment beginning on July 15, 2022. Following completion of the 45-day public review period ending on August 30, 2022, staff prepared responses to comments and a Final SEIR has been completed. The Final SEIR was forwarded to the County of Tulare Planning Commission (Commission) for review for either certification and adoption of the Final SEIR and approval for the Rexford 2 Solar Farm Project or for denial of the Project. Pending appeal to the Board of Supervisors, if the Commission approves the Project, a Notice of Determination will then be filed with the County Tulare County Clerk and also forwarded to the State of California, Office of Planning and Research.

⁹ CEQA Guidelines, Section 15103.

10.14 Organizations Consulted

Appendix “N” of the Draft SEIR contains the NOP process, which includes a list of the agencies receiving the NOP. Attachment 1 includes a table identifying the recipients of the NOA.

Attachment 1.
Notice of Availability Tracking Table

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**NOTICE OF AVAILABILITY OF ENVIRONMENTAL IMPACT REPORT
REXFORD 2 SOLAR FACILITY (SCH# 2020020326)**

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Tulare County Website: <https://tularecounty.ca.gov/rma/planning-building/environmental-planning/environmental-impact-reports/>

Tulare County Resource Management Agency 5961 S. Mooney Blvd. Visalia, CA 93277-9394					X	X	7/15/22				
Tulare County Clerk/Recorder County Civic Center Courthouse, Room 105 221 S. Mooney Blvd. Visalia, CA 93291					X		7/15/22				
Visalia Main Branch Library 200 W. Oak Ave. Visalia, CA 93291 DWegener@tularecounty.ca.gov Ruth.Tolmachoff@tularecountylibrary.org questions@tularecountylibrary.org				X							

STATE CLEARINGHOUSE (Agencies below were marked with "X" on the NOC)							7/15/22, upload to CEQAnet	
--	--	--	--	--	--	--	----------------------------	--

- | | |
|--|---|
| <ul style="list-style-type: none"> • Air Resources Board | |
| <ul style="list-style-type: none"> • California Energy Commission | 8/22/22, letter received from CalGEM (Jeff Kimber for William Long); contact Victor Medrano
Victor.Medrano@conservation.ca.gov |
| <ul style="list-style-type: none"> • California Highway Patrol | |
| <ul style="list-style-type: none"> • Department of Conservation | |
| <ul style="list-style-type: none"> • Department of Fish and Wildlife Region #4 | |
| <ul style="list-style-type: none"> • Department of Food and Agriculture | |
| <ul style="list-style-type: none"> • Department of Forestry & Fire Protection | |
| <ul style="list-style-type: none"> • Department of General Services | |
| <ul style="list-style-type: none"> • Department of Transportation – District #6 | |
| <ul style="list-style-type: none"> • Department of Toxic Substances Control | |
| <ul style="list-style-type: none"> • Native American Heritage Commission | |
| <ul style="list-style-type: none"> • Natural Resources Agency | |
| <ul style="list-style-type: none"> • Office of Historic Preservation | |
| <ul style="list-style-type: none"> • Public Utilities Commission | |

**NOTICE OF AVAILABILITY OF ENVIRONMENTAL IMPACT REPORT
REXFORD 2 SOLAR FACILITY (SCH# 2020020326)**

AGENCY / ENTITY	DOCUMENTS SENT						DELIVERY METHOD				COMMENTS RECEIVED
	Electronic				Hard Copy		Hand Delivered / Interooffice	E-mail	FedEx	US Mail	
	Electronic Submittal Form	NOC	NOA	DEIR	NOA	DEIR					
<ul style="list-style-type: none">Regional Water Quality Control Board District #5FState Water Resources Control Board – Water Quality											
FEDERAL AGENCIES											
US Department of Agriculture Natural Resources Conservation Service Visalia Service Center Attn: Lurana Strong, District Conservationist 3530 W. Orchard Ct. Visalia, CA 93277-7055 lurana.strong@usda.gov			X					8/19/22			
STATE & REGIONAL AGENCIES											
California Natural Resources Agency Department of Conservation Division of Land Resource Protection 715 P Street, Mail Stop #1904 Sacramento, CA 95814 dlrp@conservation.ca.gov Farl.Grundy@conservation.ca.gov Monique.Wilber@conservation.ca.gov			X					8/19/22			
CA Dept. of Fish and Wildlife Region 4 – Central Region 1234 E. Shaw Avenue Fresno, CA 93710 R4CEQA@wildlife.ca.gov			X					8/19/22			
CA Dept. of Transportation, District 6 1352 W. Olive Ave P.O. Box 12616 Fresno, CA 93778-2616 david.deel@dot.ca.gov lorena.mendibles@dot.ca.gov			X					8/19/22			8/29/22, letter received from Caltrans (David Padilla, Branch Chief, for Lorena Mendibles, Branch Chief); contact David Deel
California Highway Patrol – Porterville Area Scott Goddard - sgoddard@chp.ca.gov			X					8/19/22			
CA Public Utilities Commission Energy Division 3rd Floor Attn: Mary Jo Borak 505 Van Ness Ave. San Francisco, CA 94102 bor@cpuc.ca.gov			X					8/19/22			

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	Electronic			Hard Copy			Hand Delivered / Interoffice	E-mail	FedEx	US Mail	
	Electronic Submittal Form	NOC	NOA	DEIR	NOA	DEIR					
Native American Heritage Commission 1550 Harbor Blvd, Suite 100 West Sacramento, CA 95691 NAHC@nahc.ca.gov			X					8/19/22			
Regional Water Quality Control Board Region 5 – Central Valley 1685 E Street Fresno, CA 93706 CentralValleyFresno@waterboards.ca.gov			X					8/19/22			
San Joaquin Valley APCD Permit Services – CEQA Division 1990 E. Gettysburg Ave. Fresno, CA 93726 CEQA@valleyair.org brian.clements@valleyair.org mark.montelongo@valleyair.org cherie.clark@valleyair.org			X					8/19/22			
Southern California Edison Attn: Calvin Rossi, Region Manager Local Public Affairs 2425 S. Blackstone St. Tulare, CA 93274 calvin.rossi@sce.com			X					8/19/22			
Southern California Gas Company 404 N. Tipton Street Visalia, CA 93292 envreview@semprautilities.com			X					8/19/22			
LOCAL AGENCIES											
Tulare County Agricultural Commissioner Attn: Tom Tucker 4437 S. Laspina Street Tulare CA 93274 TTucker@tularecounty.ca.gov			X					8/19/22			
Tulare County Association of Governments Attn: Ted Smalley 210 N. Church Street, Suite B Visalia, CA 93291 TSmalley@tularecog.org			X					8/19/22			

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	Electronic			Hard Copy			Hand Delivered / Interoffice	E-mail	FedEx	US Mail	
	Electronic Submittal Form	NOC	NOA	DEIR	NOA	DEIR					
Tulare County Farm Bureau Tricia Stever Blattler, Exec. Director P.O. Box 748 Visalia, CA 93291 pstever@tulcofb.org			X					8/19/22			
Tulare County Health & Human Services Agency Environmental Health Department Attn: Jessica Gocke 5957 S. Mooney Blvd Visalia, CA 93277 jgocke@tularehhsa.org Allison Shuklian - AShuklia@tularehhsa.org			X					8/19/22			
Tulare County Office of Emergency Services Attn: Sabrina Bustamante / Megan Fish 5957 S. Mooney Blvd Visalia, CA 93277 slbustamante@tularecounty.ca.gov mfish@tularecounty.ca.gov			X					8/19/22			
Tulare County Resource Management Agency 5961 S. Mooney Blvd. Visalia, CA 93277 Economic Development - jmartinez2@tularecounty.ca.gov Fire – gportillo@tularecounty.ca.gov Flood Control – rschenke@tularecounty.ca.gov ; rmiller@tularecounty.ca.gov Public Works – hbeltran@tularecounty.ca.gov ; jwong@ctularecounty.ca.gov			X					8/19/22			
TRIBES											
Big Sandy Rancheria of Western Mono Indians Elizabeth D. Kipp, Chairperson PO. Box 337 Auberry, CA 93602 lkipp@bsrnnation.com			X					8/19/22			

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AGENCY / ENTITY	DOCUMENTS SENT						DELIVERY METHOD				COMMENTS RECEIVED
	Electronic			Hard Copy			Hand Delivered / Interoffice	E-mail	FedEx	US Mail	
	Electronic Submittal Form	NOC	NOA	DEIR	NOA	DEIR					
Dunlap Band of Mono Indians Benjamin Charley Jr., Tribal Chair P.O. Box 14 Dunlap, CA 93621 ben.charley@yahoo.com			X					8/19/22			
Dunlap Band of Mono Indians Dirk Charley, Tribal Secretary 5509 E. McKenzie Avenue Fresno, CA 93727 dcharley2016@gmail.com			X					8/19/22			
Kern Valley Indian Tribe Robert Robinson, Co-Chairperson P.O. Box 1010 Lake Isabella, CA 93240 bbutterbredt@gmail.com			X					8/19/22			
Kern Valley Indian Tribe Julie Turner, Secretary P. Box 1010 Lake Isabella, CA 93240 meindiagirl@sbcglobal.net			X					8/19/22			
Kern Valley Indian Tribe Brandi Kendricks 30741 Foxridge Court Tehachapi, CA 93561 krazykendricks@hotmail.com			X					8/19/22			
Santa Rosa Rancheria Tachi Yokut Tribe Leo Sisco, Chairperson P. O. Box 8 Lemoore, CA 93245 LSisco@tachi-yokut-nsn.gov			X					8/19/22			
Santa Rosa Rancheria Tachi Yokut Tribe Cultural Department Shana Powers, Director P. O. Box 8 Lemoore, CA 93245 SPowers@tachi-yokut-nsn.gov			X					8/19/22			

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AGENCY / ENTITY	DOCUMENTS SENT						DELIVERY METHOD				COMMENTS RECEIVED
	Electronic			Hard Copy		Hand Delivered / Interoffice	E-mail	FedEx	US Mail		
	Electronic Submittal Form	NOC	NOA	DEIR	NOA					DEIR	
Santa Rosa Rancheria Cultural Department Staff Samantha McCarty SMcCarty@tachi-yokut-nsn.gov Paige Berggren PBerggren@tachi-yokut-nsn.gov			X					8/19/22			
Tubatulabals of Kern Valley Robert L. Gomez, Jr., Chairperson P.O. Box 833 Weldon, CA 93283-0833 rgomez@tubatulabal.org			X					8/19/22			
Tule River Indian Tribe Neil Peyron, Chairperson P. O. Box 589 Porterville, CA 93258 neil.peyron@tulerivertribe-nsn.gov			X					8/19/22			
Tule River Indian Tribe Dept. of Environmental Protection Kerri Vera, Director P. O. Box 589 Porterville, CA 93258 tuleriverenv@yahoo.com			X					8/19/22			
Tule River Indian Tribe Felix Christman, Council Member P. O. Box 589 Porterville, CA 93258 tuleriverarchmon1@gmail.com felix.christman@tulerivertribe-nsn.gov			X					8/19/22			
Wuksache Indian Tribe/ Eshom Valley Band Kenneth Woodrow, Chairperson 1179 Rock Haven Ct. Salinas, CA 93906 Kwood8934@aol.com			X					8/19/22			
OTHER INTERESTED PARTIES											
22SV 8me LLC 5455 Wilshire Blvd. Ste. 2010 Los Angeles, CA 90036 Venai Shenoy - vshenoy@8minute.com			X					8/19/22			

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	Electronic				Hard Copy		Hand Delivered / Interoffice	E-mail	FedEx	US Mail	
	Electronic Submittal Form	NOC	NOA	DEIR	NOA	DEIR					
HDR Inc. 3230 El Camino Real, Suite 200 Irvine, CA 92602 Sharyn Del Rosario - Sharyn.DelRosario@hdrinc.com Tim Gnibus - Tim.Gnibus@hdrinc.com			X					8/19/22			
Lozeau Drury LLP 1939 Harrison St, Ste 150 Oakland, CA 94612 Michael Lozeau - michael@lozeaudrury.com Hannah Hughes - hannah@lozeaudrury.com Sophie Roberts – sophie@lozeaudrury.com			X					8/19/22			
Adams Broadwell Joseph and Cardoza Attn: Sheila Sannadan 601 Gateway Blvd, Ste 1000 South San Francisco, CA 94080-7037 ssannadan@adamsbroadwell.com			X					8/19/22			
Defenders of Wildlife California Program Office 980 Ninth Street, Suite 1730 Sacramento, CA 95814 Kate Kelly: kate@kgconsulting.net			X					8/19/22			8/30/22, letter received from Sophia Markowska, Senior California Representative

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Attachment 2.

Comments Received from the California
Department of Conservation, Geologic Energy
Management Division, August 22, 2022 and
County Response to Comments

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RESOURCE MANAGEMENT AGENCY

5961 SOUTH MOONEY BLVD
VISALIA, CA 93277
PHONE (559) 624-7000
FAX (559) 615-3002

Aaron R. Bock
Reed Schenke
Sherman Dix

Economic Development and Planning
Public Works
Fiscal Services

REED SCHENKE, DIRECTOR

MICHAEL WASHAM, ASSOCIATE DIRECTOR

September 16, 2022

Jeff Kimber
California Department of Conservation
Geologic Energy Management Division
801 K Street, MS 18-05
Sacramento, CA 95814

Subject: Response to Comments – Rexford 2 Solar Farm (SCH# 2020020326)

Dear Mr. Kimber:

Thank you for providing the California Department of Conservation Geologic Energy Management Division (CalGEM) letter response (dated August 22, 2022) regarding the Draft Supplemental Environmental Impact Report (Draft SEIR) for the Rexford 2 Solar Farm Project, State Clearinghouse #2020020326.

The County of Tulare (County) acknowledges and recognizes CalGEM's authority and expertise regarding oil, natural gas, and geothermal industries issues relative to the proposed Project. Based on your comment letter and other comment letters received from other agencies, the County has responded to the comments and in some cases made revisions to the Project environmental documents. The following is the County of Tulare Resource Management Agency (RMA) response to your letter (attached for your ease of reference). The Final SEIR (see below for website link) also includes RMA's response to your comments (below) as well as the revisions to the Project environmental documents.

Comment #1: Public Resources Code (PRC) § 3208.1 establishes well reabandonment responsibility when a previously plugged and abandoned well will be impacted by planned property development or construction activities. Local permitting agencies, property owners, and/or developers should be aware of, and fully understand, that significant and potentially dangerous issues may be associated with development near oil, gas, and geothermal wells.

Response: *The County recognizes that any development of those portions of the Project with the presence of the two abandoned wells would be conducted in accordance with the well reabandonment responsibilities pursuant to Public Resources Code (PRC) § 3208.1, which would ensure that no potential hazards risk associated with the wells would occur.*

Comment #2: The California Geologic Energy Management Division (CalGEM) has received and reviewed the above referenced project dated 7/27/2022. To assist local permitting agencies, property owners, and developers in making wise land use decisions regarding potential development near oil, gas, or geothermal wells, the Division provides the following well evaluation.

The project is located in Tulare County, within the boundaries of the following fields:

Any field

In addition to the plugged & abandoned well(s), there might be pipelines associated to oil and gas production.

Our records indicate there are 1 known oil or gas wells located within the project boundary as identified in the application.

- Number of wells Not Abandoned to Current Division Requirements as Prescribed by Law and Projected to Be Built Over or Have Future Access Impeded by this project: 1
- Number of wells Not Abandoned to Current Division Requirements as Prescribed by Law and Not Projected to Be Built Over or Have Future Access Impeded by this project: 0
- Number of wells Abandoned to Current Division Requirements as Prescribed by Law and Projected to Be Built Over or Have Future Access Impeded by this project: 0
- Number of wells Abandoned to Current Division Requirements as Prescribed by Law and Not Projected to Be Built Over or Have Future Access Impeded by this project: 0

Response: *As indicated on Draft SEIR page 3.9-3, a Phase I Environmental Site Assessment (ESA) was prepared for the project (see Draft SEIR Appendix I). Although not considered a Recognized Environmental Concern (REC), one oil/gas well was identified on the Department of Conservation, Division of Oil, Gas, and Geothermal Resources (DOGGR) website located on the Project site (APN 321-010-005) (see Figure 2 in Appendix I of the Draft SEIR). This information (presence of one oil/gas well on-site) is consistent with the information provided in Comment #2. According to the project-specific Phase I ESA, it is unknown if the soils at the Project site were impacted by the oil field operations.*

Any project activities involving potential disturbance to the existing oil/gas well would be the responsibility of the applicant and conducted in compliance with PRC § 3208.1.

Comment #3: The Division categorically advises against building over, or in any way impeding access to, oil, gas, or geothermal wells. Impeding access to a well could result in the need to remove any structure or obstacle that prevents or impedes access including, but not limited to, buildings, housing, fencing, landscaping, trees, pools, patios, sidewalks, roadways, and decking. Maintaining sufficient access is considered the ability for a well servicing unit and associated necessary equipment to reach a well from a public street or access way, solely over the parcel on which the well is located. A well servicing unit, and any necessary equipment, should be able to pass unimpeded along and over the route, and should be able to access the well without disturbing the integrity of surrounding infrastructure.

Response: *As indicated on Draft SEIR page 3.9-8, the proposed Project will not involve the alteration or removal of the on-site oil/gas well. The proposed Project would not build over the existing well. Therefore, the proposed Project would not impede access to the on-site oil/gas well.*

Comment #4: There are no guarantees a well abandoned in compliance with current Division requirements as prescribed by law will not start leaking in the future. It always remains a possibility that any well may start to leak oil, gas, and/or water after abandonment, no matter how thoroughly the well was plugged and abandoned. The Division acknowledges wells plugged and abandoned to the most current Division requirements as prescribed by law have a lower probability of leaking in the future, however there is no guarantees that such abandonments will not leak.

The Division advises that all wells identified on the development parcel prior to, or during, development activities be tested for liquid and gas leakage. Surveyed locations should be provided to the Division in Latitude and Longitude, NAD 83 decimal format. The Division expects any wells found leaking to be reported to it immediately.

Failure to plug and reabandon the well may result in enforcement action, including an order to perform reabandonment well work, pursuant to PRC § 3208.1, and 3224.

Response: *As indicated on Draft SEIR page 3.9-8, the proposed Project will not involve the demolition of existing on-site structures or the alteration or removal of the on-site oil/gas well. The County recognizes that any development of the portion of the Project with the presence of the oil/gas well would be conducted in accordance with the well reabandonment responsibilities pursuant to Public Resources Code (PRC) § 3208.1.*

Comment #5: PRC § 3208.1 give the Division the authority to order or permit the re-abandonment of any well where it has reason to question the integrity of the previous abandonment, or if the well is not accessible or visible. Responsibility for re-abandonment costs may be affected by the choices made by the local permitting agency, property owner, and/or developer in considering the general advice set forth in this letter. The PRC continues to define the person or entity responsible for reabandonment as:

1. The property owner - If the well was plugged and abandoned in conformance with Division requirements at the time of abandonment, and in its current condition does not pose an immediate danger to life, health, and property, but requires additional work solely because the owner of the property on which the well is located proposes construction on the property that would prevent or impede access to the well for purposes of remedying a currently perceived future problem, then the owner of the property on which the well is located shall obtain allrights necessary to reabandon the well and be responsible for the reabandonment.
2. The person or entity causing construction over or near the well - If the well was plugged and abandoned in conformance with Division requirements at the time of plugging and abandonment, and the property owner, developer, or local agency permitting the construction failed either to obtain an opinion from the supervisor or district deputy as to whether the previously abandoned well is required to be reabandoned, or to follow the advice of the supervisor or district deputy not to undertake the construction, then the person or entity causing the construction over or near the well shall obtain all rights necessary to reabandon the well and be responsible for the reabandonment.

3. The party or parties responsible for disturbing the integrity of the abandonment - If the well was plugged and abandoned in conformance with Division requirements at the time of plugging and abandonment, and after that time someone other than the operator or an affiliate of the operator disturbed the integrity of the abandonment in the course of developing the property, then the party or parties responsible for disturbing the integrity of the abandonment shall be responsible for the reabandonment.

Response: *Comment noted. Please see responses to comments #2 through #4.*

Comment #6: No well work may be performed on any oil, gas, or geothermal well without written approval from the Division. Well work requiring approval includes, but is not limited to, mitigating leaking gas or other fluids from abandoned wells, modifications to well casings, and/or any other re-abandonment work. The Division also regulates the top of a plugged and abandoned well's minimum and maximum depth below final grade. CCR §1723.5 states well casings shall be cut off at least 5 feet but no more than 10 feet below grade. If any well needs to be lowered or raised (i.e., casing cut down or casing riser added) to meet this regulation, a permit from the Division is required before work can start.

Response: *Comment noted. The proposed Project will not involve the demolition of existing on-site structures or the alteration or removal of the on-site oil/gas well; however, the County acknowledges that any well work would require a permit from the Division.*

Comment #7: The Division makes the following additional recommendations to the local permitting agency, property owner, and developer:

1. To ensure that present and future property owners are aware of (a) the existence of all wells located on the property, and (b) potentially significant issues associated with any improvements near oil or gas wells, the Division recommends that information regarding the above identified well(s), and any other pertinent information obtained after the issuance of this letter, be communicated to the appropriate county recorder for inclusion in the title information of the subject real property.

Response: *Comment noted. The County has notified the Project applicant of the well located on-site and has provided the applicant this correspondence to inform potential permit requirements and other information identified in the letter. As a condition of approval of the Project, the County has required the applicant to include the presence of the well as part of the title information for the subject parcel where the well is located.*

Comment #8: The Division recommends that any soil containing hydrocarbons be disposed of in accordance with local, state, and federal laws. Please notify the appropriate authorities if soil containing significant amounts of hydrocarbons is discovered during development.

As indicated in PRC § 3106, the Division has statutory authority over the drilling, operation, maintenance, and abandonment of oil, gas, and geothermal wells, and attendant facilities, to prevent, as far as possible, damage to life, health, property, and natural resources; damage to underground oil, gas, and geothermal deposits; and damage to underground and surface waters suitable for irrigation or domestic purposes. In addition to the Division's authority to order work

Response to Comment from CalGEM
RE: Rexford 2 Solar Farm
SCH# No. 2020020326
September 16, 2022

on wells pursuant to PRC §§ 3208.1 and 3224, it has authority to issue civil and criminal penalties under PRC §§ 3236, 3236.5, and 3359 for violations within the Division's jurisdictional authority. The Division does not regulate grading, excavations, or other land use issues.

Response: *Comment noted. As a condition of approval of the Project, the County has required that soils containing significant amounts of hydrocarbons (above recommended threshold levels) be handled and/or disposed of (as required) in accordance with local, state, and federal laws.*

Comment #9: If during development activities, any wells are encountered that were not part of this review, the property owner is expected to immediately notify the Division's construction site well review engineer in the Inland district office, and file for Division review an amended site plan with well casing diagrams. The District office will send a follow-up well evaluation letter to the property owner and local permitting agency.

Response: *Comment noted.*

Comment #10: Should you have any questions, please contact me at (661) 326-6016 or via email at Victor.Medrano@conservation.ca.gov

Response: *Comment noted. We appreciate receiving Mr. Medrano's contact information.*

Comment #11: The wells listed below are not abandoned to current Division requirements as prescribed by law, and based upon information provided, are projected to be built over or have future access impeded. **The Division expects these wells to be reabandoned in compliance with current California law, prior to development activities.**

API	WELL DESIGNATION	OPERATOR	WELL EVALUATIONS
0410700401	Hunsaker 1		Well is NOT plugged and abandoned to current division standards --- Surface plug is not present (CCR § 1723.5). NOTE: No well leak test reported.

Response: *The proposed Project will not involve the demolition of existing on-site structures or the alteration or removal of the on-site oil/gas well. Please also refer to responses to comments #1 through #9.*

The Project will be heard before the Tulare County Planning Commission on September 28, 2022 for consideration of certifying the Final SEIR and approving the Project. The Final SEIR will be available beginning September 16, 2022 at the following website:

<https://tularecounty.ca.gov/rma/planning-building/environmental-planning/environmental-impact-reports/rexford-2-solar-farm-project-psp-22-006/>

In closing, we sincerely appreciate CalGEM's comments which will be useful toward ensuring that the proposed Project complies with CalGEM's requirements/standards/permits/etc., and with the California Environmental Quality Act.

*Response to Comment from CalGEM
RE: Rexford 2 Solar Farm
SCH# No. 2020020326
September 16, 2022*

If you have any questions regarding the above, please contact me at (559) 624-7121.

Best Regards,

A handwritten signature in blue ink, appearing to read "Hector Guerra".

Hector Guerra, Chief
Environmental Planning Division

*Attachment: California Department of Conservation Geologic Energy Management Division comment letter dated
August 22, 2022*

Cc: File



08/22/2022

Hector Guerra

5961 South Mooney Blvd, Visalia, CA 93277, Visalia, CA 93277, USA

hguerra@tularecounty.ca.gov

Construction Site Well Review (CSWR) ID: 1012455

Assessor Parcel Number(s): 319160007, 320360005, 321010002, 321010003, 321140009, 321140011

Property Owner(s): 22SV 8me LLC

Project Location Address: west of State Route (SR) 65 and generally located north of Avenue 56, east of Road 200, south of Avenue 72, Ducor, California 93270

Project Title: Rexford 2 Solar Farm Project; SCH # 2020020326

Public Resources Code (PRC) § 3208.1 establishes well reabandonment responsibility when a previously plugged and abandoned well will be impacted by planned property development or construction activities. Local permitting agencies, property owners, and/or developers should be aware of, and fully understand, that significant and potentially dangerous issues may be associated with development near oil, gas, and geothermal wells.

The California Geologic Energy Management Division (CalGEM) has received and reviewed the above referenced project dated 7/27/2022. To assist local permitting agencies, property owners, and developers in making wise land use decisions regarding potential development near oil, gas, or geothermal wells, the Division provides the following well evaluation.

The project is located in Tulare County, within the boundaries of the following fields:

Any Field

In addition to the plugged & abandoned well(s), there might be pipelines associated to oil and gas production.

Our records indicate there are 1 known oil or gas wells located within the project boundary as identified in the application.

- Number of wells Not Abandoned to Current Division Requirements as Prescribed by Law and Projected to Be Built Over or Have Future Access Impeded by this project: 1
- Number of wells Not Abandoned to Current Division Requirements as Prescribed by Law and Not Projected to Be Built Over or Have Future Access Impeded by this project: 0
- Number of wells Abandoned to Current Division Requirements as Prescribed by Law and Projected to Be Built Over or Have Future Access Impeded by this project: 0
- Number of wells Abandoned to Current Division Requirements as Prescribed by Law and Not Projected to Be Built Over or Have Future Access Impeded by this project: 0

The Division categorically advises against building over, or in any way impeding access to, oil, gas, or geothermal wells. Impeding access to a well could result in the need to remove any structure or obstacle that prevents or impedes access including, but not limited to, buildings, housing, fencing, landscaping, trees, pools, patios, sidewalks, roadways, and decking. Maintaining sufficient access is considered the ability for a well servicing unit and associated necessary equipment to reach a well from a public street or access way, solely over the parcel on which the well is located. A well servicing unit, and any necessary equipment, should be able to pass unimpeded along and over the route, and should be able to access the well without disturbing the integrity of surrounding infrastructure.

There are no guarantees a well abandoned in compliance with current Division requirements as prescribed by law will not start leaking in the future. It always remains a possibility that any well may start to leak oil, gas, and/or water after abandonment, no matter how thoroughly the well was plugged and abandoned. The Division acknowledges wells plugged and abandoned to the most current Division requirements as prescribed by law have a lower probability of leaking in the future, however there is no guarantees that such abandonments will not leak.

The Division advises that all wells identified on the development parcel prior to, or during, development activities be tested for liquid and gas leakage. Surveyed locations should be provided to the Division in Latitude and Longitude, NAD 83 decimal format. The Division expects any wells found leaking to be reported to it immediately.

Failure to plug and reabandon the well may result in enforcement action, including an order to perform reabandonment well work, pursuant to PRC § 3208.1, and 3224.

PRC § 3208.1 give the Division the authority to order or permit the re-abandonment of any well where it

has reason to question the integrity of the previous abandonment, or if the well is not accessible or visible. Responsibility for re-abandonment costs may be affected by the choices made by the local permitting agency, property owner, and/or developer in considering the general advice set forth in this letter. The PRC continues to define the person or entity responsible for reabandonment as:

1. The property owner - If the well was plugged and abandoned in conformance with Division requirements at the time of abandonment, and in its current condition does not pose an immediate danger to life, health, and property, but requires additional work solely because the owner of the property on which the well is located proposes construction on the property that would prevent or impede access to the well for purposes of remedying a currently perceived future problem, then the owner of the property on which the well is located shall obtain all rights necessary to reabandon the well and be responsible for the reabandonment.
2. The person or entity causing construction over or near the well - If the well was plugged and abandoned in conformance with Division requirements at the time of plugging and abandonment, and the property owner, developer, or local agency permitting the construction failed either to obtain an opinion from the supervisor or district deputy as to whether the previously abandoned well is required to be reabandoned, or to follow the advice of the supervisor or district deputy not to undertake the construction, then the person or entity causing the construction over or near the well shall obtain all rights necessary to reabandon the well and be responsible for the reabandonment.
3. The party or parties responsible for disturbing the integrity of the abandonment - If the well was plugged and abandoned in conformance with Division requirements at the time of plugging and abandonment, and after that time someone other than the operator or an affiliate of the operator disturbed the integrity of the abandonment in the course of developing the property, then the party or parties responsible for disturbing the integrity of the abandonment shall be responsible for the reabandonment.

No well work may be performed on any oil, gas, or geothermal well without written approval from the Division. Well work requiring approval includes, but is not limited to, mitigating leaking gas or other fluids from abandoned wells, modifications to well casings, and/or any other re-abandonment work. The Division also regulates the top of a plugged and abandoned well's minimum and maximum depth below final grade. CCR §1723.5 states well casings shall be cut off at least 5 feet but no more than 10 feet below grade. If any well needs to be lowered or raised (i.e. casing cut down or casing riser added) to meet this regulation, a permit from the Division is required before work can start.

The Division makes the following additional recommendations to the local permitting agency, property owner, and developer:

1. To ensure that present and future property owners are aware of (a) the existence of all wells located on the property, and (b) potentially significant issues associated with any improvements near oil or gas wells, the Division recommends that information regarding the above identified well(s), and any other pertinent information obtained after the issuance of this letter, be communicated to the appropriate county recorder for inclusion in the title information of the subject real property.
2. The Division recommends that any soil containing hydrocarbons be disposed of in accordance with local, state, and federal laws. Please notify the appropriate authorities if soil containing significant amounts of hydrocarbons is discovered during development.

As indicated in PRC § 3106, the Division has statutory authority over the drilling, operation, maintenance, and abandonment of oil, gas, and geothermal wells, and attendant facilities, to prevent, as far as possible, damage to life, health, property, and natural resources; damage to underground oil, gas, and geothermal deposits; and damage to underground and surface waters suitable for irrigation or domestic purposes. In addition to the Division's authority to order work on wells pursuant to PRC §§ 3208.1 and 3224, it has authority to issue civil and criminal penalties under PRC §§ 3236, 3236.5, and 3359 for violations within the Division's jurisdictional authority. The Division does not regulate grading, excavations, or other land use issues.

If during development activities, any wells are encountered that were not part of this review, the property owner is expected to immediately notify the Division's construction site well review engineer in the Inland district office, and file for Division review an amended site plan with well casing diagrams. The District office will send a follow-up well evaluation letter to the property owner and local permitting agency.

Should you have any questions, please contact Victor Medrano at (661) 326-6016 or via email at Victor.Medrano@conservation.ca.gov.

Sincerely,

Jeff Kimber

Jeff Kimber for
William Long
Acting District Deputy

cc: Hector Guerra - Submitter

Wells Not Abandoned to Current Division Requirements as Prescribed by Law & Projected to be Built Over or Have Future Access Impeded

The wells listed below are not abandoned to current Division requirements as prescribed by law, and based upon information provided, are projected to be built over or have future access impeded. **The Division expects these wells to be reabandoned in compliance with current California law, prior to development activities.**

API	Well Designation	Operator	Well Evaluations
0410700401	Hunsaker 1		Well is NOT plugged and abandoned to current division standards---Surface plug is not present (CCR § 1723.5). NOTE: No well leak test reported.

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Attachment 3.

Comments Received from the California
Department of Transportation, District 6, August
29, 2022 and County Response to Comments

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RESOURCE MANAGEMENT AGENCY

5961 SOUTH MOONEY BLVD

VISALIA, CA 93277

PHONE (559) 624-7000

FAX (559) 615-3002

Aaron R. Bock

Reed Schenke

Sherman Dix

Economic Development and Planning

Public Works

Fiscal Services

REED SCHENKE, DIRECTOR

MICHAEL WASHAM, ASSOCIATE DIRECTOR

September 16, 2022

David Deel, Associate Transportation Planner
Transportation Planning – North
Department of Transportation – District 6
1352 West Olive Avenue
Fresno, CA 93778-2616

Subject: Response to Comments – Rexford Solar Farm (SCH# 2020020326)

Dear Mr. Deel:

Thank you for providing the California Department of Transportation (Caltrans) letter response (dated August 29, 2022) regarding the Draft Supplemental Environmental Impact Report (Draft SEIR) for the Rexford 2 Solar Farm Project, State Clearinghouse #2020020326.

The County of Tulare (County) acknowledges and recognizes Caltrans' authority and expertise regarding transportation issues relative to the proposed Project. Based on your comment letter and other comment letters received from other agencies, the County has responded to the comments and in some cases made revisions to the Project environmental documents. The following is the County of Tulare Resource Management Agency (RMA) response to your letter (attached for your ease of reference). The Final SEIR (see below for website link) also includes RMA's response to your comments (below) as well as the revisions to the Project environmental documents.

Intro Comment: Thank you for the opportunity to review the Supplemental Environmental Impact Report (SEIR) for the proposed Rexford 2 Solar Facility (Project) which is the subsequent development phase of the Rexford 1 facility which was approved per Special Use Permit No. PSP 19-073.

The Rexford 2 facility will construct up to a 500 megawatt-alternating current (MW-AC) photovoltaic (PV) solar facility and is intended to share some of facilities that were already approved with the Rexford 1 project.

The approximately 1,200-acre site for the Rexford 2 facility is west and north of the Rexford 1 facility, specifically located north of Avenue 64, and approximately 1.5 miles west of the State Route (SR) 65/Avenue 64 intersection, northwest of the unincorporated community of Ducor, Tulare County.

The mission of Caltrans is to provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability. Caltrans provides the following comments consistent with the State's smart mobility goals that support a vibrant economy and sustainable communities:

1. The Tulare County Resource Management Agency (RMA), as lead agency, has determined that a Supplemental Environmental Impact Report (Supplemental EIR or SEIR) must be prepared for the proposed Rexford 2 Solar Farm Project.
2. The proposed Project will include construction of a ground mounted PV solar power generating system, supporting structures, inverter modules, pad mounted transformers, an energy storage system, access roads and fencing, an on-site substation, an operations and maintenance (O&M) building and both transmission and collector lines. The transmission/collector lines would be located along portions of Road 192, Road 200, Road 208, Road 232, Avenue 24, Avenue 42, Avenue 46, Avenue 56, Avenue 64, Avenue 68, and Avenue 72. The total length of the transmission and/or collector lines would be approximately 31 miles in length.
3. Construction-related vehicles will primarily access the Project sites from the local county roads via SR 65.

Response: *This introductory comment summarizes the general project characteristics and states Caltrans' mission to provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability. This comment does not address the adequacy of the Draft SEIR; therefore, no further response is necessary.*

Comment #1: Construction of the Project is expected to generate a total passenger car equivalent (PCE) volume of approximately 1,226 average daily trips (ADT), which includes 1,075 passenger car trips and 70 heavy vehicle trips per day during construction-related activities. The construction time frame is estimated to last 12-24 months. As such, trips generated during the construction phase will be temporary, short-term, and intermittent.

Upon completion of construction-related activities, Project trips will decrease to 50 ADT, with the ongoing operation and maintenance-related activities. The Project is anticipated to require an operational staff of up to 20 full-time employees. The facility will operate seven days a week, 24 hours a day. Maintenance activities may occur seven days a week, 24 hours a day to ensure PV panel output when solar energy is available.

Response: *Comment noted. This comment correctly summarizes the Project's average daily trips during construction and operations. This comment does not address the adequacy of the Draft SEIR. As such, no further response is necessary.*

Comment #2: Prior to undertaking a detailed VMT analysis, in accordance with the County of Tulare's SB 743 guidelines, dated June 8, 2020, located at: <https://tularecounty.ca.gov/rma/rma-documents/planning-documents/tulare-county-sb-743-guidelines-final/>, a screening process was completed. The County's SB 743 guidelines recommend projects that generate or attract fewer than 500 trips per day generally may be assumed to cause a less-than-significant transportation impact.

The screening process used the conservative estimate of the Project's daily trip generation of approximately 50 trips per day when the facility is fully operational which allowed the Project to be 'screen out' of the VMT analysis.

Response: *Comment noted. As indicated on Draft SEIR page 3.17-7, a conservative estimate of the Project's daily trip generation is approximately 50 trips per day for the full facility when operational. Therefore, the Project will generate substantially fewer than the 500-trip-perday threshold and can be assumed to result in a Less than Significant Impact related to CEQA Guidelines section 15064.3, subdivision (b).*

Comment #3: As a point of information, the SR 65 Transportation Concept Report (TCR) indicates that segments 6 of SR 65, in the vicinity of this project, is currently a 2-lane facility. Caltrans right-of-way maps shows this segment of SR 65 existing at approximately 236 feet of right-of-way.

Response: *Comment noted. This comment does not address the adequacy of the Draft SEIR. As such, no further response is necessary.*

Comment #4: Caltrans and the Tulare Association of Governments (TCAG) have completed improvements of SR 65 from the SR 65/SR 190 interchange, south to Avenue 124. No further improvements to this segment of SR 65 are planned at this time.

Response: *Comment noted. This comment does not address the adequacy of the Draft SEIR. As such, no further response is necessary.*

Comment #5: Caltrans **recommends that a Traffic Management Plan and Traffic Control Plan be prepared and provided** to our office for review prior to the start of construction.

Response: *We concur. As a condition of project approval, all construction in the public road right-of-way will require the applicant to apply for and obtain an Encroachment Permit through the Road Department. Typically, a construction Traffic Management Plan (which includes provisions for traffic control) will be prepared for the proposed Project prior to the commencement of construction activities. As such, this plan will be provided to Caltrans for review for any construction activities that would involve Caltrans facilities.*

Comment #6: Caltrans recommends that truck and equipment trips be restricted to off peak traffic hours and should be spaced to avoid vehicle congestion on SR 65 and to minimize interference with commuter traffic.

Response: *While the Project will result in an increase in traffic during construction, roadways in the vicinity of the Project site will continue to operate at an acceptable level of service. Refer to Draft SEIR page 3.17-5.*

Comment #7: Water trucks should be present on site and utilized during the construction activities, especially grading and/or earth work to minimize dust in the area.

Response: *As indicated on Draft SEIR page 3.3-11, the Project applicant will be required to control fugitive dust through compliance with San Joaquin Valley Unified Air Pollution Control District's Regulation VIII (Fugitive PM10 Prohibitions). Regulation VIII is the most robust and stringent regulation regarding control of fugitive dust emissions in the nation. Also, the Draft SEIR includes Table 3.3-3 which address the use of water trucks with dust control measures*

specified in Rule 8021 of Regulation VIII. As such, the Draft SEIR's discussion concerning dust control remains adequate.

Comment #8: Personal or construction related vehicles shall not be permitted to park along SR 65.

Response: *The County will include a condition of approval prohibiting the Applicant from allowing any personal or construction-related vehicles associated with the Project to park along SR 65 throughout the duration of Project construction-related activities.*

Comment #9: An encroachment permit will be required for work to construct Project transmission and/or collector lines located within or along SR 65.

Response: *The proposed Project would not involve the construction of transmission and/or collector lines located within or along SR 65. However, the County acknowledges that any work performed by the Applicant located within or along SR 65 requires approval of an encroachment permit.*

Comment #10: An encroachment permit must be obtained for all proposed activities for placement of encroachments within, under or over the State highway rights-of-way. The Streets and Highways Code Section 670 provides Caltrans discretionary approval authority for projects that encroach on the State Highway System. Encroachment permits do not run with the land. A change of ownership requires a new permit application. Only the legal property owner or his/her authorized agent can pursue obtaining an encroachment permit. The Permit Department and the Environmental Planning Branch will review and approve the activity and work in the State right-of-way before an encroachment permit is issued. **Please call the Caltrans Encroachment Permit Office - District 6: 1352 W. Olive, Fresno, CA 93778, at (559) 488-4058.** [emphasis provided by commenter]

Response: *Comment noted. The proposed Project does not involve any improvements that encroach on the State Highway system. However, the County acknowledges the general stipulations of the encroachment permit, which will be the responsibility of the Project applicant.*

Comment #11: Prior to an encroachment permit application submittal, the project proponent is required to schedule a "Pre-Submittal" meeting with District 6 Encroachment Permit Office. Please contact District 6 Encroachment Permit Office at (559) 488-4058 to schedule this meeting. Please review the permit application checklist at:

<http://forms.dot.ca.gov/v2Forms/servlet/FormRenderer?frmid=TR0402&distpath=MAOTO&brapath=PERM>

Response: *The County acknowledges that the Applicant is required to schedule a "Pre-Submittal" meeting with District 6 Encroachment Permit Office prior to encroachment permit application submittal.*

Comment #12: If you have any other questions, please call David Deel, Associate Transportation Planner at (559) 981-1041.

*Response to Comment from Caltrans District 6
RE: Rexford 2 Solar Farm
SCH# No. 2020020326
September 16, 2022*

Response: *Comment noted; we appreciate receiving Mr. Deel's contact information.*

The Project will be heard before the Tulare County Planning Commission on September 28, 2022 for consideration of certifying the Final SEIR and approving the Project. The Final SEIR will be available beginning September 16, 2022 at the following website:

<https://tularecounty.ca.gov/rma/planning-building/environmental-planning/environmental-impact-reports/rexford-2-solar-farm-project-pp-22-006/>

In closing, we sincerely appreciate Caltrans' comments which will be useful toward ensuring that the proposed Project complies with Caltrans' requirements/standards and with the California Environmental Quality Act.

If you have any questions regarding the above, please contact me at (559) 624-7121.

Very Best Regards,

A handwritten signature in blue ink, appearing to read "Hector Guerra".

Hector Guerra, Chief
Environmental Planning Division

Attachment: Caltrans comment letter dated August 29, 2022

Cc: File

California Department of Transportation

DISTRICT 6 OFFICE

1352 WEST OLIVE AVENUE | P.O. BOX 12616 | FRESNO, CA 93778-2616
(559) 981-1041 | FAX (559) 488-4195 | TTY 711

www.dot.ca.gov



August 29, 2022

06-TUL-65-8.04

SEIR

REXFORD 2

500 MW SOLAR FACILITY

SCH # 2020020326

SENT VIA EMAIL

Mr. Hector Guerra, Chief Environmental Planner
Tulare County Resource Management Agency
Economic Development and Planning Branch
5961 South Mooney Boulevard
Visalia, CA 93277-9394

Dear Mr. Guerra:

Thank you for the opportunity to review the Supplemental Environmental Impact Report (SEIR) for the proposed Rexford 2 Solar Facility (Project) which is the subsequent development phase of the Rexford 1 facility which was approved per Special Use Permit No. PSP 19-073.

The Rexford 2 facility will construct up to a 500 megawatt-alternating current (MW-AC) photovoltaic (PV) solar facility and is intended to share some of facilities that were already approved with the Rexford 1 project.

The approximately 1,200-acre site for the Rexford 2 facility is west and north of the Rexford 1 facility, specifically located north of Avenue 64, and approximately 1.5 miles west of the State Route (SR) 65/Avenue 64 intersection, northwest of the unincorporated community of Ducor, Tulare County.

The mission of Caltrans is to provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability. Caltrans provides the following comments consistent with the State's smart mobility goals that support a vibrant economy and sustainable communities:

1. The Tulare County Resource Management Agency (RMA), as lead agency, has determined that a Supplemental Environmental Impact Report (Supplemental EIR or SEIR) must be prepared for the proposed Rexford 2 Solar Farm Project.
2. The proposed Project will include construction of a ground mounted PV solar power generating system, supporting structures, inverter modules, pad mounted transformers, an energy storage system, access roads and fencing, an on-site substation, an

operations and maintenance (O&M) building and both transmission and collector lines. The transmission/collector lines would be located along portions of Road 192, Road 200, Road 208, Road 232, Avenue 24, Avenue 42, Avenue 46, Avenue 56, Avenue 64, Avenue 68, and Avenue 72. The total length of the transmission and/or collector lines would be approximately 31 miles in length.

3. Construction-related vehicles will primarily access the Project sites from the local county roads via SR 65.
4. Construction of the Project is expected to generate a total passenger car equivalent (PCE) volume of approximately 1,226 average daily trips (ADT), which includes 1,075 passenger car trips and 70 heavy vehicle trips per day during construction-related activities. The construction time frame is estimated to last 12-24 months. As such, trips generated during the construction phase will be temporary, short-term, and intermittent.
5. Upon completion of construction-related activities, Project trips will decrease to 50 ADT, with the ongoing operation and maintenance-related activities. The Project is anticipated to require an operational staff of up to 20 full-time employees. The facility will operate seven days a week, 24 hours a day. Maintenance activities may occur seven days a week, 24 hours a day to ensure PV panel output when solar energy is available.
6. Prior to undertaking a detailed VMT analysis, in accordance with the County of Tulare's SB 743 guidelines, dated June 8, 2020 located at: <https://tularecounty.ca.gov/rma/rma-documents/planning-documents/tulare-county-sb-743-guidelines-final/>, a screening process was completed. The County's SB 743 guidelines recommend projects that generate or attract fewer than 500 trips per day generally may be assumed to cause a less-than-significant transportation impact.
7. The screening process used the conservative estimate of the Project's daily trip generation of approximately 50 trips per day when the facility is fully operational which allowed the Project to be 'screen out' of the VMT analysis.
8. As a point of information, the SR 65 Transportation Concept Report (TCR) indicates that segments 6 of SR 65, in the vicinity of this project, is currently a 2-lane facility. Caltrans right-of-way maps shows this segment of SR 65 existing at approximately 236 feet of right-of-way.
9. Caltrans and the Tulare Association of Governments (TCAG) have completed improvements of SR 65 from the SR 65/SR 190 interchange, south to Avenue 124. No further improvements to this segment of SR 65 are planned at this time.
10. Caltrans **recommends that a Traffic Management Plan and Traffic Control Plan be prepared and provided** to our office for review prior to the start of construction.
11. Caltrans recommends that truck and equipment trips be restricted to off peak traffic

hours and should be spaced to avoid vehicle congestion on SR 65 and to minimize interference with commuter traffic.

12. Water trucks should be present on site and utilized during the construction activities, especially grading and/or earth work to minimize dust in the area.
13. Personal or construction related vehicles shall not be permitted to park along SR 65.
14. An encroachment permit will be required for work to construct Project transmission and/or collector lines located within or along SR 65.
15. An encroachment permit must be obtained for all proposed activities for placement of encroachments within, under or over the State highway rights-of-way. The Streets and Highways Code Section 670 provides Caltrans discretionary approval authority for projects that encroach on the State Highway System. Encroachment permits do not run with the land. A change of ownership requires a new permit application. Only the legal property owner or his/her authorized agent can pursue obtaining an encroachment permit. The Permit Department and the Environmental Planning Branch will review and approve the activity and work in the State right-of-way before an encroachment permit is issued. **Please call the Caltrans Encroachment Permit Office - District 6: 1352 W. Olive, Fresno, CA 93778, at (559) 488-4058.**
16. Prior to an encroachment permit application submittal, the project proponent is required to schedule a "Pre-Submittal" meeting with District 6 Encroachment Permit Office. Please contact District 6 Encroachment Permit Office at (559) 488-4058 to schedule this meeting. Please review the permit application checklist at:
<https://forms.dot.ca.gov/v2Forms/servlet/FormRenderer?frmid=TR0402&distpath=MAOT&brapath=PERM>

If you have any other questions, please call David Deel, Associate Transportation Planner at (559) 981-1041.

Sincerely,



, David Padilla, Branch Chief

For: Ms. Lorena Mendibles, Branch Chief, Transportation Planning – South

Attachment 4.

Comments Received from the Defenders of
Wildlife, California Division, August 30, 2022 and
County Response to Comments

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RESOURCE MANAGEMENT AGENCY

5961 SOUTH MOONEY BLVD
VISALIA, CA 93277
PHONE (559) 624-7000
FAX (559) 615-3002

Aaron R. Bock
Reed Schenke
Sherman Dix

Economic Development and Planning
Public Works
Fiscal Services

REED SCHENKE, DIRECTOR

MICHAEL WASHAM, ASSOCIATE DIRECTOR

September 16, 2022

Sophia Markowska, Senior California Representative
Defenders of Wildlife
California Program Office
P.O. Box 401
Folsom, CA 95763

Subject: Response to Comments – Rexford 2 Solar Farm (SCH# 2020020326)

Dear Ms. Markowska:

Thank you for providing the Defenders of Wildlife (Defenders) letter response (dated August 30, 2022) regarding the Draft Supplemental Environmental Impact Report (Draft SEIR) for the Rexford 2 Solar Farm Project, State Clearinghouse #2020020326.

The County of Tulare (County) acknowledges and recognizes the Defenders' expertise regarding biological issues relative to the proposed Project. Based on your comment letter and other comment letters received from other agencies, the County has responded to the comments and in some cases made revisions to the Project environmental documents. The following is the County of Tulare Resource Management Agency (RMA) response to your letter (attached for your ease of reference). The Final SEIR (see below for website link) also includes RMA's response to your comments (below) as well as the revisions to the Project environmental documents.

Intro Comment: Thank you for the opportunity to comment on the Draft Supplemental Environmental Impact Report (SEIR) for the proposed Rexford 2 Solar Farm Project (Project). These comments are submitted on behalf of Defenders of Wildlife (Defenders) and our nearly 2.2 million members and supporters in the United States, 323,000 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 to prevent the extinction of species, associated loss of biological diversity, and habitat alteration and destruction.

Defenders strongly supports responsible energy development that will help meet California's emission reduction goals. A low carbon energy future is critical for California – for our economy, our communities, and the environment. Achieving this future—and how we achieve it—is critical for protecting California's internationally treasured wildlife, landscapes, productive farmlands, and diverse habitats.

As we transition toward a clean energy future, it is imperative for our future and the future of our wild places and wildlife that we strike a balance between addressing the near-term impact of solar development with the long-term impacts of climate change on our biological diversity, fish and

wildlife habitat, and natural landscapes. To ensure that the proper balance is achieved, we need smart planning for renewable power that avoids and minimizes adverse impacts on wildlife and lands with known high-resource values. We believe energy projects must be sited in a manner that avoids or minimizes impacts to wildlife and wild habitat, and where necessary, unavoidable impacts should be offset through mitigation.

Response: *This introductory comment summarizes the Defenders of Wildlife’s mission to protect all wild animals and plants in their natural communities and states their support for responsible energy development. This comment does not address the adequacy of the Draft SEIR; therefore, no further response is necessary.*

Comment #1: The Project is an expansion of the previously approved Rexford 1 Solar Farm Project (Rexford 1). The Final Environmental Impact Report for Rexford 1 was approved in 2020 and is a 700 MW solar photovoltaic facility that includes 700 MW storage. Rexford 1 is located on 3,614 acres of land historically used as agricultural farmland in unincorporated Tulare County. The Project site is in close proximity to the Rexford 1 project and proposes to share facilities that have already been approved for construction. Two parcels of the Project are immediately adjacent to Rexford 1. Together, these two projects are known as the Rexford Cluster and may share infrastructure including but not limited to gen-ties, collector lines, photovoltaic panels, energy storage facilities and voltage equipment.

The Project would be a substantial photovoltaic (PV) solar power plant generating up to 500 MW and includes up to 500 MW storage capacity on approximately 1,200 acres between the unincorporated communities of Ducor and Terra Bella. The Project would include 230 kilovolt collector lines which will run overhead and/or underground to a project substation and then connect to the SCE Vestal Substation via an overhead or underground gen-tie line. The Project would involve the construction of both transmission and collector lines that will be approximately 31 miles in length. The Project is located on active agricultural land that is designated as Prime Farmland, Farmland of Statewide Importance and Farmland of Local Importance. The land is primarily made up of heavily disturbed agricultural fields containing grain fields, vineyards and citrus orchards. The Project site is under Williamson Act contracts with the exception of two parcels.

Response: *Comment noted. This comment provides a general summary of the proposed Project. This comment does not address the adequacy of the Draft SEIR; therefore, no further response is necessary.*

Comment #2: The proposed Project site may provide habitat and may function as a connectivity wildlife corridor to numerous special status wildlife species including but not limited to the following:

Common Name	Scientific Name	Status
Burrowing Owl	<i>Athene cunicularia</i>	Species of Special Concern
Loggerheaded shrike	<i>Lanius ludovicianus</i>	Species of Special Concern
Northern harrier	<i>Circus hudsonius</i>	Species of Special Concern

San Joaquin Kit Fox	<i>Vulpes macrotis mutica</i>	Federally Endangered and State Threatened
Swainson's hawk	<i>Buteo swainsoni</i>	State Threatened
Tricolored blackbird	<i>Agelaius tricolor</i>	Species of Special Concern
Vernal pool fairy shrimp	<i>Branchinecta lynchi</i>	Federally Threatened

Response: *Comment acknowledged. This comment identifies the special-status wildlife species that may have the potential to occur on the Project site. The information provided in the table is consistent with the information contained in the SEIR, and where applicable, potential impacts and mitigation measures for these species is addressed (including as responded to below in responses #4, #5 and #6). This comment does not otherwise address the adequacy of the Draft SEIR. As such, no further response is necessary.*

Comment #3: We offer the following comments on the Draft SEIR for the Project:

Permanent conversion from agriculture to industrial land use

The Draft SEIR states the Project would result in a temporary conversion of farmland to non-agricultural use. This is not accurate. California's aggressive renewable goals will require ever increasing renewable energy for the foreseeable future. Solar projects that are currently being constructed are expected to be repowered/updated and continue to operate beyond the end of the current contract. In the unlikely event the project is decommissioned, it is still unlikely that project site will return to agricultural use given the industrial scale infrastructure will already be constructed on the site and to serve the site, and the lands will have already been disturbed. Once the habitat and wildlife are destroyed, the land will not return to the current state. It is imperative to recognize the Project will reasonably foreseeably result in a permanent change to the site and the land-use.

Response: *The Tulare County Board of Supervisors has adopted the following Resolutions which allow photovoltaic land uses in designated agricultural lands. The Resolutions are provided in their entirety in Appendix "A" of the Draft SEIR:*

- *Resolution No. 89-1275 Uniform Rules for Agricultural Preserves;*
- *Resolution No. 99-0620 Establishing Rules on Farmland Security Zones;*
- *Resolution No. 2010-0458 Interpretation to the Tulare County Zoning Ordinance No. 352 for Solar and Wind Electrical Generation Facilities County Wide;*
- *Resolution No. 2010-0590 Amendment to Resolution Interpretation to Tulare County Zoning Ordinance No. 352;*
- *Resolution No. 2010-0591 Compatibility for Public and Private Utility Structures Located on Agricultural Zoned Lands and Lands Under Williamson Act Contracts;*
- *Resolution No. 2010-0717 Establishing Criteria for Public and Private Utility Structures Proposed on Agricultural Zoned Lands and Lands Under Williamson Act Contracts; and,*

- *Resolution No. 2013-0104 Recommendation from the Agricultural Policy Advisory Committee Regarding Siting of Utility Scale Solar Facilities.*

Under Resolution No. 2010-0590, the Tulare County Board of Supervisors determined that solar generating facilities are a compatible use in Exclusive Agriculture Zone Districts subject to conditions of approval set forth in Special Use Permits.

The proposed solar facility represents a temporary conversion of farmland with a life of approximately 35 years. This conversion is planned as temporary and in accordance with existing land use policies and regulations adopted via plans, zoning, and resolutions by the Tulare County Board of Supervisors (identified above and in the Draft SEIR).

The Project proponent may, at its discretion (and with approval by Tulare County), choose to extend the life of the facility, update technology and re-commission, or decommission and remove the system and its components. As a condition of approval, a Reclamation Plan would be submitted as a part of the permit application materials. This Reclamation Plan would provide financial assurances along with a detailed plan to remediate soils and return the land to its original pre-construction condition upon termination of the Project.

As described in Chapter 2.0 Project Description of the SEIR, at the end of the Project's life, all infrastructure associated with the Project would be removed and the site would be restored to its original state allowing it to return to agricultural use. These reclamation activities would be in accordance with the Reclamation Plan submitted as a conditional of approval of the Special Use Permit. At the end of the Project life, all infrastructure associated with the Project would be removed, the topsoil will be restored, revegetated and seeded in order to return the land to its pre-construction condition.

Any future action that would extend the Project's operational life would require subsequent environmental analysis under CEQA. Therefore, it would be pre-decisional, and outside of the scope of the SEIR, to consider impacts to agricultural uses permanent. Additionally, the comment does not provide additional information to support the equivalency between agricultural use and wildlife habitat. Therefore, no revisions to the SEIR have been made in response to this comment.

Comment #4: Conduct additional surveys and mapping of vernal pools around the Project site and construct above-ground collector lines and/or transmission lines that are in close proximity to potential vernal pool fairy shrimp habitat.

The biological study area (BSA) includes 38.35 miles of generation tie-in/collector line corridor alternatives that run along existing roads, and species-specific buffer zones. The Draft SEIR states there is an absence of vernal pools within the BSA, however there is a vernal pool located in close proximity to the proposed transmission and/or collector line route.

Additionally, according to California Natural Diversity Database (CNDDB), vernal pool fairy shrimp are located within the same topographic quad as the Project. Vernal pool fairy shrimp are a small freshwater crustacean that are found in vernal pools in California and is federally listed as Threatened.

Defenders recommends protocol level surveys for vernal pools around the Project site including all proposed transmission and collector lines, as well as a survey analyzing the indirect and direct impacts to water sheds around any identified vernal pools. The survey should be conducted by a vernal pool and soil expert biologist with several years' experience performing vernal pool surveys. Even if there are currently no vernal pools near the Project site due to the hydrology being altered or modified, there can still be pooling that may support vernal pool fairy shrimp. It is therefore imperative the survey still be conducted if the hydrology has been modified and should be conducted by an expert in soils and vernal pools.

Due to the proximity of the vernal pools and vernal pool fairy shrimp to the proposed transmission and/or collector lines, there is potential for significant impact on the species and their habitat, particularly if the lines are constructed underground. Defenders recommends above ground transmission and collector lines for routes in close proximity to potential vernal pool fairy shrimp habitat and avoiding potential impacts to vernal pools by siting power poles or towers to avoid and minimize impacts to the habitat and population.

Response: *The Biological Resource Assessment prepared for the Project (see Appendix "E.1" of the Draft SEIR) evaluated potential impacts to vernal pool fairy shrimp from Project development and operation, including along the gen-tie alternatives. As described on page D-6 of the Biological Resource Assessment, vernal pool habitat was not observed within the Project footprint. Therefore, the Project would not result in potential impacts on vernal pool fairy shrimp and would avoid the potential impacts to vernal pools/fairy shrimp identified in the comment. Therefore, no revisions to the Draft SEIR have been made in response to this comment.*

Comment #5: Conduct an updated survey for Swainson's Hawk

The field reconnaissance surveys were conducted on December 17 and 23, 2020 in which no Swainson's hawk or raptor nests were observed. The Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley recommends surveys should be completed for at least the two survey periods prior to the project's initiation:

- Period I: January – March 20
- Period II: March 20 – April 5
- Period III: April 5 – April 20
- Period IV: April 21 – June 10
- Period V: June 10 – July 30

It is recommended specifically that the surveys be completed in Periods II, III, and V and should not be conducted in Period IV. If the updated surveys determine the Project may impact Swainson's hawk foraging habitat, consultation with the CDFW for the appropriate mitigation ratio for habitat management land is necessary.

Response: *The comment correctly identifies when field reconnaissance surveys were conducted on the Project site. The Biological Resources Assessment prepared for the Project (see Appendix "E.1" of the Draft SEIR) identifies that reconnaissance survey for nesting raptors, including Swanson's hawk, was conducted within ½ mile of the Project site to assess the Project's potential for impacts. While no raptor nests were observed within ½ mile of the Project site during the*

reconnaissance survey, the Draft SEIR disclosed the potential for impacts to Swainson's hawk (see page 3.4-8 of the Draft SEIR) if nesting hawks were present during construction, and Mitigation Measure BIO 3.4-5 is required to ensure appropriate avoidance buffers are established for any active Swainson's hawk nests within ½ mile of the Project site. The Draft SEIR adequately identifies the potential for impacts on Swanson's hawk, and includes mitigation to avoid and reduce impacts in the unlikely event they are detected during Project construction. Therefore, no revisions to the Draft SEIR have been made in response to this comment.

Comment #6: Revise Mitigation Measure BIO 3.4-2. a.

The speed limit should be reduced to 10-mph for night-time activity. The San Joaquin Kit Fox (SJKF) has the potential to occur on-site and is listed as endangered under the federal Endangered Species Act and threatened under the California Endangered Species Act, and therefore is protected by federal and state statutes. The U.S. Fish and Wildlife (USFWS) Sacramento Office established standardized recommendations for the protection of the SJKF prior to or during ground disturbance. The recommendations state that night-time construction should be minimized to the extent possible; however, if night-time activity does occur, then the speed limit should be reduced to 10-mph. 5 San Joaquin kit foxes are most active at night and therefore more vulnerable to traffic related incidents at night. The speed limit for the Project should follow the recommendations outlined by the U.S. Fish and Wildlife Services to mitigate the potential impact of night-time construction activity and significantly decrease the potential mortality of the SJKF population.

Response: *Although no night-time construction activity is anticipated for construction of the Project, the County herein revises Mitigation Measure 3.4-2. a. to require speed limits of 10-mph during night-time activity to be consistent with USFWS guidance. Mitigation Measure 3.4-2. a. has been revised as follows:*

3.4-2. a. Project-related vehicles shall observe a ~~1020~~ 10-mph speed limit in all Project areas, except on County roads and State and Federal highways; this is particularly important at night when kit fox are most active. To the extent possible, night-time construction-related activity shall be minimized. Off-road traffic outside of designated Project areas shall be prohibited.

Comment #7: Revise Project Characteristic 2.3.8

We recommend this section be revised to read:

“Additionally, the Project may include additional security measures consistent with County of Tulare regulations including, but not limited to, barbed wire, ~~low voltage fencing with warning reflective signage~~, controlled access points, security alarms, security camera systems, and security guard vehicle patrols to deter trespassing and/or unauthorized activities that could interfere with operation of the Project. **Perimeter fencing shall not be electrified and shall be raised 4 to 7 inches above the ground for the entire length of the fencing to allow SJKF movement throughout the Project area.**” (Emphasis Added.)

Fencing that is not electrified and that is raised above the ground is permeable and is designed to accommodate and encourage SJKF movement though the Project site. Additionally, limiting the

gap to 7 inches restricts the passage of larger species that are potential predators of SJKF, such as coyotes.

Response: *The Project analyzed in the Draft SEIR includes security fencing that would discourage most wildlife species from entering the site. The comment does not provide any justification or evidence to support wildlife permeable fencing. The Project site, in the context of the surrounding land use and wildlife corridors, would not significantly impact wildlife movement, including San Joaquin kit fox, in the region. Wildlife accessible fencing increases the potential for operations and maintenance (O&M) phase impacts, while reducing the security of the Project site. Therefore, no revisions to the Draft SEIR have been made in response to this comment.*

Comment #8: Williamson Act Compatibility.

As discussed above, the Project would result in a permanent conversion of agricultural land to an industrial use. The Williamson Act is one of California's strongest tools for land preservation and permanent conversion of these lands will not only impact agricultural uses but will also result in permanent conversion of habitat for special- status species. We recommend the analysis revisit the Williamson Act compatibility analysis.

Response: *The Tulare County Board of Supervisors defined allowable uses on contracted lands in Resolution No. 89-1275, which established Uniform Rules for Agricultural Use. Resolutions No. 89-1275 and No. 99-0620 established the construction of gas, electric, water, and community utility facilities as compatible uses for lands under a Williamson Act Contract. Public and private utility structures were determined to be a compatible use on lands under Williamson Act Contract with Resolution No 2010-0717.*

As discussed on Draft SEIR page 3.2-11, Resolutions No. 2010-0717 and No. 2013-0104 subsequently created a two-level process through which solar facility projects can be found as a compatible use on Williamson Act contracted lands. This allows impaired agricultural lands to be put to the highest and best use without cancelling the Williamson Act contract, therefore preserving the option to return to farming the land in the future. Pending the approval of the Special Use Permit for the proposed Project and the approval of findings of compatibility under the Williamson Act, the Project will present a temporary change in land use that has been found to be compatible with the terms of the existing Williamson Act contract on the Project site. Furthermore, as a condition of approval, a Reclamation Plan would be submitted as a part of the permit application materials. This Reclamation Plan would provide financial assurances along with a detailed plan to remediate soils and return the land to its original pre-construction condition upon termination of the Project.

Comment #9: Revise Mitigation Measure 3.4-4. c.

We recommend this section be revised to read:

“If construction-related activities cannot avoid the active BUOW nest, CDFW shall be consulted regarding passive eviction and mitigation. If necessary, BUOW may be passively relocated from burrows after an exclusion plan is prepared **and approved by the CDFW and with the permanent protection of adjacent foraging habitat.**” (Emphasis Added.)

The State of California's Staff Report on Burrowing Owl Mitigation discourages using relocation to artificial burrows as a mitigation measure without including protection of adjacent foraging habitat.⁷ Ensuring foraging habitat in close proximity to the artificial burrows is imperative to increase the likelihood that the new burrows will be utilized.

Response: *The Draft SEIR identifies the potential for impacts to burrowing owl and includes mitigation measures to avoid and reduce impacts on individuals. Mitigation Measure 3.4-4c sufficiently mitigates for potential impacts on burrowing owl. Specifically, the measure requires the development of an exclusion plan to be reviewed and approved by the CDFW. Traditionally, such CDFW review can include conservation of mitigation lands, where appropriate. Therefore, no revisions to Mitigation Measure 3.4-4. c. have been made in response to this comment.*

Comment #10: Ensure appropriate buffers around the White River in consultation with CDFW.

The Project site is in close proximity to the White River, which serves as an important species corridor. According to the California Essential Habitat Connectivity Project, the White River is a natural area smaller than 2,000 acres that otherwise meet the Natural Landscape Block Criteria. The Draft SEIR states that there are no Essential Connectivity Areas or Natural Landscape Blocks mapped within the project. However, the draft SEIR fails to recognize this area that meets the requirements of a Natural Landscape Block, aside from the acreage, that supports important habitats and species and have conservation value. A map showing this designation of Small (less than 2,000 acres) Natural Areas of California is located here:

<https://databasin.org/datasets/e39a186482494487bdfeedcfd3c063ab/>

Defenders recommends, in consultation with the CDFW, appropriate buffers are placed surrounding the White River and to ensure the Project will not directly or indirectly impact the water quality and/or species that supported by the White River.

Response: *The Draft SEIR identifies potential impacts to the White River and associated riparian habitat. The only portion of the Rexford 2 Project in proximity to the White River are the potential gen-tie crossings. As designed, the Project would avoid impacts within the jurisdictional limits of the White River. Above ground gen-tie crossings at the White River would not result in any physical barrier to wildlife movement within or adjacent to the White River.*

The Draft SEIR, and the mitigation measures therein, do not identify any significant impacts on species listed as Threatened or endangered under CESA; therefore, the Draft SEIR does not prescribe additional consultation with CDFW (except as otherwise noted [Mitigation Measure 3.4-5]). The applicant is required by law to consult with regulatory agencies should Project designs result in direct impacts to jurisdictional waters of the state or waters of the US. The comment does not provide any evidence to demonstrate how the Project may impact species regulated by CDFW, nor does it suggest that a potentially significant impact would occur. As described in Section 3.10, Hydrology and Water Quality of the Draft SEIR, the Project would be required to comply with applicable laws and regulations, specifically those that govern water quality. The Project will be required to prepare a Storm Water Pollution Prevention Plan (SWPPP) consistent with the National Pollutant Discharge Elimination System (NPDES)

Construction General Permit. The SWPPP will outline best management practices designed to avoid and reduce impacts to surface and groundwater quality, in compliance with the Construction General Permit. Therefore, no revisions to the Draft SEIR have been made in response to this comment.

Comment #11: Consultation with CDFW and the USFWS on compensatory mitigation for loss of special species habitat.

The Project would result in the permanent conversion of 1,200 acres of habitat for special-status species or threatened species including burrowing owl, SJKF and Swainson's hawk. Defenders recommends consultation with the CDFW and USFWS for mitigation requirements for loss of these three special-species' habitat including purchase of credits at a CDFW approved mitigation bank. Habitat should not be altered or destroyed until mitigations lands have been legally secured and managed for the benefit of wildlife.

Response: *As addressed in the response to comment 3, the Project would not permanently convert agricultural land to solar use. The comment incorrectly commingles existing agricultural land with suitable habitat for special-status species. The County cannot stipulate consultation with an outside regulatory agency, nor can the County specify mitigation that another agency should require of an applicant. CDFW does not regulate listed species' habitat, and only requires mitigation for burrowing owl if owls must be passively evicted, a determination that cannot be made until immediately prior to the commencement of construction. Under CEQA, conversion of these agricultural lands to renewable energy does not constitute a significant impact requiring compensatory mitigation for habitat loss. Therefore, no revisions to the Draft SEIR have been made in response to this comment.*

Comment #12: Thank you once again for the opportunity to provide comments on the Project's Draft SEIR and for considering our comments. We look forward to reviewing the Final SEIR and request to be notified when it is available. If you have any questions, please contact me at 408-603-4694 or via email at smarkowska@defenders.org.

Response: *Comment noted; we appreciate receiving Ms. Markowska's contact information.*

The Project will be heard before the Tulare County Planning Commission on September 28, 2022 for consideration of certifying the Final SEIR and approving the Project. The Final SEIR will be available beginning September 16, 2022 at the following website:

<https://tularecounty.ca.gov/rma/planning-building/environmental-planning/environmental-impact-reports/rexford-2-solar-farm-project-psp-22-006/>

In closing, we sincerely appreciate Defenders' comments and our shared commitment to protect biological resources.

If you have any questions regarding the above, please contact me at (559) 624-7121.

Response to Comment from Defenders of Wildlife
RE: Rexford 2 Solar Farm
SCH# No. 2020020326
September 16, 2022

Very Best Regards,

A handwritten signature in blue ink, appearing to read "Hector Guerra".

Hector Guerra, Chief
Environmental Planning Division

Attachment: Defenders of Wildlife comment letter dated August 30, 2022

Cc: File



California Program Office

P.O. Box 401 Folsom, California 95763 | 916-313-5800

www.defenders.org

August 30, 2022

Hector Guerra, Chief Environmental Planner
Tulare County Resource Management Agency
5961 South Mooney Blvd
Visalia, CA 93277

Delivered via email to: hguerra@tularecounty.ca.gov

RE: Draft Supplemental Environmental Impact Report – Rexford 2 Solar Farm Project
(SCH 2020020326)

Dear Mr. Guerra

Thank you for the opportunity to comment on the Draft Supplemental Environmental Impact Report (SEIR) for the proposed Rexford 2 Solar Farm Project (Project). These comments are submitted on behalf of Defenders of Wildlife (Defenders) and our nearly 2.2 million members and supporters in the United States, 323,000 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 to prevent the extinction of species, associated loss of biological diversity, and habitat alteration and destruction.

Defenders strongly supports responsible energy development that will help meet California's emission reduction goals. A low carbon energy future is critical for California – for our economy, our communities, and the environment. Achieving this future—and *how* we achieve it—is critical for protecting California's internationally treasured wildlife, landscapes, productive farmlands, and diverse habitats.

As we transition toward a clean energy future, it is imperative for our future and the future of our wild places and wildlife that we strike a balance between addressing the near-term impact of solar development with the long-term impacts of climate change on our biological diversity, fish and wildlife habitat, and natural landscapes. To ensure that the proper balance is achieved,

we need smart planning for renewable power that avoids and minimizes adverse impacts on wildlife and lands with known high-resource values. We believe energy projects must be sited in a manner that avoids or minimizes impacts to wildlife and wild habitat, and where necessary, unavoidable impacts should be offset through mitigation.

The Project is an expansion of the previously approved Rexford 1 Solar Farm Project (Rexford 1). The Final Environmental Impact Report for Rexford 1 was approved in 2020 and is a 700 MW solar photovoltaic facility that includes 700 MW storage. Rexford 1 is located on 3,614 acres of land historically used as agricultural farmland in unincorporated Tulare County. The Project site is in close proximity to the Rexford 1 project and proposes to share facilities that have already been approved for construction. Two parcels of the Project are immediately adjacent to Rexford 1. Together, these two projects are known as the Rexford Cluster and may share infrastructure including but not limited to gen-ties, collector lines, photovoltaic panels, energy storage facilities and voltage equipment.

The Project would be a substantial photovoltaic (PV) solar power plant generating up to 500 MW and includes up to 500 MW storage capacity on approximately 1,200 acres between the unincorporated communities of Ducor and Terra Bella. The Project would include 230 kilovolt collector lines which will run overhead and/or underground to a project substation and then connect to the SCE Vestal Substation via an overhead or underground gen-tie line. The Project would involve the construction of both transmission and collector lines that will be approximately 31 miles in length. The Project is located on active agricultural land that is designated as Prime Farmland, Farmland of Statewide Importance and Farmland of Local Importance. The land is primarily made up of heavily disturbed agricultural fields containing grain fields, vineyards and citrus orchards. The Project site is under Williamson Act contracts with the exception of two parcels.

The proposed Project site may provide habitat and may function as a connectivity wildlife corridor to numerous special status wildlife species including but not limited to the following:

Common Name	Scientific Name	Status
Burrowing owl	<i>Athene cunicularia</i>	Species of Special Concern
Loggerheaded shrike	<i>Lanius ludovicianus</i>	Species of Special Concern
Northern harrier	<i>Circus hudsonius</i>	Species of Special Concern
San Joaquin Kit Fox	<i>Vulpes macrotis mutica</i>	Federally Endangered and State Threatened

Swainson's hawk	<i>Buteo swainsoni</i>	State Threatened
Tricolored blackbird	<i>Agelaius tricolor</i>	Species of Special Concern
Vernal pool fairy shrimp	<i>Branchinecta lynchi</i>	Federally Threatened

We offer the following comments on the Draft SEIR for the Project:

1. Permanent conversion from agriculture to industrial land use

The Draft SEIR states the Project would result in a temporary conversion of farmland to non-agricultural use. This is not accurate. California's aggressive renewable goals will require ever increasing renewable energy for the foreseeable future.¹ Solar projects that are currently being constructed are expected to be repowered/upgraded and continue to operate beyond the end of the current contract. In the unlikely event the project is decommissioned, it is still unlikely that project site will return to agricultural use given the industrial scale infrastructure will already be constructed on the site and to serve the site, and the lands will have already been disturbed. Once the habitat and wildlife are destroyed, the land will not return to the current state. It is imperative to recognize the Project will reasonably foreseeably result in a permanent change to the site and the land-use.

2. Conduct additional surveys and mapping of vernal pools around the Project site and construct above-ground collector lines and/or transmission lines that are in close proximity to potential vernal pool fairy shrimp habitat.

The biological study area (BSA) includes 38.35 miles of generation tie-in/collector line corridor alternatives that run along existing roads, and species-specific buffer zones. The Draft SEIR states there is an absence of vernal pools within the BSA, however there is a vernal pool located in close proximity to the proposed transmission and/or collector line route.²

Additionally, according to California Natural Diversity Database (CNDDDB), vernal pool fairy shrimp are located within the same topographic quad as the Project.³ Vernal pool fairy shrimp are a small freshwater crustacean that are found in vernal pools in California and is federally listed as Threatened.

Defenders recommends protocol level surveys for vernal pools around the Project site

¹ See <https://www.energy.ca.gov/sb100>

² See <https://datasin.org/maps/new/#datasets=e2af6f9aaf2b46cdae3eba4acda32dac>

³ See <https://apps.wildlife.ca.gov/bios/?tool=cnddbQuick>

including all proposed transmission and collector lines, as well as a survey analyzing the indirect and direct impacts to water sheds around any identified vernal pools. The survey should be conducted by a vernal pool and soil expert biologist with several years' experience performing vernal pool surveys. Even if there are currently no vernal pools near the Project site due to the hydrology being altered or modified, there can still be pooling that may support vernal pool fairy shrimp. It is therefore imperative the survey still be conducted if the hydrology has been modified and should be conducted by an expert in soils and vernal pools.

Due to the proximity of the vernal pools and vernal pool fairy shrimp to the proposed transmission and/or collector lines, there is potential for significant impact on the species and their habitat, particularly if the lines are constructed underground. Defenders recommends above ground transmission and collector lines for routes in close proximity to potential vernal pool fairy shrimp habitat and avoiding potential impacts to vernal pools by siting power poles or towers to avoid and minimize impacts to the habitat and population.

3. Conduct an updated survey for Swainson's Hawk

The field reconnaissance surveys were conducted on December 17 and 23, 2020 in which no Swainson's hawk or raptor nests were observed. The Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley⁴ recommends surveys should be completed for at least the two survey periods prior to the project's initiation:

- Period I: January – March 20
- Period II: March 20 – April 5
- Period III: April 5 – April 20
- Period IV: April 21 – June 10
- Period V: June 10 – July 30

It is recommended specifically that the surveys be completed in Periods II, III, and V and should not be conducted in Period IV. If the updated surveys determine the Project may impact Swainson's hawk foraging habitat, consultation with the CDFW for the appropriate mitigation ratio for habitat management land is necessary.

⁴ Swainson's Hawk Technical Advisory Committee. 2000. Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley.

4. Revise Mitigation Measure BIO 3.4-2. a.

The speed limit should be reduced to 10-mph for night-time activity. The San Joaquin Kit Fox (SJKF) has the potential to occur on-site and is listed as endangered under the federal Endangered Species Act and threatened under the California Endangered Species Act, and therefore is protected by federal and state statutes. The U.S. Fish and Wildlife (USFWS) Sacramento Office established standardized recommendations for the protection of the SJKF prior to or during ground disturbance. The recommendations state that night-time construction should be minimized to the extent possible; however, if night-time activity does occur, then the speed limit should be reduced to 10-mph.⁵ San Joaquin kit foxes are most active at night and therefore more vulnerable to traffic related incidents at night. The speed limit for the Project should follow the recommendations outlined by the U.S. Fish and Wildlife Services to mitigate the potential impact of night-time construction activity and significantly decrease the potential mortality of the SJKF population.

5. Revise Project Characteristic 2.3.8

We recommend this section be revised to read:

“Additionally, the Project may include additional security measures consistent with County of Tulare regulations including, but not limited to, barbed wire, ~~low-voltage fencing with warning reflective signage~~, controlled access points, security alarms, security camera systems, and security guard vehicle patrols to deter trespassing and/or unauthorized activities that could interfere with operation of the Project. **Perimeter fencing shall not be electrified and shall be raised 4 to 7 inches above the ground for the entire length of the fencing to allow SJKF movement throughout the Project area.**” (Emphasis Added.)

Fencing that is not electrified and that is raised above the ground is permeable and is designed to accommodate and encourage SJKF movement though the Project site. Additionally, limiting the gap to 7 inches restricts the passage of larger species that are potential predators of SJKF, such as coyotes.⁶

6. Williamson Act Compatibility

As discussed above, the Project would result in a permanent conversion of agricultural land to an industrial use. The Williamson Act is one of California’s strongest tools for land preservation and permanent conversion of these lands will not only impact agricultural uses but will also result in permanent conversion of habitat for special-

⁵ See <https://www.fws.gov/media/standardized-recommendations-protection-endangered-san-joaquin-kit-fox-prior-or-during-ground>

⁶ See <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=195581&inline>

status species. We recommend the analysis revisit the Williamson Act compatibility analysis.

7. Revise Mitigation Measure 3.4-4.c.

We recommend this section be revised to read:

“If construction-related activities cannot avoid the active BUOW nest, CDFW shall be consulted regarding passive eviction and mitigation. If necessary, BUOW may be passively relocated from burrows after an exclusion plan is prepared and approved by the CDFW **and with the permanent protection of adjacent foraging habitat.**” (Emphasis Added.)

The State of California’s Staff Report on Burrowing Owl Mitigation discourages using relocation to artificial burrows as a mitigation measure without including protection of adjacent foraging habitat.⁷ Ensuring foraging habitat in close proximity to the artificial burrows is imperative to increase the likelihood that the new burrows will be utilized.

8. Ensure appropriate buffers around the White River in consultation with CDFW.

The Project site is in close proximity to the White River, which serves as an important species corridor.⁸ According to the California Essential Habitat Connectivity Project, the White River is a natural area smaller than 2,000 acres that otherwise meet the Natural Landscape Block Criteria. The Draft SEIR states that there are no Essential Connectivity Areas or Natural Landscape Blocks mapped within the project. However, the draft SEIR fails to recognize this area that meets the requirements of a Natural Landscape Block, aside from the acreage, that supports important habitats and species and have conservation value. A map showing this designation of Small (less than 2,000 acers) Natural Areas of California is located here:

<https://databasin.org/datasets/e39a186482494487bdfecd3c063ab/>

Defenders recommends, in consultation with the CDFW, appropriate buffers are placed surrounding the White River and to ensure the Project will not directly or indirectly impact the water quality and/or species that supported by the White River.

9. Consultation with CDFW and the USFWS on compensatory mitigation for loss of special species habitat.

The Project would result in the permanent conversion of 1,200 acres of habitat for special-status species or threatened species including burrowing owl, SJKF and Swainson’s hawk. Defenders recommends consultation with the CDFW and USFWS for

⁷ California Department of Fish and Wildlife. 2012. Staff Report on Burrowing Owl Mitigation.

⁸ Personal Conversation with Julie Vance and Larry Bonner of the California Department of Fish and Wildlife on August 18, 2022.

mitigation requirements for loss of these three special-species' habitat including purchase of credits at a CDFW approved mitigation bank. Habitat should not be altered or destroyed until mitigations lands have been legally secured and managed for the benefit of wildlife.

Thank you once again for the opportunity to provide comments on the Project's Draft SEIR and for considering our comments. We look forward to reviewing the Final SEIR and request to be notified when it is available. If you have any questions, please contact me at 408-603-4694 or via email at smarkowska@defenders.org.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Sophia Markowska". The script is cursive and fluid.

Sophia Markowska
Senior California Representative

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8 Mitigation Monitoring and Reporting Program

This Mitigation Monitoring and Reporting Program (MMRP) has been prepared in compliance with State law and based upon the findings of the Draft Supplemental Environmental Impact Report (SEIR) for the proposed Project. The MMRP lists mitigation measures recommended in the SEIR for the proposed Project and identifies monitoring and reporting requirements.

The CEQA Public Resources Code Section 21081.6 requires the Lead Agency decision making body is going to approve a project and certify the EIR that it also adopt a reporting or monitoring program for those measures recommended to mitigate or avoid significant/adverse effects of the environment identified in the SEIR. The law states that the reporting or monitoring program shall be designed to ensure compliance during project implementation. The MMRP is to contain the following elements:

- **Action and Procedure.** The mitigation measures are recorded with the action and procedure necessary to ensure compliance. In some instances, one action may be used to verify implementation of several mitigation measures.
- **Compliance and Verification.** A procedure for compliance and verification has been outlined for each action necessary. This procedure designates who will take action, what action will be taken and when and by whom and compliance will be monitored and reported and to whom it will be report. As necessary the reporting should indicate any follow-up actions that might be necessary if the reporting notes the impact has not been mitigated.
- **Flexibility.** The program has been designed to be flexible. As monitoring progresses, changes to compliance procedures may be necessary based upon the recommendations by those responsible for the MMRP. As changes are made, new monitoring compliance procedures and records will be developed and incorporated into the program.

Table 8-1 presents the Mitigation Measures identified for the proposed Project in this SEIR. The first column of the table identifies the Mitigation Measure. The second column, entitled “Monitoring Timing/Frequency,” identifies the time the Mitigation Measure should be initiated and the frequency of the monitoring that should take place to assure the mitigation is being or has been implemented to achieve the desired outcome or performance standard. The third column, “Action Indicating Compliance,” identifies the requirements of compliance with the Mitigation Measure. The fourth column, “Monitoring Agency,” names the party ultimately responsible for ensuring that the Mitigation Measure is implemented. The fifth column, “Person/Agency Conducting Monitoring/Reporting” names the party/agency/entity responsible for verification that the Mitigation Measure has been implemented. The last three columns will be used by the Lead Agency (County of Tulare) to ensure that individual Mitigation Measures have been complied with and monitored.

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Table 8-1. Mitigation Monitoring Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
Biological Resources						
3.4-2. San Joaquin Kit Fox. A pre-construction clearance survey for San Joaquin kit fox shall be conducted not less than 14 days and not more than 30 days prior to the initiation of ground-disturbing activities. The survey areas shall include the entire Project site and all undeveloped habitat within 200 feet. If no potential dens are located, construction-related activity may proceed. If a potential den is located, an infrared camera trap shall be placed at the den entrance for three days to confirm species occupancy. If San Joaquin kit fox use is observed, the den shall be avoided and the USFWS shall be contacted. Construction-related activities shall adhere to the avoidance and minimization measures outlined in the <i>Standardized Recommendations for Protection of the Endangered San Joaquin Kit Fox Prior to or During Ground Disturbance</i> (USFWS 2011), outlined below: 3.4-2. a. Project-related vehicles shall observe a 10-mph speed limit in all Project areas, except on County roads and State and Federal highways; this is particularly important at night when kit fox are most active. To the extent possible, night-time construction-related activity shall be minimized. Off-road traffic outside of designated Project areas shall be prohibited. 3.4-2.b. To prevent inadvertent entrapment of kit fox or other animals during the construction-related activity phase of the Project, all excavated, steep-walled holes or trenches more than two (2) feet deep shall be covered at the close of each working day by plywood or similar materials or provided with one (1) or more escape ramps constructed of earth fill or wooden planks.	Prior to issuance of grading permits Ongoing monitoring during subsurface excavation	Retention of professional biologist/ongoing monitoring/submittal of Report of Findings, if applicable.	County of Tulare Planning Department and/or CDFW			

Table 8-1. Mitigation Monitoring Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
Before such holes or trenches are filled, they shall be thoroughly inspected for trapped animals. If at any time a trapped or injured kit fox is discovered, the USFWS shall be notified within three days of the discovery.						
3.4-2.c. All food-related trash items such as wrappers, cans, bottles, and food scraps shall be disposed of in closed containers and removed at least once a week from a construction-related activity or Project site.						
3.4-2.d. No firearms or pets shall be allowed on the Project site.						
3.4-2.e. Use of rodenticides and herbicides in Project areas should be restricted. This is necessary to prevent primary or secondary poisoning of kit fox and the depletion of prey populations on which they depend. All uses of such compounds should observe label and other restrictions mandated by the U.S. Environmental Protection Agency, California Department of Food and Agriculture, California Department of Pesticide Regulation, and other State and Federal legislation, as well as additional Project-related restrictions deemed necessary by the USFW Service. If rodent control must be conducted, zinc phosphide should be used because of proven lower risk to kit fox.						

Table 8-1. Mitigation Monitoring Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
<p>3.4-3. Worker Environmental Awareness Program. Prior to the issuance of grading or building permits, and for the duration of construction-related activities, all new construction workers at the Project site shall attend a Worker Environmental Awareness Program (WEAP), developed and presented by the Project Lead Biologist. The WEAP shall be presented by the Lead Biologist and shall include information on the life history of each federal and state-listed species, as well as other special-status wildlife, natural communities, and plant species that may be encountered during construction-related activities, their legal protections, the definition of “take” under the federal and state endangered species acts, measures the Project operator is implementing to protect special-status species, reporting requirements, specific measures that each worker shall employ to avoid take of special-status wildlife species, and penalties for violation of the Federal Endangered Species Act and California Endangered Species Act. A fact sheet conveying this information shall be prepared for distribution to contractors, employees, and anyone else who may enter the Project site.</p> <p>WEAP training shall be documented as follows:</p> <p>3.4-3a. An acknowledgement form signed by each worker indicating that environmental training has been completed.</p> <p>3.4-3b. A sticker that shall be placed on hard hats indicating that the worker has completed the environmental training. Construction workers shall not be permitted to operate equipment within the construction area unless they have attended the training and</p>	Prior to issuance of grading or building permits	<p>Retention of professional biologist</p> <p>Verification of signed acknowledgement form by each worker indicating completion of environmental training</p>	County of Tulare Planning Department			

Table 8-1. Mitigation Monitoring Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
<p>are wearing hard hats with the required sticker.</p> <p>3.4-3c. A copy of the training transcript/training video and/or training video, as well as a list of the names of all personnel who attended the training and copies of the signed acknowledgements forms shall be submitted to the Tulare County Resource Management Agency.</p>						
<p>3.4-4. Burrowing Owl. A preconstruction clearance survey for burrowing owls (BUOW) shall be conducted by a qualified biologist no less than 14 days prior to the start of construction-related activities in accordance with the protocols adopted by the CDFW <i>Staff Report on Burrowing Owl Mitigation</i> (2012). If burrowing owls are observed on-site or within 500 feet of the site, the following avoidance and minimization measures shall be implemented:</p> <p>3.4-4.a. A no-disturbance buffer shall be established around occupied burrows. The buffer size may range from 150 feet to 650 feet depending on the time of year and the level of construction-related activity (refer to CDFW 2012).</p> <p>3.4-4.b. A qualified biologist shall monitor the nest to ensure construction-related activities will not adversely impact the nesting birds and determine when the burrow is no longer occupied.</p> <p>3.4-4.c. If construction-related activities cannot avoid the active BUOW nest, CDFW shall be consulted regarding passive eviction</p>	<p>Prior to issuance of grading permits</p> <p>Ongoing monitoring during subsurface excavation</p>	<p>Retention of professional biologist/ongoing monitoring/submittal of Report of Findings, if applicable.</p>	<p>County of Tulare Planning Department and/or CDFW</p>			

Table 8-1. Mitigation Monitoring Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
and mitigation. If necessary, BUOW may be passively relocated from burrows after an exclusion plan is prepared and approved by the CDFW.						
<p>3.4-5. Raptors and Nesting Birds. To avoid impacts to nesting birds, including Swainson's hawk and raptorial species protected by Sections 3503, 3503.5, and 3513 of the CFGC, activities related to the Project (including, but not limited to, vegetation removal, ground disturbance, and construction- and demolition-related activity) shall occur outside of the bird breeding season (February 1 through August 30 for nesting birds; March 1 through September 31 for Swainson's hawk; but variable based on seasonal and annual climatic conditions). Construction-related activity commencing outside of the nesting season does not require any mitigation. If construction-related activities are scheduled to commence during the breeding season, the following mitigation and avoidance measures will be implemented: 3.4-5.a. A pre-construction nesting bird survey shall be conducted no more than 14 days prior to initiation of ground disturbance and vegetation removal. The survey shall be conducted within the Project site and include a 150-foot buffer for passerines, 500-foot buffer for other raptors, and 0.5-mile buffer for active Swainson's hawk nests. The survey shall be conducted by a biologist familiar with the identification of avian species known to occur in the region.</p> <p>3.4-5.b. If nests are found, an appropriate avoidance buffer will be determined and demarcated by the biologist with bright orange construction fencing, flagging, construction lathe, or other means to mark the boundary. For Swainson's hawk nests, an avoidance buffer of up to ½ mile shall be established by a qualified biologist based</p>	<p>Prior to issuance of grading permits</p> <p>Ongoing monitoring during subsurface excavation</p>	Retention of professional biologist/ongoing monitoring/submittal of Report of Findings, if applicable.	County of Tulare Planning Department			

Table 8-1. Mitigation Monitoring Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
<p>on the nest location in relation to the Project activity, the line-of-sight from the nest to the Project activity, and observed hawk behavior at the nest.</p> <p>3.4-5.c. If this buffer is not feasible, or if the Project intends to reduce the buffers based on the previously listed criteria, consultation with CDFW is warranted to discuss how these criteria will be implemented and determine if the Project will avoid take.</p> <p>3.4-5.d. All construction-related personnel shall be notified as to the existence of the buffer zones and to avoid entering buffer zones during the nesting season. No ground disturbing activities shall occur within the buffer until the avian biologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Encroachment into the buffer shall occur only at the discretion of the qualified biologist.</p> <p>3.4-5.e. If take cannot be avoided, take authorization through the issuance of an Incidental Take Permit (ITP), pursuant to Fish and Game Code Section 2081(b) is necessary to comply with the California Endangered Species Act.</p>						
<p>3.4-8. Jurisdictional Waters. Potentially jurisdictional features should be demarcated with fencing and avoided. If these features cannot be avoided, a jurisdictional wetland delineation shall be conducted to identify and delineate the jurisdictional extent. Permitting by the RWQCB, and/or</p>	Prior to issuance of grading permits	Verification by County of incorporation of project design features. Verification of permits, if applicable.	County of Tulare Planning Department, and RWQCB and/or CDFW			

Table 8-1. Mitigation Monitoring Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
CDFW may be required, depending on the jurisdictional scope of each feature. Mitigation for fill would be at 1:1 (one (1) acre of mitigation for each acre of impact) at a minimum. Additional mitigation may be required under agency permits.						
Cultural Resources						
3.5-1. In the event that historical, archaeological or paleontological resources are discovered during site excavation, the County shall require that grading and construction work on the portion of the Project site where the resource is discovered, be immediately suspended until the significance of the features can be determined by a qualified archaeologist or paleontologist. In this event, the specialists shall provide recommendations for measures necessary to protect any site determined to contain or constitute an historical resource, a unique archaeological resource, or a unique paleontological resource or to undertake data recovery, excavation analysis, and curation of archaeological or paleontological materials. County staff shall consider such recommendations and implement them where they are feasible in light of Project design as previously approved by the County.	During construction	Daily or as needed throughout the construction period if suspicious resources are discovered	County of Tulare Planning Department			
3.5-2. Consistent with Section 7050.5 of the California Health and Safety Code and (CEQA Guidelines) Section 15064.5, if human remains of Native American origin are discovered during project construction, it is necessary to comply with State laws relating to the disposition of Native American burials, which fall within the jurisdiction of the Native American Heritage Commission (Public Resources Code Sec. 5097). In the event of the accidental [that is,	During construction	Daily or as needed throughout the construction period if suspicious resources are discovered	County of Tulare Planning Department			

Table 8-1. Mitigation Monitoring Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
<p>unanticipated] discovery or recognition of any human remains in any location other than a dedicated cemetery, the following steps should be taken:</p> <ol style="list-style-type: none"> 1. There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until: <ol style="list-style-type: none"> a. The Tulare County Coroner/Sheriff must be contacted to determine that no investigation of the cause of death is required; and b. If the coroner determines the remains to be Native American: <ol style="list-style-type: none"> i. The coroner shall contact the Native American Heritage Commission within 24 hours. ii. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descended from the deceased Native American. iii. The most likely descendent may make recommendations to the landowner of the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code section 5097.98, or 						

Table 8-1. Mitigation Monitoring Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
<p>2. Where the following conclusions occur the landowner or his authorized representative shall reburial the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance.</p> <p>a. The Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the commission.</p> <p>b. The descendant fails to make a recommendation; or</p> <p>c. The landowner or his authorized representative rejects the recommendation of the descendant, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.</p>						
Public Services						
3.15-1. Applicant shall provide an access road to the site and any facilities affected by the Special Use Permit.	Prior to issuance of building permits	County verification prior to issuance of building permit	County of Tulare Planning Department			
3.15-2. Applicant shall submit plans for all new construction, and shall comply with the provisions of the 2019 Cal Green Building Code, Fire Code, Mechanical Code, Electric Code and Plumbing Code, as applicable.	Prior to issuance of building permits	County verification of approval of site plan design prior to issuance of building permit	County of Tulare Planning Department			
3.15-3. The Tulare County Fire Department shall be notified of the proposed start date of any processing,	Prior to issuance of building permits	County verification of approval of site plan	County of Tulare Fire Department			

Table 8-1. Mitigation Monitoring Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
storage, or special use granted and mitigated prior to initiation of any building operations.		design prior to issuance of building permit	and Public Works Department			
3.15-4. Violations of any of these conditions shall result in Tulare County Fire Department's rescission of approval of the Special Use Permit.	Prior to issuance of building permits	County verification of approval of site plan design prior to issuance of building permit	County of Tulare Fire Department			
3.15-5. Fire Department requires a Knox box to be installed at an approved location to permit entry to the site.	Prior to issuance of building permits	County verification of approval of site plan design prior to issuance of building permit	County of Tulare Fire Department			
3.15-6. Access gate shall be set back 30 feet from the roadway for fire apparatus access.	Prior to issuance of building permits	County verification of approval of site plan design prior to issuance of building permit	County of Tulare Fire Department, Planning Department, and Public Works Department			
3.15-7. All combustible vegetation shall be removed from the site and Tulare County Fire Department approved measures taken to prevent the accumulation of the combustible vegetation that would create a fire hazard.	Prior to issuance of building permits	County verification of approval of site plan design prior to issuance of building permit	County of Tulare Fire Department and Public Works Department			
3.15-8. Access roads shall be provided so that no portions of the photovoltaic panels are more than 500 feet from a fire apparatus access road or spaced in coordination with the Fire Department.	Prior to issuance of building permits	County verification of approval of site plan design prior to issuance of building permit	County of Tulare Fire Department and Public			

Table 8-1. Mitigation Monitoring Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
			Works Department			
3.15-9. Access roads shall be a minimum of 20 feet in width (non-obstructed), with a maintained 13 feet 5 inches vertical clearance.	Prior to issuance of building permits	County verification of approval of site plan design prior to issuance of building permit	County of Tulare Fire Department and Public Works Department			
3.15-10. 20-foot fire access roads shall be constructed so that no portions of the photovoltaic panels are more than 500 feet from a fire apparatus access road or spaced in coordination with the Fire Department.	Prior to issuance of building permits	County verification of approval of site plan design prior to issuance of building permit	County of Tulare Fire Department and Public Works Department			
3.15-11. Applicant shall be responsible for training fire personnel of facility operations, hazards and emergency procedures for shutting down the operation.	Prior to issuance of building permits	County verification of personnel training and operation certification prior to occupancy.	County of Tulare Fire Department			
3.15-12. Posted address shall be visible from roadway, minimum 4-inch numbers.	Prior to issuance of building permits	County verification of approval of site plan design prior to issuance of building permit	County of Tulare Fire Department			
3.15-13. If buildings are proposed, National Fire Protection Agency (NFPA) 1142 standards for rural water supplies shall be required.	Prior to issuance of building permits	County verification of approval of site plan design prior to issuance of building permit	County of Tulare Fire Department, Planning Department, and Public			

Table 8-1. Mitigation Monitoring Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
			Works Department			
<i>Tribal Cultural Resources</i>						
Refer to Cultural Resource Mitigation Measures 3.5-1 and 3.5-2 above						

Errata and Affected and Corrected Pages of the SEIR

Changes Made in Response to Comments Received

Revisions and clarifications to the Draft SEIR made in response to comments and information received on the Draft SEIR are indicated by strikeout text (e.g. ~~strikeout~~), indicating deletions, and underline text (e.g. underline), indicating additions. Revisions are identified below or, if indicated, are included as attachments to this document.

1. In Response to Defenders of Wildlife, California Program Office

a. Section 3.4 Biological Resources, Page 3.4-9:

"Mitigation Measure(s)"

3.4-2 San Joaquin Kit Fox. A pre-construction clearance survey for San Joaquin kit fox shall be conducted not less than 14 days and not more than 30 days prior to the initiation of ground-disturbing activities. The survey areas shall include the entire Project site and all undeveloped habitat within 200 feet. If no potential dens are located, construction-related activity may proceed. If a potential den is located, an infrared camera trap shall be placed at the den entrance for three days to confirm species occupancy. If San Joaquin kit fox use is observed, the den shall be avoided and the USFWS shall be contacted. Construction-related activities shall adhere to the avoidance and minimization measures outlined in the Standardized Recommendations for Protection of the Endangered San Joaquin Kit Fox Prior to or During Ground Disturbance (USFWS 2011), outlined below:

- 3.4-2. a. Project-related vehicles shall observe a 10-mph ~~20-mph~~ speed limit in all Project areas, except on County roads and State and Federal highways; this is particularly important at night when kit fox are most active. To the extent possible, night-time construction-related activity shall be minimized. Off-road traffic outside of designated Project areas shall be prohibited.

b. Chapter 8.0 Mitigation Monitoring and Reporting Program, Page 8-3, Table 8-1:

3.4-2. San Joaquin Kit Fox. A pre-construction clearance survey for San Joaquin kit fox shall be conducted not less than 14 days and not more than 30 days prior to the initiation of ground-disturbing activities. The survey areas shall include the entire Project site and all undeveloped habitat within 200 feet. If no potential dens are located, construction-related activity may proceed. If a potential den is located, an infrared camera trap shall be placed at the den entrance for three days to confirm species occupancy. If San Joaquin kit fox use is observed, the den shall be avoided and the USFWS shall be contacted. Construction-related activities shall adhere to the avoidance and minimization measures outlined in the *Standardized*

Recommendations for Protection of the Endangered San Joaquin Kit Fox Prior to or During Ground Disturbance (USFWS 2011), outlined below:

- 3.4-2. a. Project-related vehicles shall observe a 10-mph ~~20-mph~~ speed limit in all Project areas, except on County roads and State and Federal highways; this is particularly important at night when kit fox are most active. To the extent possible, night-time construction-related activity shall be minimized. Off-road traffic outside of designated Project areas shall be prohibited.