

Final Environmental Impact Report

SCH# 2021060079

Volume 5

Chapter 7 – Response to Comments

ROSAMOND SOUTH SOLAR PROJECT

by Golden Fields Solar IV, LLC (PP19151)

Specific Plan Amendment No. 40, Map No. 231

Specific Plan Amendment No. 33, Map No. 232

Zone Change Case No. 157, Map No. 231

Zone Change Case No. 43, Map No. 232

Zone Change Case No. 18, Map No. 233

Conditional Use Permit No. 120, Map No. 231

Conditional Use Permit No. 40, Map No. 232

Conditional Use Permit No. 46, Map No. 232

Conditional Use Permit No. 44, Map No. 232

Conditional Use Permit No. 16, Map No. 233

Specific Plan Amendment No. 31, Map No. 232 (circulation)

Nonsummary Vacations Map No. 231

Nonsummary Vacations Map No. 232



Kern County
Planning and Natural Resources Department
Bakersfield, California

September 2022

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**PLANNING AND NATURAL
RESOURCES DEPARTMENT**

Planning
Community Development
Administrative Operations

September 29, 2022

FILE: SPA #40, Map #231; and others;
S.D.: #2 - Scrivner

Addressee List (See Distribution List)

Re: Response to Comments for Draft Environmental Impact Report – Rosamond South Solar Project by Golden Fields Solar IV, LLC (PP19151) (SCH#2021060079)

Dear Interested Party:

Enclosed is a document entitled *Volume 5 – Chapter 7 – Response to Comments*, for the above referenced project. Section 15088 of the California Environmental Quality Act Guidelines requires the Lead Agency to evaluate comments on environmental issues received from persons who reviewed the Draft Environmental Impact Report (EIR) and prepare a written response addressing each comment. This document is Chapter 7 of the Final EIR.

A public hearing has been scheduled with the Kern County Planning Commission to consider this request on **October 13, 2022** at 7:00 p.m., or soon thereafter, at the Chambers of the Board of Supervisors, First Floor, Kern County Administrative Center, 1115 Truxtun Avenue, Bakersfield, California.

Thank you for your participation in the environmental process for this project. If you have any questions regarding this project, please do not hesitate to contact me at (661) 862-8607 or via email at smallst@kerncounty.com.

Sincerely,

A handwritten signature in blue ink, appearing to read "Terrance Smalls", is written over a horizontal line.

Terrance Smalls, Supervising Planner
Advanced Planning Division

COMMENTING AGENCIES AND INTERESTED PERSONS: California Department of Fish & Wildlife; Antelope Valley- East Kern Water Agency (AVEK); Defenders of Wildlife; Kern County Fire Department; County of Kern Public Works Department, Floodplain Management Section; Kern County Department of Agriculture and Measurement Standards; East Kern Air Pollution Control District

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Rosamond South Solar RTC
Mailing List

Kern County Public Works
Department/Building &
Development/Floodplain

Eastern Kern Air Pollution Control
District

Defenders of Wildlife
PO Box 401
Folsom, CA 95763

Antelope Valley-East Kern Water
Agency
Attn: Joseph Roberts
6500 West Avenue N
Palmdale, CA 93551

Kern County Fire Dept
Michael Nicholas,
Assistant Fire Marshal

California Department of Fish and
Wildlife
1234 E Shaw Ave
Fresno, CA 93710

Kern County Department of
Agriculture and Measurement
Standards

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Chapter 7

Response to Comments

SCH# 2021060079
Volume 5

ROSAMOND SOUTH SOLAR PROJECT **by Golden Fields Solar IV, LLC (PP19151)**

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Kern County
Planning and Natural Resources Department
Bakersfield, California

Technical Assistance by:
Kimley-Horn

September 2022

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Chapter 7

Response to Comments

7.1 Introduction

Purpose

As defined by Section 15050 of the California Environmental Quality Act (CEQA) Guidelines, the Kern County Planning and Natural Resources Department is serving as “Lead Agency” for the preparation of the Environmental Impact Report (EIR) for the Rosamond South Solar Project (project or proposed project). The Final EIR presents the environmental information and analyses that have been prepared for the project, including comments received addressing the adequacy of the Draft EIR, and responses to those comments. In addition to the responses to comments, clarifications, corrections, or minor revisions have been made to the Draft EIR. The Final EIR which includes the responses to comments, the Draft EIR, and the Mitigation, Monitoring, and Reporting Program, will be used by the Planning Commission and the Board of Supervisors in the decision-making process for the proposed project.

Environmental Review Process

A Notice of Preparation (NOP)/Initial Study (IS) (SCH No. 2021060079) was circulated for a 30-day public review period beginning on June 3, 2021 and ending on July 2, 2021. Eleven (11) individual written comment letters were received on the NOP. No additional comments were received at the June 25, 2021 public scoping meeting, as no members of the public were in attendance. All public comments received relevant to CEQA-related issues were considered by the County in preparing the Draft EIR.

The Draft EIR for the proposed project was circulated for a 45-day public review period beginning on July 13, 2022 through August 29, 2022. A total of six (6) comment letters were received on the Draft EIR during this period. One (1) additional comment letter was received on the Draft EIR following the close of the public review period.

Section 15088 of the *CEQA Guidelines* requires that the lead agency evaluate comments on environmental issues received from persons and agencies that reviewed the Draft EIR and prepare a written response addressing the comments received. The response to comments is contained in this document — Volume 5, Chapter 7 of the Draft EIR. Volumes 1, 2, 3, 4, and 5 together constitute the Final EIR.

7.2 Revisions to the Draft EIR

The revisions that follow were made to the text of the Draft EIR. Amended text is identified by page number. Additions to the Draft EIR text are shown with underlined text, and text removed from the Draft EIR is typically shown with ~~striketrough~~. Revisions to a Draft EIR are required if clarifications or responses to comments cannot be made without alterations to the document. The revisions, as outlined below, fall within the scope of the original project analysis included in the Draft EIR and do not result in an increase to any identified impacts or produce any new impacts. No new significant environmental impact would result from the changes or from a new mitigation measure proposed to be implemented. Therefore, no significant revisions have been made which would require recirculation of the Draft EIR pursuant to *CEQA Guidelines* Section 15088.5 (Recirculation of an EIR Prior to Certification).

Changes to the Draft EIR

Global Changes: The following “global changes” are intended to apply to the Draft EIR in all instances where such text or figures shown below appears within the document. The text and figure revisions are not repeated herein for each occurrence within the Draft EIR in order to streamline this document.

To incorporate two parcels (5-acres each, for a total of 10 additional acres) within the project area that were acquired since circulation of the Draft EIR:

- Total project area is on an approximate 1,292 ~~1,302~~-acre site.
- Number of parcels with project area is ~~64~~ 66 parcels.
- CUP Area 3 (Conditional Use Permit No. 46, Map No. 232) is ~~541.16~~ 551.16 acres.
- Zone Change Case No. 43, Map No. 232 from the existing zone district E(5) RS FPS to A FPS on approximately ~~330~~ 340 acres and from existing zone district E(2 ½) RS FPS to A FPS on approximately 96 acres
- The figures for CUP Area 3 are revised to include the two parcels within the project area as shown in the following **Figure 3-4b: CUP Area 2 and 3 Existing Willow Springs Specific Plan Designations** and **Figure 3-8b: CUP Area 2 and 3 Proposed Zoning**.



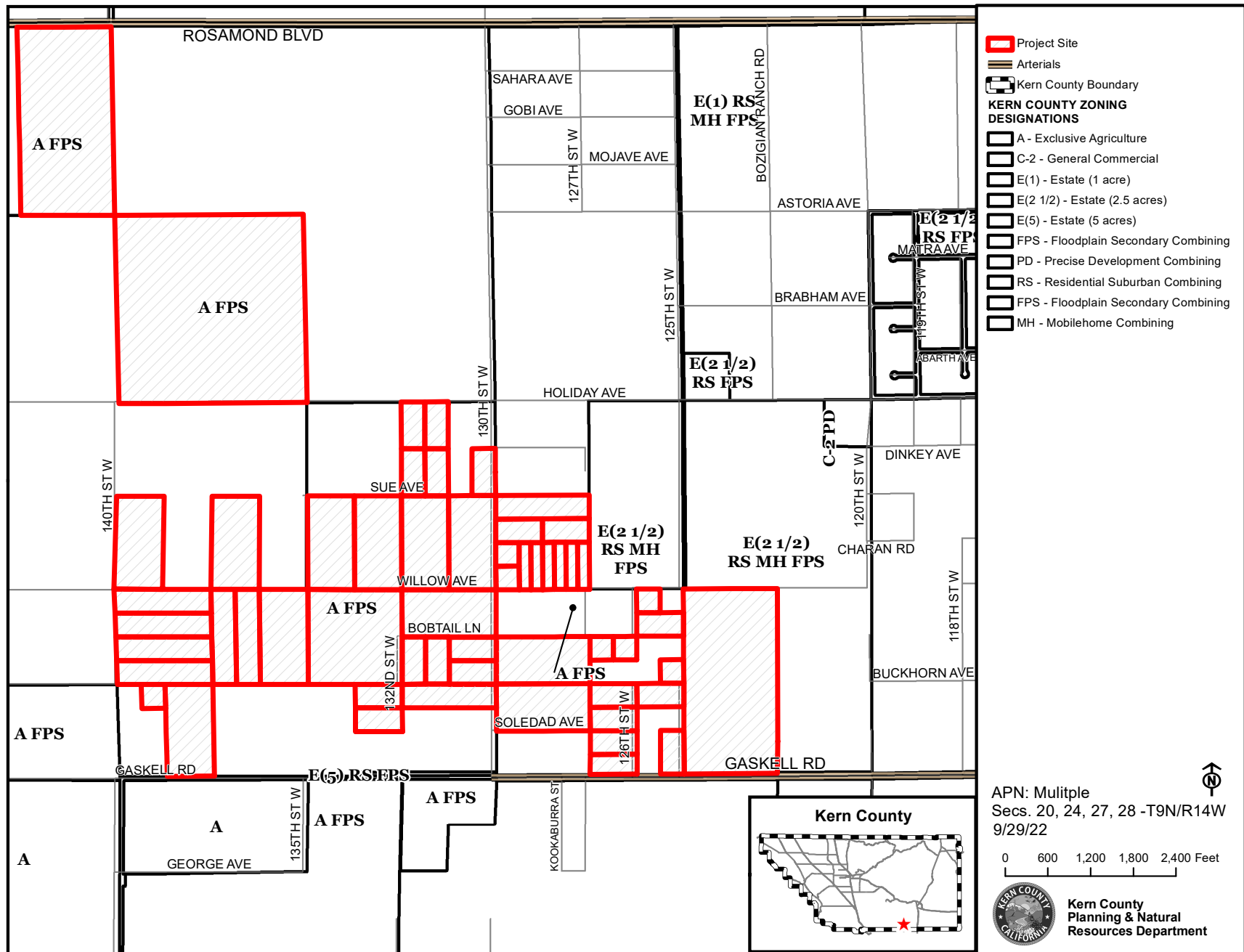


FIGURE 3-8b: CUP Area 2 and 3 Proposed Zoning

Cover of the DEIR:

Conditional Use Permit No. 120, Map No. 231

Specific Plan Amendment No. 31, Map No. 232 (circulation)

Chapter 1, Executive Summary, Page 1-1:

The Rosamond South Solar Project (project), proposed by Golden Fields Solar IV, LLC, a subsidiary of Clearway Energy Group, LLC (Clearway) (project proponents/operators), would develop and operate up to four photovoltaic (PV) solar facilities and associated infrastructure necessary to generate up to a total of approximately 165 megawatts (MW) of renewable electrical energy and up to 245 MW of energy storage using a battery energy storage system (BESS) on an approximately ~~1,292~~ 1,302 acre site.

The project proponent/operator is requesting approval of the following applications by the County (acreages are approximate):

- CUP Area 1 (solar and energy storage)
 - Conditional Use Permit No. 16, Map No. 233 for 70.99 acres
- CUP Area 2 (solar and energy storage)
 - Conditional Use Permit No. 40, Map No. 232 for 240.58 acres
- CUP Area 3 (solar and energy storage)
 - Conditional Use Permit No. 46, Map No. 232 for ~~541.46~~ 551.16 acres
- CUP Area 4 (solar and energy storage)
 - Conditional Use Permit No. 120, Map No. 231 for 439.26 acres
- Telecommunication Tower
 - Conditional Use Permit No. 44, Map No. 232
- Zone Change Case No. 157, Map No. 231 from the existing zone district E(2 ½) RS FPS to A FPS on approximately 440 acres
- Zone Change Case No. 43, Map No. 232 from the existing zone district E(5) RS FPS to A FPS on approximately ~~330~~ 340 acres and from existing zone district E(2 ½) RS FPS to A FPS on approximately 96 acres
- Zone Change Case No. 18, Map No. 233 from the existing zone district E(2 ½) RS FPS to A FPS on approximately 71 acres
- Specific Plan Amendment No. 40, Map No. 231 from map code designation 7.1/4.4 (Light Industrial, Comprehensive Planning Area) to 7.1 (Light Industrial) on approximately 247 acres and from map code designation 7.2/4.4 (Service Industrial, Comprehensive Planning Area) to 7.2 (Service Industrial) on approximately 118 acres
- Specific Plan Amendment No. 33, Map No. 232 from map code designation 5.3/4.4 (Residential Maximum 10 Units per Net Acre/Comprehensive Planning Area) to 5.3 (Residential Maximum 10 Units per Net Acre) on approximately 80 acres and from map code designation 5.3/4.4/2.6 (Residential Maximum 10 Units per Net Acre/Comprehensive Planning Area/Erosion Hazard) to 5.3/2.6 (Residential Maximum 10 Units per Net Acre/Erosion Hazard) on approximately 80 acres

- Specific Plan Amendment No. 31, Map No. 232 ~~Amendments~~ to the Circulation Element of the ~~Kern County General~~ Willow Springs Specific Plan to remove future road reservations on the ~~section and~~ mid-section lines within the project boundaries
- Nonsummary vacations of portions of public access easements located within Sections 27 & 29, T9N, R14W, SBB&M in Zone Map No. 232
- Nonsummary vacations of portions of public access easements located within Section 31, T9N, R13W, SBB&M in Zone Map No. 231

Chapter 1.0, Executive Summary, Page 1-2 through 1-5, Table 1-1:

Table 1-1: Project Assessor Parcel Numbers (APNs) – Specific Plan Map Code Designations and Zone Districts

CUP Area	APN	Willow Springs Specific Plan- Existing Map Code Designation(s)	Willow Springs Specific Plan- Proposed Map Code Designation(s)	Existing Zone District(s)	Proposed Zone Districts	Acres
1	261-120-05	5.6; 5.6/2.6	5.6; 5.6/2.6	E(2 ½) RS FPS	A FPS	20.63
	261-120-06	5.6; 5.6/2.6	5.6; 5.6/2.6	E(2 ½) RS FPS	A FPS	20.68
	261-120-07	5.6; 5.6/2.6	5.6; 5.6/2.6	E(2 ½) RS FPS	A FPS	20.08
	261-120-09	5.6	5.6	E(2 ½) RS FPS	A FPS	9.60

Area 1 total acres: 70.99

2	359-020-49	5.3/4.4; 5.3/4.4/2.6	5.3; 5.3/2.6	A FPS	A FPS	160.71
	359-100-05	5.7	5.7	E (5) RS FPS	A FPS	79.87

Area 2 total acres: 240.58

3	359-175-05	5.6/2.85	5.6/2.85	E (2 ½) RS FPS	A FPS	78.48
	359-331-06	5.7/2.85	5.7/2.85	E (5) RS FPS	A FPS	5.02
	359-331-07	5.7/2.85	5.7/2.85	E (5) RS FPS	A FPS	5.02
	359-331-12	5.7/2.85	5.7/2.85	E (5) RS FPS	A FPS	5.02
	359-331-13	5.7/2.85	5.7/2.85	E (5) RS FPS	A FPS	5.02
	359-331-15	5.7/2.85	5.7/2.85	E (5) RS FPS	A FPS	5.02
	359-331-16	8.1/2.85; 8.1/2.6/2.85	8.1/2.85; 8.1/2.6/2.85	A FPS	A FPS	20.07
	359-331-18	8.1/2.85; 8.1/2.6/2.85	8.1/2.85; 8.1/2.6/2.85	A FPS	A FPS	20.07
	359-331-20	5.7/2.85	5.7/2.85	E(5) RS FPS	A FPS	20.08
	359-331-21	5.7/2.85	5.7/2.85	E(5) RS FPS	A FPS	20.08
	359-331-22	5.7/2.85	5.7/2.85	E(5) RS FPS	A FPS	20.08
	359-331-23	5.7/2.85	5.7/2.85	E(5) RS FPS	A FPS	20.09
	359-332-01	5.7/2.6/2.85	5.7/2.6/2.85	E(5) RS FPS	A FPS	10.00

CUP Area	APN	Willow Springs Specific Plan- Existing Map Code Designation(s)	Willow Springs Specific Plan- Proposed Map Code Designation(s)	Existing Zone District(s)	Proposed Zone Districts	Acres
	359-332-02	5.7/2.6/2.85	5.7/2.6/2.85	E(5) RS FPS	A FPS	10.00
	359-332-03	5.7/2.85; 5.7/2.6/2.85	5.7/2.85; 5.7/2.6/2.85	E(5) RS FPS	A FPS	10.00
	359-332-04	5.7/2.85; 5.7/2.6/2.85	5.7/2.85; 5.7/2.6/2.85	E(5) RS FPS	A FPS	10.00
	359-332-05	5.7/2.85; 5.7/2.6/2.85	5.7/2.85; 5.7/2.6/2.85	E(5) RS FPS	A FPS	10.00
	359-332-06	5.7/2.85; 5.7/2.6/2.85	5.7/2.85; 5.7/2.6/2.85	E(5) RS FPS	A FPS	20.00
	359-332-07	5.7/2.85; 5.7/2.6/2.85	5.7/2.85; 5.7/2.6/2.85	E(5) RS FPS	A FPS	40.00
	359-332-09	5.7/2.85	5.7/2.85	E(5) RS FPS	A FPS	40.00
	359-332-10	5.7/2.85	5.7/2.85	E(5) RS FPS	A FPS	20.00
	359-332-11	5.7/2.85	5.7/2.85	E (5) RS FPS	A FPS	5.02
	359-332-12	5.7/2.85	5.7/2.85	E (5) RS FPS	A FPS	5.02
	<u>359-332-13</u>	<u>5.7/2.85</u>	<u>5.7/2.85</u>	<u>E (5) RS FPS</u>	<u>A FPS</u>	<u>5.00</u>
	<u>359-332-14</u>	<u>5.7/2.85</u>	<u>5.7/2.85</u>	<u>E (5) RS FPS</u>	<u>A FPS</u>	<u>5.00</u>
	359-332-16	5.7/2.85	5.7/2.85	E (5) RS FPS	A FPS	2.50
	359-332-24	5.7/2.85	5.7/2.85	E (5) RS FPS	A FPS	19.24
	359-332-30	5.7/2.85	5.7/2.85	E (5) RS FPS	A FPS	5.00
	359-332-31	5.7/2.85	5.7/2.85	E(5) RS FPS	A FPS	5.00
	359-332-35	5.7/2.85	5.7/2.85	E(5) RS FPS	A FPS	10.00
	359-401-02	5.6/2.85	5.6/2.85	E (2 ½) RS FPS	A FPS	5.00
	359-401-03	5.6/2.85	5.6/2.85	E (2 ½) RS FPS	A FPS	2.50
	359-401-05	5.6/2.85	5.6/2.85	E (2 ½) RS FPS	A FPS	2.50
	359-401-12	5.6/2.85	5.6/2.85	E (2 ½) RS FPS	A FPS	2.50
	359-401-15	5.6/2.85	5.6/2.85	E (2 ½) RS FPS	A FPS	2.50
	359-401-09	5.6/2.85	5.6/2.85	E (2 ½) RS FPS	A FPS	2.50
	359-401-16	5.6/2.85	5.6/2.85	E (2 ½) RS FPS	A FPS	5.01
	359-401-19	5.6/2.85	5.6/2.85	E (2 ½) RS FPS	A FPS	5.01
	359-401-20	5.6/2.85	5.6/2.85	E(2 ½) RS FPS	A FPS	4.24
	359-401-21	5.6/2.85	5.6/2.85	E(2 ½) RS FPS	A FPS	5.00
	359-401-22	5.6/2.85	5.6/2.85	E(2 ½) RS FPS	A FPS	5.00
	359-401-23	5.6/2.85	5.6/2.85	E(2 ½) RS FPS	A FPS	5.00

CUP Area	APN	Willow Springs Specific Plan- Existing Map Code Designation(s)	Willow Springs Specific Plan- Proposed Map Code Designation(s)	Existing Zone District(s)	Proposed Zone Districts	Acres
	359-402-11	5.6/2.85	5.6/2.85	E(2 ½) RS FPS	A FPS	10.0
	359-402-13	5.6/2.85	5.6/2.85	E(2 ½) RS FPS	A FPS	5.00
	359-402-14	5.6/2.85	5.6/2.85	E(2 ½) RS FPS	A FPS	5.00
	359-402-15	5.6/2.85	5.6/2.85	E(2 ½) RS FPS	A FPS	2.50
	359-402-16	5.6/2.85	5.6/2.85	E(2 ½) RS FPS	A FPS	2.50
	359-402-17	5.6/2.85	5.6/2.85	E(2 ½) RS FPS	A FPS	2.28
	359-402-18	5.6/2.85	5.6/2.85	E(2 ½) RS FPS	A FPS	2.28
	359-402-19	5.6/2.85	5.6/2.85	E(2 ½) RS FPS	A FPS	2.28
	359-402-20	5.6/2.85	5.6/2.85	E(2 ½) RS FPS	A FPS	2.28
	359-402-21	5.6/2.85	5.6/2.85	E(2 ½) RS FPS	A FPS	2.28
	359-402-22	5.6/2.85	5.6/2.85	E(2 ½) RS FPS	A FPS	2.28
	359-403-08	5.6/2.85	5.6/2.85	E (2 ½) RS FPS	A FPS	20.00
	359-403-09	5.6/2.85	5.6/2.85	E (2 ½) RS FPS	A FPS	20.00

Area 3 total acres: ~~541.16~~ 551.16

4	374-020-02	7.1/4.4; 7.2/4.4	7.1;7.2	E(2 ½) RS FPS	A FPS	165.00
	374-020-15	7.1/4.4	7.1	E(2 ½) RS FPS	A FPS	79.09
	374-020-16	7.2/4.4	7.2	E(2 ½) RS FPS	A FPS	79.09
	374-450-01	7.2/4.4	7.2	E(2 ½) RS FPS	A FPS	36.66
	374-460-12	5.6/2.85	5.6/2.85	E(2 ½) RS FPS	A FPS	75.00

Area 4 total acres: 439.26

Proposed Solar Project Total Acreage ~~1291.99~~ 1301.99

LEGEND

2.6= Erosion Hazard; 2.85 = Noise Management Area; 4.4 = Comprehensive Planning Area; 5.3 = Maximum 10 units/net acre;
 5.6 = Minimum 2.5 gross acres/unit; 5.7 = Minimum 5 gross acres/unit; 6.2 = General Commercial; 7.1 = Light Industrial;
 7.2 = Service Industrial; 8.1 = Intensive Agriculture

A = Exclusive Agriculture; E (2½) = Estate 2½ acres; E (5) = Estate 5 acres; FPS = Floodplain Secondary Combining; MH = Mobilehome Combining; RS = Residential Suburban Combining;

Chapter 1.0, Executive Summary, Page 1-18 through 1-19, Table 1-3:**Table 1-3: Summary of Project Impacts That Are Less than Significant or Less than Significant with Mitigation**

Impact	Mitigation Measures
Aesthetics (Project)	MM 4.1-1 through 4.1-7
Agriculture and Forestry Resources (Project and Cumulative)	MM 4.11-1
Air Quality (Project and Cumulative)	MM 4.3-1 through MM 4.3-4
Biological Resources (Project)	MM 4.4-1 through MM 4.4-14
Cultural Resources (Project and Cumulative)	MM 4.5-1 through MM 4.5-5
Energy (Project and Cumulative)	MM 4.3-1
Geology and Soils (Project and Cumulative)	MM 4.7-1 through MM 4.7-3 and MM 4.10-1 and MM 4.10-2
Greenhouse Gas Emissions (Project and Cumulative)	No mitigation required
Hazards and Hazardous Materials (Project and Cumulative)	MM 4.9-1 through MM 4.9-2, MM 4.13-1, and MM 4.16-1
Hydrology and Water Quality (Project and Cumulative)	MM 4.9-1, MM 4.10-1 and MM 4.10-2
Land Use and Planning (Project and Cumulative)	MM 4.11-1 and MM 4.11-2
Noise (Project and Cumulative)	MM 4.12-1 through MM 4.12-3
Public Services (Project and Cumulative)	MM 4.13-1 through MM 4.13-5
Aesthetics (Project)	MM 4.1-1 through 4.1-7
Transportation and Traffic (Project and Cumulative)	MM 4.14-1
Tribal Cultural Resources (Project and Cumulative)	MM 4.5-1 through MM 4.5-5
Utilities and Service Systems (Project and Cumulative)	MM 4.10-1 and MM 4.16-1
Wildfire (Project)	MM 4.10-1 and MM 4.13-1

Chapter 1.0, Executive Summary, Table 1-7, Pages 1-49 through 1-60

To provide clarity, only mitigation measures with revisions have been included in the following table.

Table 1-7: Summary of Impacts, Mitigation Measures, and Levels of Significance

Impact	Level of Significance before Mitigation	Mitigation Measure	Level of Significance after Mitigation
4.4 Biological Resources			
Impact 4.4-1: The project would have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or a special-status species in local or regional plans, policies, or regulations or by California Department of Fish and Wildlife or U.S. Fish and Wildlife Service.	Potentially significant	<p>MM 4.4-4: Within 14 days of the start of project activities, a pre-activity survey should be conducted by a qualified biologist. If needed, the timing of the pre-activity surveys will be phased to ensure appropriate evaluation before initiation of ground disturbance. If greater than 14 days elapse between the survey and the start of activities, an additional survey will be required.</p> <p>The pre-activity survey shall include walking transects to identify presence of burrowing owls and their burrows, desert tortoise and their burrows, American badgers and their dens, and desert kit foxes and their dens. <u>A handheld mirror, light, and/or burrow scope shall be used to examine the burrow for desert tortoise at or near the entrance during surveys.</u> The pre-activity survey shall be walked using transects spaced at intervals of not greater than 30 feet to enable 100 percent coverage of the project site and a 250-foot buffer. Some areas of the buffer may not be accessible (other private land and inaccessible property) so transects within the buffer shall only be required where feasible. If no evidence of these special-status species is detected, no further action is required. If evidence special status species are detected, the following mitigation (MM 4.4-5 through MM 4.5-7) for the listed terrestrial species shall be required. Results of the surveys will be documented in a written report provided to the County.</p> <p>MM 4.4-5: If evidence of desert tortoise is identified during the pre-activity surveys conducted pursuant to MM 4.4-4, prior to the start of project ground disturbance activities, qualified personnel shall perform a preconstruction clearance survey for desert tortoise. If the species is present on-site, individual(s) shall be allowed to leave the</p>	Less than significant.

		<p>site on their own, and the applicant shall consult with <u>in consultation with</u> California Department of Fish and Wildlife (CDFW) <u>regarding whether issuance of an Incidental Take Permit is warranted, and the potential need for installation of</u> exclusionary/perimeter fencing. <u>If exclusionary/perimeter fencing is required, it shall have</u> mesh attached to the fence fabric extending from approximately 12 inches below grade to approximately 24 inches above grade to ensure no tortoises re-enter the work limits. No person(s) shall be allowed to touch a tortoise without authorization from the US Fish and Wildlife Service (USFWS) and CDFW. Environmental awareness training shall be provided for all construction personnel to educate them on desert tortoise, protective status, and avoidance measures to be implemented by all personnel, including looking under vehicles and equipment prior to moving. If tortoises are encountered, such vehicles shall not be moved until the tortoises have voluntarily moved away from them or a qualified biologist has moved the tortoises out of harm's way.</p> <p>If a tortoise is present, a biological monitor shall be present during all disturbance activities in the vicinity of exclusionary fencing (if required) and shall have the authority to stop work as needed to avoid direct impacts to tortoises. Periodic biological inspections and maintenance shall be conducted during the construction period to ensure the integrity of exclusionary fencing (if required). Work may proceed within the excluded area when the biologist confirms all tortoises have left the excluded area. Should tortoises be found during construction activities, the biological monitor shall have the authority to stop work as needed to avoid direct impacts to tortoises, and further consultations with the USFWS and CDFW shall take place <u>to determine if the issuance of an Incidental Take Permit is warranted.</u> Trash and food items shall be contained in closed containers and removed daily to reduce attractiveness to opportunistic predators of desert tortoise (e.g., ravens, coyotes, and feral dogs).</p> <p>MM 4.4-6: If dens or burrows that could support any of these species are discovered during the pre-activity survey conducted under Measure BIO-1, the avoidance buffers outlined below should</p>	
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		<p>be established. No work would <u>shall</u> occur within these buffers unless the biologist approves and monitors the activity. <u>The qualified biologist may reduce the buffer if it is determined a smaller buffer would be adequately protective of the species.</u></p> <p>Burrowing Owl (active Burrows only)</p> <ul style="list-style-type: none">• Non-breeding season (September 1 – January 31): 160 feet• Breeding season (February 1 – August 31): 250 feet <table><tr><th rowspan="2"><u>Location</u></th><th rowspan="2"><u>Time of Year</u></th><th colspan="3"><u>Level of Disturbance</u></th></tr><tr><th><u>Low</u></th><th><u>Med</u></th><th><u>High</u></th></tr><tr><td><u>Nesting Sites</u></td><td><u>April 1-Aug 15</u></td><td><u>200 m*</u></td><td><u>500 m</u></td><td><u>500 m</u></td></tr><tr><td><u>Nesting Sites</u></td><td><u>Aug 16-Oct 15</u></td><td><u>200 m</u></td><td><u>200 m</u></td><td><u>500 m</u></td></tr><tr><td><u>Nesting Sites</u></td><td><u>Oct 16-Mar 31</u></td><td><u>50 m</u></td><td><u>100 m</u></td><td><u>500 m</u></td></tr></table> <p><u>*meters</u></p> <p>American Badger and Desert Kit Fox</p> <ul style="list-style-type: none">• Potential or Atypical den: 50 feet• Known den: 100 feet• Natal or pupping den: 200 feet. <p>Burrows and dens may be excavated by a qualified biologist once it is determined that the burrow or den is not occupied. To determine occupation, each den should be <u>inspected with the use of mirrors, flashlights and /or burrow scopes, and shall be</u> monitored for three consecutive days/nights using tracking medium and/or remote cameras fitted with a motion detector and/or infra-red triggering system. In addition, prior to excavation of burrows or dens, one-way doors may be installed (only in non-breeding season) and the burrows or dens will be scoped with optic cameras to ensure no occupation of wildlife are present. All excavations would be accomplished by hand or backhoe under the direct supervision of a qualified biologist.</p> <p>MM 4.4-8: a. The project proponent/operator shall mitigate the loss of Swainson’s hawk foraging habitat by providing Habitat Management (HM) lands within the Antelope Valley Swainson’s hawk breeding range at a 0.5:1 ratio for the loss of 668 acres of moderate quality foraging habitat. Project developers may consider</p>	<u>Location</u>	<u>Time of Year</u>	<u>Level of Disturbance</u>			<u>Low</u>	<u>Med</u>	<u>High</u>	<u>Nesting Sites</u>	<u>April 1-Aug 15</u>	<u>200 m*</u>	<u>500 m</u>	<u>500 m</u>	<u>Nesting Sites</u>	<u>Aug 16-Oct 15</u>	<u>200 m</u>	<u>200 m</u>	<u>500 m</u>	<u>Nesting Sites</u>	<u>Oct 16-Mar 31</u>	<u>50 m</u>	<u>100 m</u>	<u>500 m</u>	
<u>Location</u>	<u>Time of Year</u>	<u>Level of Disturbance</u>																								
		<u>Low</u>	<u>Med</u>	<u>High</u>																						
<u>Nesting Sites</u>	<u>April 1-Aug 15</u>	<u>200 m*</u>	<u>500 m</u>	<u>500 m</u>																						
<u>Nesting Sites</u>	<u>Aug 16-Oct 15</u>	<u>200 m</u>	<u>200 m</u>	<u>500 m</u>																						
<u>Nesting Sites</u>	<u>Oct 16-Mar 31</u>	<u>50 m</u>	<u>100 m</u>	<u>500 m</u>																						

		<p>delegating responsibilities for acquisition and management of the HM lands to the CDFW or a third party, such as a nongovernmental organization dedicated to Mojave Desert habitat conservation. Approaches for acquisition and management of HM lands include the following:</p> <ol style="list-style-type: none"> 1. Identify the region within which lands would be acquired, and the type/quality of habitat to be acquired. Foraging habitat should be moderate to good with a capacity to improve in quality and value to Swainson's hawks, and must be within the Antelope Valley Swainson's hawk breeding range. Foraging habitat with suitable nest trees is preferred. 2. Provide an acquisition proposal to the Department and the appropriate lead agency for their approval at least 3 months before acquiring the property. The proposal should discuss the suitability of the property by comparing it to the selection criteria. 3. If an irrevocable letter of credit or other form of security is provided, complete land acquisition within 12 months after beginning ground-disturbing project activities. Provide financial assurances for dedicating adequate funding for impact avoidance, minimization and compensation measures required for project approval. 4. Be prepared to provide a preliminary title report, initial hazardous materials survey report, biological analysis, at a minimum to the Kern County Planning and Natural Resources Department. The information will likely also be reviewed by the California Department of General Services, Fish and Game Commission and/or Wildlife Conservation Board. Fee title, <u>deed restriction</u>, or conservation easement will likely be transferred to a Department of Fish and Game-approved non-profit third party and the Department, or solely to the Department. Be prepared to support enhancement and endowment funds for protection and enhancement of acquired lands. <u>If required</u>, the Department will approve establishment and management of the funds, ensuring that qualified non-profit organizations or the Department will manage the funds in an appropriate manner. Contributed funds and any 	
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		<p>related interest generated from the initial capital endowment would support long-term operation, management, and protection of the approved HM lands, including reasonable administrative overhead, biological monitoring, improvements to carrying capacity, law enforcement measures, and any other action designed to protect or improve the habitat values of the HM lands. Be prepared to reimburse the Department or other entities for all land acquisition costs.</p> <p>b. The project proponent/operator shall perform preconstruction surveys to verify locations of Swainson's Hawks and active nests. The project proponent/operator shall be required to prepare and implement a Swainson's Hawk Monitoring and Mitigation Plan in coordination with the California Department of Fish and Wildlife and the Kern County Planning and Community Development Department. The Plan shall be prepared by a qualified wildlife biologist approved the County and shall include the following in order to avoid and minimize impacts to Swainson's hawks in and near the project site:</p> <ol style="list-style-type: none"> 1. During the nesting season, ensure no new disturbances, habitat conversions, or other project activities that may cause nest abandonment or forced fledging within 0.5 miles of an active nest between March 1 and September 15. Buffer zones may be adjusted in consultation with CDFW and the County. 2. The project proponent/operator shall not remove Swainson's hawk nest trees unless avoidance measures are determined to be infeasible. Removal of such trees should occur only during the timeframe of October 1 and the last day in February. <p>c. If an injured Swainson's hawk is found during project-related activities:</p> <ol style="list-style-type: none"> 1. A plan should be in place to call for immediate relocation to a raptor recovery center approved by CDFW. 2. A system should be set up so that costs associated with the care or treatment of such injured Swainson's hawks will be borne by the project proponent/operator 	
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		<p>3. Include appropriate contact information for immediate notification to CDFW and the County if a hawk injury incident occurs. Have an approved procedure in place to notify CDFW and the County inside of normal business hours. Notify the appropriate personnel via telephone or email, followed by a written incident report. Include the date, time, location, and circumstance of the incident in reports.</p> <p>MM 4.4-10: If project <u>construction</u> activities must start construction during the nesting season (February 1 to September 15) and construction activities occur within 0.5 miles from and active Swainson's hawk nest, If construction is initiated outside the nesting season, no additional action is required. Pre-activity nesting bird surveys shall be conducted 14 days prior to the start of construction at the construction site and include a 250-foot buffer (avoidance buffer) for songbirds and a 500-foot buffer for raptors (other than Swainson's hawk). The surveys should be phased with construction of the Project. If no active nests are found, no further action is required. However, existing nests may become active and new nests may be built at any time prior to and throughout the nesting season, including when construction activities are in progress. If active nests are found during the survey or at any time during construction of the Project, an avoidance buffer ranging from 250 feet to 500 feet may be required, with the avoidance buffer from any specific nest being determined by a qualified biologist. Full-time monitoring of an active nest may be needed when activities are occurring at the fringe of a buffer to determine whether activities are affecting nesting birds. Results of the monitoring may indicate a need to expand the size of avoidance buffer areas. The avoidance buffer shall remain in place until the biologist has determined that the young are no longer reliant on the adults or the nest. Work may occur within the avoidance buffer under the approval and guidance of the biologist, but full-time monitoring may be required. The biologist shall have the ability to stop construction if nesting adults show any sign of distress. <u>If construction activities are initiated outside the nesting season, no additional action is required.</u></p>	
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Chapter 3.0, Project Description, Page 3-6 through 3-8:**Table 3-1: Project Assessor Parcel Numbers (APNs) – Specific Plan Map Code Designations and Zone Districts – Rosamond South Solar Project**

CUP Area	APN	Willow Springs Specific Plan- Existing Map Code Designation(s)	Willow Springs Specific Plan- Proposed Map Code Designation(s)	Existing Zone District(s)	Proposed Zone Districts	Acres
1	261-120-05	5.6; 5.6/2.6	5.6; 5.6/2.6	E(2 ½) RS FPS	A FPS	20.63
	261-120-06	5.6; 5.6/2.6	5.6; 5.6/2.6	E(2 ½) RS FPS	A FPS	20.68
	261-120-07	5.6; 5.6/2.6	5.6; 5.6/2.6	E(2 ½) RS FPS	A FPS	20.08
	261-120-09	5.6	5.6	E(2 ½) RS FPS	A FPS	9.60
Area 1 total acres: 70.99						
2	359-020-49	5.3/4.4; 5.3/4.4/2.6	5.3; 5.3/2.6	A FPS	A FPS	160.71
	359-100-05	5.7	5.7	E (5) RS FPS	A FPS	79.87
Area 2 total acres: 240.58						
3	359-175-05	5.6/2.85	5.6/2.85	E (2 ½) RS FPS	A FPS	78.48
	359-331-06	5.7/2.85	5.7/2.85	E (5) RS FPS	A FPS	5.02
	359-331-07	5.7/2.85	5.7/2.85	E (5) RS FPS	A FPS	5.02
	359-331-12	5.7/2.85	5.7/2.85	E (5) RS FPS	A FPS	5.02
	359-331-13	5.7/2.85	5.7/2.85	E (5) RS FPS	A FPS	5.02
	359-331-15	5.7/2.85	5.7/2.85	E (5) RS FPS	A FPS	5.02
	359-331-16	8.1/2.85; 8.1/2.6/2.85	8.1/2.85; 8.1/2.6/2.85	A FPS	A FPS	20.07
	359-331-18	8.1/2.85; 8.1/2.6/2.85	8.1/2.85; 8.1/2.6/2.85	A FPS	A FPS	20.07
	359-331-20	5.7/2.85	5.7/2.85	E(5) RS FPS	A FPS	20.08
	359-331-21	5.7/2.85	5.7/2.85	E(5) RS FPS	A FPS	20.08
	359-331-22	5.7/2.85	5.7/2.85	E(5) RS FPS	A FPS	20.08
	359-331-23	5.7/2.85	5.7/2.85	E(5) RS FPS	A FPS	20.09
	359-332-01	5.7/2.6/2.85	5.7/2.6/2.85	E(5) RS FPS	A FPS	10.00
	359-332-02	5.7/2.6/2.85	5.7/2.6/2.85	E(5) RS FPS	A FPS	10.00
	359-332-03	5.7/2.85;	5.7/2.85;	E(5) RS FPS	A FPS	10.00
		5.7/2.6/2.85	5.7/2.6/2.85			
	359-332-04	5.7/2.85;	5.7/2.85;	E(5) RS FPS	A FPS	10.00
		5.7/2.6/2.85	5.7/2.6/2.85			
	359-332-05	5.7/2.85;	5.7/2.85;	E(5) RS FPS	A FPS	10.00
		5.7/2.6/2.85	5.7/2.6/2.85			

CUP Area	APN	Willow Springs Specific Plan- Existing Map Code Designation(s)	Willow Springs Specific Plan- Proposed Map Code Designation(s)	Existing Zone District(s)	Proposed Zone Districts	Acres
	359-332-06	5.7/2.85; 5.7/2.6/2.85	5.7/2.85; 5.7/2.6/2.85	E(5) RS FPS	A FPS	20.00
	359-332-07	5.7/2.85; 5.7/2.6/2.85	5.7/2.85; 5.7/2.6/2.85	E(5) RS FPS	A FPS	40.00
	359-332-09	5.7/2.85	5.7/2.85	E(5) RS FPS	A FPS	40.00
	359-332-10	5.7/2.85	5.7/2.85	E(5) RS FPS	A FPS	20.00
	359-332-11	5.7/2.85	5.7/2.85	E (5) RS FPS	A FPS	5.02
	359-332-12	5.7/2.85	5.7/2.85	E (5) RS FPS	A FPS	5.02
	<u>359-332-13</u>	<u>5.7/2.85</u>	<u>5.7/2.85</u>	<u>E (5) RS FPS</u>	<u>A FPS</u>	<u>5.00</u>
	<u>359-332-14</u>	<u>5.7/2.85</u>	<u>5.7/2.85</u>	<u>E (5) RS FPS</u>	<u>A FPS</u>	<u>5.00</u>
	359-332-16	5.7/2.85	5.7/2.85	E (5) RS FPS	A FPS	2.50
	359-332-24	5.7/2.85	5.7/2.85	E (5) RS FPS	A FPS	19.24
	359-332-30	5.7/2.85	5.7/2.85	E (5) RS FPS	A FPS	5.00
	359-332-31	5.7/2.85	5.7/2.85	E(5) RS FPS	A FPS	5.00
	359-332-35	5.7/2.85	5.7/2.85	E(5) RS FPS	A FPS	10.00
	359-401-02	5.6/2.85	5.6/2.85	E (2 ½) RS FPS	A FPS	5.00
	359-401-03	5.6/2.85	5.6/2.85	E (2 ½) RS FPS	A FPS	2.50
	359-401-05	5.6/2.85	5.6/2.85	E (2 ½) RS FPS	A FPS	2.50
	359-401-12	5.6/2.85	5.6/2.85	E (2 ½) RS FPS	A FPS	2.50
	359-401-15	5.6/2.85	5.6/2.85	E (2 ½) RS FPS	A FPS	2.50
	359-401-09	5.6/2.85	5.6/2.85	E (2 ½) RS FPS	A FPS	2.50
	359-401-16	5.6/2.85	5.6/2.85	E (2 ½) RS FPS	A FPS	5.01
	359-401-19	5.6/2.85	5.6/2.85	E (2 ½) RS FPS	A FPS	5.01
	359-401-20	5.6/2.85	5.6/2.85	E(2 ½) RS FPS	A FPS	4.24
	359-401-21	5.6/2.85	5.6/2.85	E(2 ½) RS FPS	A FPS	5.00
	359-401-22	5.6/2.85	5.6/2.85	E(2 ½) RS FPS	A FPS	5.00
	359-401-23	5.6/2.85	5.6/2.85	E(2 ½) RS FPS	A FPS	5.00
	359-402-11	5.6/2.85	5.6/2.85	E(2 ½) RS FPS	A FPS	10.0
	359-402-13	5.6/2.85	5.6/2.85	E(2 ½) RS FPS	A FPS	5.00
	359-402-14	5.6/2.85	5.6/2.85	E(2 ½) RS FPS	A FPS	5.00
	359-402-15	5.6/2.85	5.6/2.85	E(2 ½) RS FPS	A FPS	2.50
	359-402-16	5.6/2.85	5.6/2.85	E(2 ½) RS FPS	A FPS	2.50
	359-402-17	5.6/2.85	5.6/2.85	E(2 ½) RS FPS	A FPS	2.28

CUP Area	APN	Willow Springs Specific Plan- Existing Map Code Designation(s)	Willow Springs Specific Plan- Proposed Map Code Designation(s)	Existing Zone District(s)	Proposed Zone Districts	Acres
	359-402-18	5.6/2.85	5.6/2.85	E(2 ½) RS FPS	A FPS	2.28
	359-402-19	5.6/2.85	5.6/2.85	E(2 ½) RS FPS	A FPS	2.28
	359-402-20	5.6/2.85	5.6/2.85	E(2 ½) RS FPS	A FPS	2.28
	359-402-21	5.6/2.85	5.6/2.85	E(2 ½) RS FPS	A FPS	2.28
	359-402-22	5.6/2.85	5.6/2.85	E(2 ½) RS FPS	A FPS	2.28
	359-403-08	5.6/2.85	5.6/2.85	E (2 ½) RS FPS	A FPS	20.00
	359-403-09	5.6/2.85	5.6/2.85	E (2 ½) RS FPS	A FPS	20.00

Area 3 total acres: ~~541.16~~ 551.16

4	374-020-02	7.1/4.4; 7.2/4.4	7.1;7.2	E(2 ½) RS FPS	A FPS	165.00
	374-020-15	7.1/4.4	7.1	E(2 ½) RS FPS	A FPS	79.09
	374-020-16	7.2/4.4	7.2	E(2 ½) RS FPS	A FPS	79.09
	374-450-01	7.2/4.4	7.2	E(2 ½) RS FPS	A FPS	36.66
	374-460-12	5.6/2.85	5.6/2.85	E(2 ½) RS FPS	A FPS	75.00

Area 4 total acres: 439.26

Proposed Solar Project Total Acreage ~~1291.99~~ 1309.99

LEGEND

2.6= Erosion Hazard; 2.85 = Noise Management Area; 4.4 = Comprehensive Planning Area; 5.3 = Maximum 10 units/net acre; 5.6 = Minimum 2.5 gross acres/unit; 5.7 = Minimum 5 gross acres/unit; 6.2 = General Commercial; 7.1 = Light Industrial; 7.2 = Service Industrial; 8.1 = Intensive Agriculture

A = Exclusive Agriculture; E (2½) = Estate 2½ acres; E (5) = Estate 5 acres; FPS = Floodplain Secondary Combining; MH = Mobilehome Combining; RS = Residential Suburban Combining;

Chapter 3.7, Executive Summary, Page 3-31 through Page 3-32:

The proposed project includes the construction and operation of up to four solar facilities with a total generating capacity of approximately 165 MW of renewable electrical energy, including up to 245 MW of energy storage (for all sites), and one CUP for a communication tower, within the A (Exclusive Agriculture) zone district (in Zone Maps 231, 232, and 233). Pursuant to Section 19.12.030.G of the Kern County Zoning Ordinance approval of the following would be required for the proposed project as follow:

- CUP Area 1 (solar and energy storage)
 - Conditional Use Permit No. 16, Map No. 233 for 70.99 acres
- CUP Area 2 (solar and energy storage)
 - Conditional Use Permit No. 40, Map No. 232 for 240.58 acres
- CUP Area 3 (solar and energy storage)
 - Conditional Use Permit No. 46, Map No. 232 for ~~541.16~~ 551.16 acres

- CUP Area 4 (solar and energy storage)
 - Conditional Use Permit No. 120, Map No. 231 for 439.26 acres
- Telecommunication Tower
 - Conditional Use Permit No. 44, Map No. 232
- Zone Change Case No. 157, Map No. 231 from the existing zone district E(2 ½) RS FPS to A FPS on approximately 440 acres
- Zone Change Case No. 43, Map No. 232 from the existing zone district E(5) RS FPS to A FPS on approximately ~~330~~ 340 acres and from existing zone district E(2 ½) RS FPS to A FPS on approximately 96 acres
- Zone Change Case No. 18, Map No. 233 from the existing zone district E(2 ½) RS FPS to A FPS on approximately 71 acres
- Specific Plan Amendment No. 40, Map No. 231 from map code designation 7.1/4.4 (Light Industrial, Comprehensive Planning Area) to 7.1 (Light Industrial) on approximately 247 acres and from map code designation 7.2/4.4 (Service Industrial, Comprehensive Planning Area) to 7.2 (Service Industrial) on approximately 118 acres
- Specific Plan Amendment No. 33, Map No. 232 from map code designation 5.3/4.4 (Residential Maximum 10 Units per Net Acre/Comprehensive Planning Area) to 5.3 (Residential Maximum 10 Units per Net Acre) on approximately 80 acres and from map code designation 5.3/4.4/2.6 (Residential Maximum 10 Units per Net Acre/Comprehensive Planning Area/Erosion Hazard) to 5.3/2.6 (Residential Maximum 10 Units per Net Acre/Erosion Hazard) on approximately 80 acres
- Specific Plan Amendment No. 31, Map No. 232 ~~Amendments~~ to the Circulation Element of the ~~Kern County General~~ Willow Springs Specific Plan to remove future road reservations on the ~~section and mid-section~~ lines within the project boundaries
- Nonsummary vacations of portions of public access easements located within Sections 27 & 29, T9N, R14W, SBB&M in Zone Map No. 232
- Nonsummary vacations of portions of public access easements located within Section 31, T9N, R13W, SBB&M in Zone Map No. 231

Chapter 4.4, Biological Resources, Page 4.4-70 through 4.4-71:

MM 4.4-4: Within 14 days of the start of project ground disturbance activities, a pre-activity survey shall be conducted by a qualified biologist. If needed, the timing of the pre-activity surveys may be phased to ensure appropriate evaluation before initiation of ground disturbance. If greater than 14 days elapse between the survey and the start of activities, an additional survey shall be required.

The pre-activity survey shall include walking transects to identify presence of burrowing owls and their burrows, desert tortoise and their burrows, American badgers and their dens, and desert kit foxes and their dens. A handheld mirror, light, and/or burrow scope shall be used to examine the burrow for desert tortoise at or near the entrance during surveys. The pre-activity survey shall be walked using transects spaced at intervals of not greater than 30 feet to enable 100 percent coverage of the project site and a 250-foot buffer. Some areas of the buffer may not be accessible (other private land and inaccessible property) so transects within the buffer shall only be required where feasible. If no evidence of these special-status species is detected, no further action is required. If evidence special status species are detected, the following mitigation (MM 4.4-5 through MM 4.5-7) for the listed

terrestrial species shall be required. Results of the surveys will be documented in a written report provided to the County.

Chapter 4.4, Biological Resources, Page 4.4-71:

MM 4.4-5: If evidence of desert tortoise is identified during the pre-activity surveys conducted pursuant to MM 4.4-4, prior to the start of project ground disturbance activities, qualified personnel shall perform a preconstruction clearance survey for desert tortoise. If the species is present on-site, individual(s) shall be allowed to leave the site on their own, and the applicant shall consult with ~~in consultation with~~ California Department of Fish and Wildlife (CDFW) regarding whether issuance of an Incidental Take Permit is warranted, and the potential need for installation of exclusionary/perimeter fencing. If exclusionary/perimeter fencing is required, it shall have mesh attached to the fence fabric extending from approximately 12 inches below grade to approximately 24 inches above grade to ensure no tortoises re-enter the work limits. No person(s) shall be allowed to touch a tortoise without authorization from the US Fish and Wildlife Service (USFWS) and CDFW. Environmental awareness training shall be provided for all construction personnel to educate them on desert tortoise, protective status, and avoidance measures to be implemented by all personnel, including looking under vehicles and equipment prior to moving. If tortoises are encountered, such vehicles shall not be moved until the tortoises have voluntarily moved away from them or a qualified biologist has moved the tortoises out of harm's way.

If a tortoise is present, a biological monitor shall be present during all disturbance activities in the vicinity of exclusionary fencing (if required) and shall have the authority to stop work as needed to avoid direct impacts to tortoises. Periodic biological inspections and maintenance shall be conducted during the construction period to ensure the integrity of exclusionary fencing (if required). Work may proceed within the excluded area when the biologist confirms all tortoises have left the excluded area. Should tortoises be found during construction activities, the biological monitor shall have the authority to stop work as needed to avoid direct impacts to tortoises, and further consultations with the USFWS and CDFW shall take place to determine if the issuance of an Incidental Take Permit is warranted. Trash and food items shall be contained in closed containers and removed daily to reduce attractiveness to opportunistic predators of desert tortoise (e.g., ravens, coyotes, and feral dogs).

Chapter 4.4, Biological Resources, Page 4.4-71 through 4.4-72:

MM 4.4-6: If dens or burrows that could support any of these species are discovered during the pre-activity survey conducted under Mitigation Measure MM 4.4-4, the avoidance buffers outlined below should be established. No work ~~would~~ shall occur within these buffers unless the biologist approves and monitors the activity. The qualified biologist may reduce the buffer if it is determined a smaller buffer would be adequately protective of the species.

Burrowing Owl (active Burrows only)

- ~~Non-breeding season (September 1 – January 31): 160 feet~~
- ~~Breeding season (February 1 – August 31): 250 feet~~

<u>Location</u>	<u>Time of Year</u>	<u>Level of Disturbance</u>		
		<u>Low</u>	<u>Med</u>	<u>High</u>
<u>Nesting Sites</u>	<u>April 1–Aug 15</u>	<u>200 m*</u>	<u>500 m</u>	<u>500 m</u>
<u>Nesting Sites</u>	<u>Aug 16-Oct 15</u>	<u>200 m</u>	<u>200 m</u>	<u>500 m</u>
<u>Nesting Sites</u>	<u>Oct 16-Mar 31</u>	<u>50 m</u>	<u>100 m</u>	<u>500 m</u>

*meters

American Badger and Desert Kit Fox

- Potential or Atypical den: 50 feet
- Known den: 100 feet
- Natal or pupping den: 200 feet.

Burrows and dens may be excavated by a qualified biologist once it is determined that the burrow or den is not occupied. To determine occupation, each den shall be inspected with the use of mirrors, flashlights and /or burrow scopes, and shall be monitored for three consecutive days/nights using tracking medium and/or remote cameras fitted with a motion detector and/or infra-red triggering system. In addition, prior to excavation of burrows or dens, one-way doors may be installed (only in non-breeding season) and the burrows or dens shall be scoped with optic cameras to ensure no occupation of wildlife are present. All excavations shall be accomplished by hand or backhoe under the direct supervision of a qualified biologist.

Chapter 4.4, Biological Resources, Page 4.4-73 through 4.4-75:

MM 4.4-8: a. The project proponent/operator shall mitigate the loss of Swainson's hawk foraging habitat by providing Habitat Management (HM) lands within the Antelope Valley Swainson's hawk breeding range at a 0.5:1 ratio for the loss of 668 acres of moderate quality foraging habitat, based on the total approved area of the project, for foraging and nesting habitat impacted. Project developers may consider delegating responsibilities for acquisition and management of the HM lands to the CDFW or a third party, such as a nongovernmental organization dedicated to Mojave Desert habitat conservation. Approaches for acquisition and management of HM lands include the following:

1. Identify the region within which lands would be acquired, and the type/quality of habitat to be acquired. Foraging habitat should be moderate to good with a capacity to improve in quality and value to Swainson's hawks, and must be within the Antelope Valley Swainson's hawk breeding range. Foraging habitat with suitable nest trees is preferred.
2. Provide an acquisition proposal to the Department and the appropriate lead agency for their approval at least 3 months before acquiring the property. The proposal should discuss the suitability of the property by comparing it to the selection criteria.
3. If an irrevocable letter of credit or other form of security is provided, complete land acquisition within 12 months after beginning ground-disturbing project activities. Provide financial assurances for dedicating adequate funding for

impact avoidance, minimization and compensation measures required for project approval.

4. Be prepared to provide a preliminary title report, initial hazardous materials survey report, biological analysis, at a minimum to the Kern County Planning and Natural Resources Department. The information will likely also be reviewed by the California Department of General Services, Fish and Game Commission and/or Wildlife Conservation Board. Fee title, deed restriction, or conservation easement will likely be transferred to a Department of Fish and Game-approved non-profit third party and the Department, or solely to the Department. Be prepared to support enhancement and endowment funds for protection and enhancement of acquired lands. If required, ~~the~~ Department will approve establishment and management of the funds, ensuring that qualified non-profit organizations or the Department will manage the funds in an appropriate manner. Contributed funds and any related interest generated from the initial capital endowment would support long-term operation, management, and protection of the approved HM lands, including reasonable administrative overhead, biological monitoring, improvements to carrying capacity, law enforcement measures, and any other action designed to protect or improve the habitat values of the HM lands. Be prepared to reimburse the Department or other entities for all land acquisition costs.
- b. The project proponent/operator shall perform preconstruction surveys to verify locations of Swainson's Hawks and active nests. The project proponent/operator shall be required to prepare and implement a Swainson's Hawk Monitoring and Mitigation Plan in coordination with the California Department of Fish and Wildlife and the Kern County Planning and Community Development Department. The Plan shall be prepared by a qualified wildlife biologist approved the County and shall include the following in order to avoid and minimize impacts to Swainson's hawks in and near the project site:
 1. During the nesting season, ensure no new disturbances, habitat conversions, or other project activities that may cause nest abandonment or forced fledging within 0.5 miles of an active nest between March 1 and September 15. Buffer zones may be adjusted in consultation with CDFW and the County.
 2. The project proponent/operator shall not remove Swainson's hawk nest trees unless avoidance measures are determined to be infeasible. Removal of such trees should occur only during the timeframe of October 1 and the last day in February.
- c. If an injured Swainson's hawk is found during project-related activities:
 1. A plan should be in place to call for immediate relocation to a raptor recovery center approved by CDFW.
 2. A system should be set up so that costs associated with the care or treatment of such injured Swainson's hawks will be borne by the project proponent/operator

3. Include appropriate contact information for immediate notification to CDFW and the County if a hawk injury incident occurs. Have an approved procedure in place to notify CDFW and the County inside of normal business hours. Notify the appropriate personnel via telephone or email, followed by a written incident report. Include the date, time, location, and circumstance of the incident in reports.

Chapter 4.4, Biological Resources, Page 4.4-75 through 4.4-76:

MM 4.4-10: If project ~~construction~~ activities must start ~~construction~~ during the nesting season (February 1 to September 15) and construction activities occur within 0.5 miles from and active Swainson's hawk nest, ~~If construction is initiated outside the nesting season, no additional action is required.~~ Pre-activity nesting bird surveys shall be conducted 14 days prior to the start of construction at the construction site and include a 250-foot buffer (avoidance buffer) for songbirds and a 500-foot buffer for raptors (other than Swainson's hawk). The surveys should be phased with construction of the project. If no active nests are found, no further action is required. However, existing nests may become active and new nests may be built at any time prior to and throughout the nesting season, including when construction activities are in progress. If active nests are found during the survey or at any time during construction of the project, an avoidance buffer ranging from 250 feet to 500 feet may be required, with the avoidance buffer from any specific nest being determined by a qualified biologist. Full-time monitoring of an active nest may be needed when activities are occurring at the fringe of a buffer to determine whether activities are affecting nesting birds. Results of the monitoring may indicate a need to expand the size of avoidance buffer areas. The avoidance buffer shall remain in place until the biologist has determined that the young are no longer reliant on the adults or the nest. Work may occur within the avoidance buffer under the approval and guidance of the biologist, but full-time monitoring may be required. The biologist shall have the ability to stop construction if nesting adults show any sign of distress. If construction activities are initiated outside the nesting season, no additional action is required.

Chapter 4.16, Utilities and Service Systems, Page 4.16-1:

The proposed project would source water from an offsite private groundwater supplier pumping water from the Antelope Valley Groundwater Basin, ~~purchased from Antelope Valley East Kern Water Agency (AVEK)~~ and delivered to the site via truck.

Chapter 4.16, Utilities and Service Systems, Page 4.16-28:

AltThough AVEK is not the project's water supplier, the AVEK UWMP provides helpful information regarding water use in the Antelope Valley Groundwater Basin and is therefore relevant to the analysis of water supply sufficiency for the project. As discussed above, and based on the WSA prepared for the project, ~~AVEK~~ RMR Water Trucks would have adequate water supplies for the proposed project.

7.3 Responses to Comments

A list of agencies and interested parties who have commented on the Draft EIR is provided below. No individuals commented on the Draft EIR. A copy of each numbered comment letter and a lettered response to each comment are provided following this list.

Federal Agencies

No comment letters from federal agencies were received.

State Agencies

Letter 1: California Department of Fish and Wildlife (CDFW) (August 30, 2022)

Local Agencies

Letter 2: Kern County Public Works Department, Floodplain Management Section (July 15, 2022)

Letter 3: Antelope Valley – East Kern Water Agency (AVEK) (July 20, 2022)

Letter 4: Kern County Fire Department (KCFD) (August 17, 2022)

Letter 5: Eastern Kern Air Pollution Control District (EKAPCD) (August 24, 2022)

Organizations

Letter 6: Defenders of Wildlife (Defenders) (August 29, 2022)

Comments Received After August 29, 2022 Close of Public Comment Period

Letter 7: Kern County Department of Agriculture and Measurement Standards (September 16, 2022)

State Agencies

Comment Letter 1: California Department of Fish and Wildlife (CDFW) (August 30, 2022)



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

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



August 30, 2022

Terrance Smalls
Kern County Planning and Natural Resources Department
2700 "M" Street, Suite 100
Bakersfield, California 93301
(661) 862-8607

Subject: **Rosamond South Solar Project by Golden Fields Solar IV, LLC (Project)**
DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR)
State Clearinghouse No. 2021060079

Dear Terrance Smalls:

The California Department of Fish and Wildlife (CDFW) received a Draft Environmental Impact Report (DEIR) from Kern County, as Lead Agency, for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code. While the comment period may have ended, CDFW would appreciate if you will still consider our comments.

1-A

CDFW ROLE

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

1-B

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

Conserving California's Wildlife Since 1870

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Kern County Planning and Natural Resources Department
August 30, 2022
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CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code will be required.

1-B

As a responsible agency, CDFW is responsible for providing, as available, biological expertise during public agency environmental review efforts (e.g., CEQA), focusing specifically on project activities that have the potential to adversely affect fish and wildlife resources. CDFW provides recommendations to identify potential impacts and possible measures to avoid or reduce those impacts.

PROJECT DESCRIPTION SUMMARY

Proponent: Golden Fields Solar IV, LLC

Objective:

The Rosamond South Solar Project, as proposed by Golden Fields Solar IV, LLC would develop a photovoltaic solar facility and associated infrastructure necessary to generate up to 154 megawatt-alternating current (MW-AC) of renewable energy, including up to 200 megawatts of energy storage, on approximately 1,292 acres of privately-owned land. The project site consists of 4 sites (Sites 1 through 4) located on 64 parcels. The project would be supported by a 230-kilovolt (kV) gen-tie overhead and/or underground electrical transmission line(s) originating from one or more on-site substations and terminating at either the Teddy Substation or the Southern California Edison's Whirlwind Substation. The project's permanent facilities would include, but are not limited to, service roads, a power collection system, inverter stations, transformer systems, transmission lines, electrical switchyards, project substations, energy (battery) storage system, and operations and maintenance facilities.

1-C

Location: The project site is located in southeastern Kern County and is approximately 11 miles west of the unincorporated community of Rosamond. The proposed project is in the eastern high desert region of unincorporated Kern County. The project is in the western extent of the Mojave Desert near approximately 7.5 miles southwest of Mojave, California, within the western Antelope Valley and approximately 50 miles southeast of the city of Bakersfield. All project CUP sites areas are located within Section 24 Township 9 North, Range 15 West and Sections 20, 21, 27, and 28, Township 9 North, Range 14 West, and Sections 30 and 31 Township 9 N Range 13W, San Bernardino Base and Meridian. Additionally, the project is within the Willow Springs Specific Plan.

Timeframe: Unspecified

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COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the CEQA document.

Aerial imagery of the Project boundary and its surroundings show the area contains undeveloped land that may have suitable habitat for special status species. Based on a review of the Project description, a review of California Natural Diversity Database (CNDDB) records, and the surrounding habitat, several special-status species could potentially be impacted by Project activities.

Currently, the DEIR acknowledges that the Project area is within the geographic range of several special-status animal species and proposes specific mitigation measures to reduce impacts to less than significant. CDFW has concerns about the ability of some of the proposed mitigation measures, for the State threatened desert tortoise (*Gopherus agassizii*), to reduce impacts to less than significant and avoid unauthorized take.

1-D

COMMENT 1: Desert Tortoise (*Gopherus agassizii*)

Mitigation Measure 4.4-10:

The DEIR states, "No desert tortoises or positive sign of the species (burrows, scat) were present during the on-site surveys". According to Appendix D-1 section 2.4 the survey methodology consisted of walking transects spaced 50-100 feet apart. The Department does not recognize these surveys as sufficient to determine absence of desert tortoise as the surveys performed do not meet the 30 foot spacing transect requirement in the recommended protocol as well as the additional survey requirements outlined in "Preparing for any action that may occur within the range of the desert tortoise (*Gopherus agassizii*)" (USFWS, 2010).

1-E

The DEIR states that 30-foot transect surveys that meet the guidelines will be done 14 days prior to construction activities. In this case, the Department does not concur that surveys conducted so close to commencement of construction activities is advisable. Based on aerial imagery, the Project site has potential habitat of good enough functional quality to support desert tortoise foraging, movement, and reproduction. Furthermore; the Department finds this is not an adequate measure to conclude that an ITP is not needed and, in the location of the proposed project area where historical and recent desert tortoise detections are frequent, is not an appropriate risk to assume to conclude CEQA. Specifically, in the event of detection during protocol level surveys and in the absence of having already obtaining an ITP, construction delays are liable to occur. Therefore, CDFW would recommend the pursuit of an ITP to avoid risk of inadvertent take and any potential delays to the project that may come with desert tortoise detection. Protocol desert tortoise surveys should be performed prior to the CEQA

1-F

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process being completed, or desert tortoise should be assumed to be present, and the obtainment of an ITP required prior to construction.

1-F

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database, which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special-status species and natural communities detected during Project surveys to the CNDDDB. The CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

FILING FEES

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

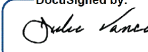
1-G

CONCLUSION

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

If you have any questions, please contact Jaime Marquez, Environmental Scientist, at the address provided on this letterhead, by telephone at (559) 580-3200 or by electronic mail at Jaime.Marquez@wildlife.ca.gov.

Sincerely,

DocuSigned by:

FA83F09FE08945A...
Julie A. Vance
Regional Manager

Response to Letter 1: California Department of Fish and Wildlife (CDFW) (August 30, 2022)

- 1-A:** The CDFW thanks the County for the opportunity to provide feedback and asks that their comments submitted after the comment period ended still be considered. The County will consider and respond to comments provided as follows.
- 1-B:** The CDFW notes their role as a Trustee Agency for fish and wildlife resources and Responsible Agency under CEQA. No changes or modifications have been made to the Draft EIR in response to this comment.
- 1-C:** This comment summarizes the proposed project and outlines the project proponent, characteristics, and location. No changes or modification have been made to the Draft EIR in response to this comment.
- 1-D:** The CDFW notes in this comment the potential for suitable habitat for special status species within the project area and introduces their concern regarding the proposed mitigation for the desert tortoise and its ability to reduce impacts to less than significant, and specifically to avoid unauthorized take. The Draft EIR discusses the desert tortoise on page 4.4-64 and 4.4-65 in Chapter 4.4, *Biological Resources*, and recognizes the potential for desert tortoise to be present on the project site. The DEIR recommends mitigation measures MM 4.4-4, MM 4.4-5, MM 4.4-11, and MM 4.4-12, to reduce impacts to a less than significant level. Responses E and F below address the requested modification of mitigation for potential impacts to the desert tortoise.
- 1-E:** The commenter states that the desert tortoise surveys performed on the project site using transects spaced 50-100 feet apart are not sufficient to determine the absence of desert tortoises. The Draft EIR does not assume the species is absent from the project site. As described in the Draft EIR, Section 4.4.1 and Appendix D-1, the entire project site was surveyed by walking meandering pedestrian transects spaced 50 to 100 feet apart. Although no desert tortoise or desert tortoise sign was observed during these surveys, Table 4.4-2 of the Draft EIR acknowledges the potential for the species to occur on the project site. The comment has been noted for the record and additional revisions to the Draft EIR are not necessary.
- 1-F:** To avoid project delays, the commenter recommends that the project proponent (1) complete protocol level desert tortoise surveys sooner than required by Mitigation Measure MM 4.4-4, and (2) apply for a desert tortoise incidental take permit.

See Responses 6-E and 6-F, below. If desert tortoise are identified on the project site, the project proponent would be required to consult with CDFW regarding the potential need for an incidental take permit. The lead agency has determined that implementation of Mitigation Measures MM 4.4-4, MM 4.4-5, MM 4.4-11 and MM 4.4-12 would ensure that potential impacts to desert tortoise are less than significant. Any potential project delays that might occur if desert tortoise were identified on the project site are unrelated to the project's impacts on the species. The comments have been noted for the record and additional revisions to the Draft EIR are not necessary.

- 1-G:** This comment pertains to submitting information regarding any special-status species or natural communities detected during project survey to the CNDDB and the payment of fees. The project applicant will be responsible for the submittal of survey information to the CNDDB, as well the

payment of fees upon the filing of the Notice of Determination (NOD). These comments do not raise an issue relative to CEQA nor question the adequacy of the Draft EIR. No changes or modification have been made to the DEIR in response to this comment.

Local Agencies

Comment Letter 2: Kern County Public Works Department, Floodplain Management Section (July 15, 2022)

Office Memorandum

KERN COUNTY

To: Planning and Natural Resources
Department
Terrance Smalls

Date: July 15, 2022

From: Public Works Department
Floodplain Management Section
Kevin Hamilton, by Brian Blase

Phone: (661) 862-5098
Email: BlaseB@kerncounty.com

Subject: Draft Environmental Impact Report
Rosamond South Solar Project

Our section has reviewed the attached subject documents and has the following comments:

The runoff of storm water from the site will be increased due to the increase in impervious surface generated by the proposed development.

The subject property is subject to flooding.

2-A

Therefore, this section recommends the following be included as conditions of approval for this project:

The applicant shall provide a plan for the disposal of drainage waters originating on site and from adjacent road right-of-ways (if required), subject to approval of the Public Works Department.

Associated flood hazard requirements will need to be incorporated into the design of this project per the Kern County Floodplain Management Ordinance.

2-B

Response to Letter 2: Kern County Public Works Department, Floodplain Management Section (July 15, 2022)

2-A: The commenter notes that the project site is subject to flooding and that stormwater runoff from the site would increase due to the increase in impervious surfaces generated by the project.

The Draft EIR acknowledges that project implementation would increase the amount of impervious surfaces on-site, which may result in a potential increase in stormwater runoff. However, the majority of the project site would remain pervious and would therefore continue to absorb precipitation. Such characteristics were evaluated in the Draft EIR pursuant to CEQA, as applicable; refer to Section 4.10, *Hydrology and Water Quality*, of the Draft EIR. The comments provided have been noted for the record, and no revisions to the Draft EIR are required.

2-B: The commenter requests that the project proponent submit a plan for the disposal of drainage waters originating on-site and from adjacent road rights-of-way, as well as incorporate flood hazard requirements into the project design per County standards, and that such actions be made Conditions of Approval for the project.

As analyzed in the Draft EIR, the site engineering and design plans for the project would conform to requirements of the Kern County Code of Building Regulations, the Kern County Development Standards, and the Floodplain Management Ordinance. Furthermore, site drainage plans would be required to comply with Division Four of the Kern County Development Standards, which provide guidelines including site development standards and mitigation, flood control requirements, erosion control, and on-site drainage flow requirements. Project conformance with such existing regulations pertaining to erosion and site drainage would neither alter the course of a stream or river nor result in substantial erosion on-site or off-site. As described in Section 4.10 of the Draft EIR, implementation of mitigation measures MM 4.10-1, which would require preparation and implementation of a final hydrologic study and drainage plan, and MM 4.10-2 which would require preparation and implementation of a stormwater pollution prevention plan, would reduce project impacts in this regard to less than significant and would be incorporated as Conditions of Approval. The comments provided have been noted for the record, and revisions to the Draft EIR are not necessary.

Comment Letter 3: Antelope Valley – East Kern Water Agency (AVEK) (July 20, 2022)

From: Joseph Roberts <jroberts@avek.org>
Sent: Wednesday, July 20, 2022 12:16
To: Terrance Smalls
Subject: Rosamond South Solar Project_Draft EIR

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or provide information unless you recognize the sender and know the content is safe.

Terrance,

Thank you for the opportunity to comment on this project. We have a few comments for the Draft EIR.

- There appear to be inconsistencies in the report and appendices regarding the water source. Page 4.16-1 of the report states “water would be purchased from Antelope Valley-East Kern Water Agency (AVEK) and delivered to the project site via water truck”, while appendix J states that water will be sourced from a well owned by RMR Water Trucks. Please revise to make the report and appendices match. 3-A
- The report states that AVEK will have adequate water supplies for the proposed project and that water will be purchased from AVEK. We are a water wholesaler and do not provide the kind of service you are counting on us for. Please consider alternative sources. 3-B

In addition to these comments, we want to reiterate the owner of this project the need to contact AVEK as soon as possible to discuss any easement agreements that will be needed for crossings of our parcels and easements in the area. Our underground pipeline runs along Gaskell Rd and we need to discuss the completion of a corrosion assessment to prevent any future damage to our pipe. 3-C

Any questions or concerns can be directed to me via email jroberts@avek.org or by letter to the address 6500 W Ave N, Palmdale CA 93551.

Thank you,
Joe

Joseph Roberts | Senior Engineer
Antelope Valley – East Kern Water Agency
6500 West Avenue N Palmdale, CA 93551
O: (661) 943-3201 | C: (661) 860-1020

Response to Letter 3: Antelope Valley – East Kern Water Agency (AVEK) (July 20, 2022)

- 3-A:** This comment states there appear to be inconsistencies in the Draft EIR and appendices regarding the water source. The Draft EIR incorrectly states that the project would purchase water from the Antelope Valley-East Kern Water Agency (AVEK) and deliver the water to the site via truck.

The Water Supply Assessment (WSA, Appendix J of the Draft EIR) correctly notes that the water will be sourced from a well owned by RMR Water Trucks. A will serve letter from RMR Water Trucks indicating their capacity and willingness to provide water for the construction and operation of the project is included in Appendix J as well.

The lead agency concurs, and Draft EIR page 4.16-1 will be revised to read:

The proposed project would source water from an offsite private groundwater supplier pumping water from the Antelope Valley Groundwater Basin, ~~purchased from Antelope Valley East Kern Water Agency (AVEK)~~ and delivered to the site via truck.

DEIR page 4.16-28 will also be revised as follows:

Alt Though AVEK is not the project's water supplier, the AVEK UWMP provides helpful information regarding water use in the Antelope Valley Groundwater Basin and is therefore relevant to the analysis of water supply sufficiency for the project. As discussed above, and based on the WSA prepared for the project, ~~AVEK~~ RMR Water Trucks would have adequate water supplies for the proposed project.

This modification adds clarity to the EIR and does not reflect a new or substantially increased significant impact or otherwise trigger recirculation under CEQA Guidelines Section 15088.5.

- 3-B:** The commenter states that the AVEK is a water wholesaler and will not provide water to the project. See Response 3-A, above.

This comment has been noted for the record and additional revisions to the Draft EIR are not necessary.

- 3-C:** The commenter notes the project owner should contact AVEK regarding easement agreements that may be required if the project intends to cross AVEK owned property or easements. The commenter also notes the need for a corrosion assessment of an existing pipeline that runs along Gaskell Road.

The project proponent has been in recent communication with AVEK engineers regarding both the potential crossing of AVEK-owned property and easements, and the need to conduct a corrosion assessment of an existing pipeline in the vicinity of the project. This comment has been noted for the record and additional revisions to the Draft EIR are not necessary.

Comment Letter 4: Kern County Fire Department (KCFD) (August 17, 2022)**Office of the Fire Marshal
Kern County Fire Department****Fire Prevention**

2820 M St. • Bakersfield, CA 93301 • www.kerncountyfire.org
Telephone 661-391-3310 • FAX 661-636-0466/67 • TTY Relay 800-735-2929



August 17, 2022

Kern County Planning and Natural Resources Department
2800 M St., Bakersfield, CA 93301
Attn.: Terrance Smalls

Re: Kern County Fire Department Comments Regarding Planning Department Project

To Whom It May Concern,

The Kern County Fire Department (KCFD), as the local fire authority, has received a request for comments regarding Draft EIR for Rosamond South Solar project. Upon initial review, it has been determined that all ground mounted solar array projects over 1MW will require Fire Department plan review prior to construction and meet requirements set forth in KCFD Solar Panel Standard. Solar array projects over 20MW will require special fee calculation from KCFD prior to permit issuance. All Battery Energy Storage Systems must be applied for directly with KCFD for separate permitting and pre-construction approval. All proposed batteries must be UL9540A 2019 4th Edition tested for large scale burns to determine adequate design and mitigation measures.

4-A

A more detailed review and project comments will be conducted when the building permit is pulled and plans are submitted to KCFD.

4-B

Please feel free to call our Fire Prevention Office at 661-391-3310 with any questions.

Sincerely,
Michael Nicholas
Assistant Fire Marshal
Kern County Fire Department

Proudly Serving the Cities of Arvin, Bakersfield, Delano, Maricopa, McFarland, Ridgecrest, Shafter,
Taft, Tehachapi, Wasco, and all Unincorporated Areas of Kern County

Response to Letter 4: Kern County Fire Department (KCFD) (August 17, 2022)

- 4-A:** The commenter describes the Kern County Fire Department's (KCFD) local regulatory authority to enforce state and local codes related to fire protection and health and safety. The commenter states that the project will be required to meet standards set forth by the KCFD and to submit plans and obtain a permit from the KCFD for installation of a battery energy storage system. Additionally, the commenter indicates that the project would be subject to payment of applicable fees prior to permit issuance.

The County acknowledges the comments provided; such requirements as stated will be made Conditions of Approval for the project. This comment does not otherwise raise a substantive issue on the content of the Draft EIR. The comments provided have been noted for the record, and no revisions to the Draft EIR are necessary.

- 4-B:** The commenter states that the KCFD will provide more detailed review comments at the time of KCFD plan review and building permit issuance.

This comment does not raise a substantive issue on the content of the Draft EIR. The comments provided have been noted for the record, revisions to the Draft EIR are not necessary.

Comment Letter 5: Eastern Kern Air Pollution Control District (EKAPCD) (August 24, 2022)

Eastern Kern

Air Pollution Control District

Glen E. Stephens, P.E.
Air Pollution Control Officer

August 24, 2022

Terrance Smalls, Supervising Planner
Kern County Planning and Natural Resources Department
2700 "M" Street, Suite 100
Bakersfield, CA 93301

SUBJECT: Comments for Draft Environmental Impact Report for the Rosamond South Solar by Golden Fields Solar IV (SCH #2021060079)

Dear Mr. Smalls:

Eastern Kern Air Pollution Control District (District) is in receipt of the Draft Environmental Impact Report (DEIR) for the Rosamond South Solar Project.

5-A

According to the DIER, a large portion of this project will be constructed in close proximity to nearby residential receptors and access roadways. Large scale soil disturbances near residences can cause fugitive dust impacting visibility, creating a nuisance and potentially leading to health issues. Due to the potential hazard to nearby residents, the District recommends enhanced fugitive dust mitigation measures including but not limited to:

Source Category	Control Measure
Unpaved Roads	Control Vehicular Speed (signage/enforcement)
	Improve Road Surface (leveling/grading)
	Use Water Trucks to Keep Soil Damp
	Apply Dust Suppressant (palliatives/gravel/ect.)
Construction, and Earthmoving:	Minimize/Limit Cut-Fill Grading
	Phase Work to Reduce Disturbed Surface Area
	Utilized Wind Breaks (screens/fencing/barriers/burms)
	Use additional wind fencing to minimize fugitive dust onto highways
	Compact Disturbed Surfaces
	Limit Equipment/Vehicular Access
	Use Water Trucks to Keep Soil Damp

5-B

Administrative Office: 2700 "M" Street, Suite 302, Bakersfield, CA 93301-2370
Phone (661) 862-5250 – Fax (661) 862-5251
www.kernair.org – ekapcd@kerncounty.com

Kern County Planning and Natural Resources Department
 August 24
 Page 2

	Apply Dust Suppressant (palliative/gravel/ect.)
Disturbed Surface Area Stabilization During Inactivity:	Compact Disturbed Surfaces
	Restrict Equipment/Vehicular Access
	Use Wind Breaks (screens/fencing/barriers/burns)
	Apply Dust Suppressant (palliative/gravel/ect.)
	Apply Hydro-mulch or Woodchips
	Re-vegetate

5-B

Applicant will be required to include the above fugitive dust control measures with their Fugitive Dust Emission Control Plan submitted to the District prior to commencing construction. Additionally, as identified in air quality section of DEIR, an Authority to Construct (ATC) permit is required prior to commencing construction of solar facility

5-C

Thank you for your attention to this matter. Should you have any questions, please telephone Miguel Sandoval our office at (661) 862-5250.

Sincerely,



Glen E. Stephens, P.E.
 Air Pollution Control Officer

GES:MS:tf

RECEIVED

SEP 07 2022

Kern County Planning &
 Natural Resources Dept.

Response to Letter 5: Eastern Kern Air Pollution Control District (EKAPCD) (August 24, 2022)

5-A: Thank you for your comment. The participation of the EKAPCD in the public review of this document is appreciated. The commenter notes their receipt of the Rosamond South Solar DEIR.

5-B: This comment notes that due to the project's proximity to nearby residence and access roadways the EKAPCD recommends enhanced fugitive dust control measures. This comment lists the control measures by source category to be included. The following comment will address the potential inclusion of these measures.

5-C: The county concurs with the necessity of a fugitive dust control plan and, as required by mitigation measure MM 4.3-2, the applicant will submit a fugitive dust control plan to the EKAPCD during the permit review process. The Draft EIR recognizes the potential impact to sensitive receptors from fugitive dust and requires through mitigation measure MM 4.3-2 the implementation of a Fugitive Dust Control Plan during construction, operation, and decommissioning. MM 4.3-2 is listed on page 4.4-43 through 4.4-46 of the Draft EIR. The mitigation measure highlights specific measures and states:

“The Plan shall include all EKAPCD recommended measures, including but not limited to the following...”

The actions listed in MM 4.3-2 would cover the measures listed in the comment. Additionally, the Draft EIR found impacts to sensitive receptors from fugitive dust to be less than significant with the inclusion of MM 4.3-2. Therefore, no changes or modifications to the DEIR have been made.

Organizations

Comment Letter 6: Defenders of Wildlife (Defenders) (August 29, 2022)



California Program Office
P.O. Box 401 | Folsom, California 95763 | 916.313.5800
www.defenders.org

August 29, 2022

Terrance Smalls, Supervising Planner
Kern County Planning and Natural Resources Department
2700 "M" Street, Suite 100
Bakersfield, CA 93301

Delivered via email to: smallst@kerncounty.com

RE: Draft Environmental Impact Report – Rosamond South Solar Project by Golden Fields Solar IV, LLC (SCH 2021060079)

Dear Mr. Smalls:

Thank you for the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the proposed Rosamond South Solar 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.

6-A

National Headquarters | 1130 17th Street, N.W. | Washington, D.C. 20036-4604 | 202.682.9400 | www.defenders.org

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The Project is located on approximately on 1,292 acres of privately-owned land in the western Mojave Desert, specifically within Antelope Valley in unincorporated Kern County. It is 11 miles west of the unincorporated community of Rosamond and is bounded by Rosamond Boulevard to the north, 90th Street to the east, West Avenue A to the south and 170th Street West to the west. The unincorporated communities of Boron and Desert Lake are within the Project site vicinity and Edwards Air Force Base boundary is south of the site. The Project consists of 4 sites located on 64 parcels of land and the Project site and surrounding land is comprised of a mix of undeveloped land, agricultural land, rural residential development, and existing renewable generation facilities. The most prevalent habitat type on the project site is Annual Grasslands, which covers approximately two thirds of the footprint and Desert Scrub covers most of the remaining habitat. The Project is a photovoltaic solar facility that would generate up to a combined 165 megawatts (MW), store up to 245 MW using a battery energy storage system, and will deliver electricity via a 230-kilovolt gen-tie transmission line to the regional transmission grid through one of the existing substations, the Teddy Substation or the Southern California Edison's Whirlwind Substation.

6-B

Defenders previously submitted comments on the Notice of Preparation of a Draft EIR for the Project on July 1, 2021. We thank you for taking our previous comments into consideration and offer the following comments on the DEIR for the Project:

1. Conduct an updated survey for Swainson's Hawk

The DEIR states a reconnaissance survey for the majority of the biological study area was conducted in the middle to late March 2020, middle of May 2020, and late January and early February 2021 by biologists. Half of the Swainson's hawk nests identified in the survey are more than 5 miles from the Project site boundary, which we can infer that half are within a 5-mile radius of the Project. The Swainson's Hawk Survey Protocols, Impact Avoidance, and Minimization Measures for Renewable Projects in the Antelope Valley for Los Angeles and Kern Counties, California¹ states that all potential nest trees within the five-mile radius should be surveyed for the presence of nests and that surveys should be repeated within the radius if a survey season ensues or elapses before the onset of project related activities.

6-C

The surveys conducted in 2020 and 2021 are well outside survey season and therefore updated surveys are warranted. Additionally, considering that potential nest trees occur within the five-mile radius and according to the surveys, there are actual nests within five miles, it is imperative that new surveys be performed. The surveys should follow the recommendations outlined in the Swainson's Hawk Survey Protocols, Impact Avoidance, and Minimization Measures for Renewable Projects in the Antelope Valley for Los Angeles and Kern Counties, California² and should be completed for at least the two survey periods

6-D

¹ California Energy Commission and Department of Fish and Game. 2010. Swainson's Hawk Survey Protocols, Impact Avoidance, and Minimization Measures for Renewable Projects in the Antelope Valley for Los Angeles and Kern Counties, California.

² Ibid.

immediately prior to a project's initiation and specifically completed in Periods II, III, and IV prior to environmental review, as follows.

- Period I: January – March 31
- Period II: April 1 – April 30
- Period III: May 1 – May 30
- Period IV: June 1 – July 15

6-D

2. Consultation with CDFW and the USFWS for the desert tortoise.

The Project would result in the permanent conversion of 1,292 acres of possible burrowing and foraging habitat for the desert tortoise, which is protected at the federal and state level. Defenders recommends consultation with the USFWS on the size of an action area to estimate the number of desert tortoise affected by the Project. If there is a sign of a desert tortoise observed within the action area, Defenders recommends consultation with CDFW and USFWS for an Incidental Take Permit.

6-E

3. Revise Mitigation Measure 4.4-4

Defenders recommends adherence to standards established by the USFWS, which states in order to determine if a desert tortoise is present at or near the entrance of a burrow a handheld mirror or light should be used and there is not a need to use a scope.³ Mitigation Measure 4.4-4 should be revised as follows:

6-F

"The pre-activity survey shall include walking transects to identify presence of burrowing owls and their burrows, desert tortoise and their burrows, American badgers and their dens, and desert kit foxes and their dens. A handheld mirror or light should be used to examine the burrow for desert tortoise at or near the entrance during surveys." (Emphasis Added.)

4. Revise Mitigation Measure 4.4-6

The DEIR states if dens or burrows that could support species are discovered, the avoidance buffers below should be established for the burrowing owl.

- Non-breeding season (September 1 - January 31): 160 feet
- Breeding season (February 1 - August 31): 250 feet

6-G

These buffers are different than those recommended within by the California Department of Fish and Wildlife within the Staff Report on Burrowing Owl Mitigation (Staff Report) as depicted below.⁴

³ See https://www.fws.gov/sites/default/files/documents/Mojave%20Desert%20Tortoise_Pre-project%20Survey%20Protocol_2019.pdf

⁴ California Department of Fish and Game. 2012. Staff Report on Burrowing Owl Mitigation.

Location	Time of Year	Level of Disturbance		
		Low	Med	High
Nesting Sites	April 1—Aug 15	200 meters	500 meters	500 meters
Nesting Sites	Aug 16—Oct 15	200 meters	200 meters	500 meters
Nesting Sites	Oct 16—Mar 31	50 meters	100 meters	500 meters

6-G

Defenders recommends contacting and coordinating with CDFW regarding the appropriate avoidance buffers around active burrows for burrowing owls and for any burrowing owl permits.

5. Revise Mitigation Measure 4.4-12

The State of California's Staff Report on Burrowing Owl Mitigation protocol discourages using relocation to artificial burrows as a mitigation measure without including protection of adjacent foraging habitat.⁵ Although this mitigation measure is specific to burrowing owls, the recommendation can be applied equally to protect all species. Ensuring foraging habitat in close proximity to the relocation area is imperative to ensure survival of the species. Mitigation Measure 4.4-12 should be revised as follows:

6-H

"A qualified biologist shall monitor all initial ground-disturbing activities. The qualified biologist shall be present at all times during ground-disturbing activities (including drilling holes and trenching) within and adjacent to habitat with the potential to support special-status wildlife species, including northern legless lizard, desert tortoise, burrowing owl, American badger, desert kit fox, and nesting birds. If a special-status species is found within the construction area, all construction shall cease immediately, and the animal will be allowed to leave the area of its own accord or relocated by an authorized biologist to suitable habitat outside of the Project area with permanent protection of adjacent foraging habitat." (Emphasis Added.)

6. Revise Mitigation Measure 4.4-8

The cumulative impacts for the project when considered with a number of present and foreseeably future projects in the Antelope Valley is considered significant and unavoidable for special-status species, even with the implementation of mitigation measures. The significant and unavoidable impact further exemplifies the need for providing habitat management (HM) lands for Swainson's hawk. The current ratio within the DEIR of 0.5:1 is not adequate to compensate for the loss of Swainson's hawk foraging and nesting habitat.

6-I

⁵ California Department of Fish and Wildlife. 2012. Staff Report on Burrowing Owl Mitigation.

Defenders recommends following the recommendations for the Antelope Valley⁶ which states mitigation plans should focus on providing HM lands at a minimum 2:1 ratio for habitat impacted within a five-mile radius of active Swainson's hawk nests. Mitigation Measure 4.4-8 should be revised as follows:

"The project proponent/operator shall mitigate the loss of Swainson's hawk foraging habitat by providing Habitat Management (HM) lands within the Antelope Valley Swainson's hawk breeding range at a ~~0.5:1~~ **2:1** ratio for the loss of 668 acres of moderate quality foraging habitat." (Emphasis Added.)

6-I

7. Coordinate with CDFW and USFWS on obtaining an Incidental Take Permit for migratory birds.

The Project is located within the Pacific Flyway, which is a significant avian migration route. Studies indicate various species of birds may be attracted to vast arrays of PV solar panels due to what is called "lake effect" caused by reflected polarized light. Given the Project is located within the Flyway there is a likelihood migratory birds may be injured or killed due to collision with Project facilities. Defenders recommends coordination with the CDFW and USFWS regarding the need to obtain an Incidental Take Permit for migratory birds.

6-J

Thank you once again for the opportunity to provide comments on the Project's DEIR and for considering our comments. We look forward to reviewing the Final EIR 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,



Sophia Markowska
Senior California Representative

⁶ Ibid.

Response to Letter 6: Defenders of Wildlife (Defenders) (August 29, 2022)

- 6-A:** This is an introductory comment and does not raise a substantive issue on the content of the Draft EIR analysis and does not directly apply to the CEQA process. Therefore, no changes to the document have been made or are required.
- 6-B:** This comment summarizes the project and thanks the county for the opportunity to comment. This does not directly pertain to the Draft EIR analysis and does not directly apply to the CEQA process and does not change the conclusions in the EIR, therefore no changes to the document have been made or are required.
- 6-C:** The commenter requests that an updated survey for Swainson's hawk (SWHA) be conducted.

The Draft EIR notes that suitable nesting habitat is only found outside of the project footprint except for a few, scattered, large Joshua trees, which are not the preferred nest substrate for Swainson's hawk. Suitable nesting sites occur east of CUP Area 4 where a row of large ornamental trees is located and in ornamental trees on nearby residences south of CUP Areas 3 and 4. This area had one active Swainson's hawk nest in 2020, although that nest is no longer present. Potential nesting sites within the vicinity of CUP Areas 1-3 are located along power poles on the outside perimeter of the project footprint.

It is noted that Draft EIR Mitigation Measure MM 4.4-8(b) requires the project proponent to perform pre-construction surveys for Swainson's hawks and active nests prior to construction activities during the nesting season. The project will comply with MM 4.4-8(b) and surveys would be conducted as requested by the commenter as applicable. If nesting Swainson's hawks are located during the pre-construction surveys within 0.5 mile from the active Project, the appropriate setbacks and/or no disturbances areas will be established to avoid disturbing nesting hawks.

As noted on page 4.4-63 of the Draft EIR, the project would implement mitigation measures MM 4.4-8, MM 4.4-11, and MM 4.4-12, which would reduce impacts to less than significant. These measures require a qualified biologist to monitor project construction activities, cessation of project construction as necessary to allow special status wildlife to leave the area or be relocated by an authorized biologist, and worker environmental awareness training regarding special status species with the potential to occur on the project site. These measures further require the project proponent to prepare and implement a Swainson's Hawk Monitoring and Mitigation Plan designed to avoid and minimize impacts to nesting Swainson's hawks during project construction. The comment has been noted for the record and revisions to the Draft EIR are not necessary.

- 6-D:** The commenter states that SWHA surveys conducted in 2020 and 2021 were outside of the survey season. The commenter reiterates the request to conduct updated SWHA surveys. See Response 6-C, above. The comment has been noted for the record and revisions to the Draft EIR are not necessary.
- 6-E:** The commenter states the project will result in the conversion of foraging habitat used by desert tortoise and recommends consultation with the USFWS regarding potential impacts to desert tortoise to estimate how many tortoises will be affected and if tortoises are observed on the project site to get an ITP.

The Project is not expected to result in conversion of burrowing and foraging habitat for desert tortoise. As noted in the Draft EIR (pages 4.4-64 and -65), no desert tortoises or positive sign of the species (burrows, scat) were present during the on-site surveys observed during the two years of

biological surveys. It is unlikely that tortoises would be present due to lack of sign and disturbed nature of on-site habitats and the surrounding solar panel arrays. Nonetheless, if the species is present, implementation of MM 4.4-4, MM 4.4-5, MM 4.4-11 and MM 4.4-12 would reduce impacts to the species to less than significant. These measures require a qualified biologist to monitor project construction activities, the cessation of project construction as necessary to allow special status wildlife to leave the area or be relocated by an authorized biologist, and worker environmental awareness training regarding special status species with the potential to occur on the project site. These measures further require completion of pre-activity surveys to determine potential presence of special status species such as desert tortoise. If evidence of desert tortoise is found, MM 4.4-5 requires the completion of desert tortoise preconstruction clearance surveys, potential installment of exclusionary fencing (as determined in consultation with CDFW), and environmental awareness training, and authorizes a biological monitor to stop work as necessary to avoid impacts to tortoises. In the unlikely event desert tortoise or other special status species are observed on site, avoidance will be achieved with implementation of the above referenced mitigation measures.

Mitigation Measure MM 4.4-5 will be modified to clarify that consultation with USFWS and CDFW to determine the potential need for an incidental take authorization would be required if desert tortoise is identified on the project site.

MM 4.4-5: If evidence of desert tortoise is identified during the pre-activity surveys conducted pursuant to MM 4.4-4, prior to the start of project ground disturbance activities, qualified personnel shall perform a preconstruction clearance survey for desert tortoise. If the species is present on-site, individual(s) shall be allowed to leave the site on their own, and the applicant shall consult with ~~in consultation with~~ California Department of Fish and Wildlife (CDFW) regarding whether issuance of an Incidental Take Permit is warranted, and the potential need for installation of exclusionary/perimeter fencing. If exclusionary/perimeter fencing is required, it shall have mesh attached to the fence fabric extending from approximately 12 inches below grade to approximately 24 inches above grade to ensure no tortoises re-enter the work limits. No person(s) shall be allowed to touch a tortoise without authorization from the US Fish and Wildlife Service (USFWS) and CDFW. Environmental awareness training shall be provided for all construction personnel to educate them on desert tortoise, protective status, and avoidance measures to be implemented by all personnel, including looking under vehicles and equipment prior to moving. If tortoises are encountered, such vehicles shall not be moved until the tortoises have voluntarily moved away from them or a qualified biologist has moved the tortoises out of harm's way.

If a tortoise is present, a biological monitor shall be present during all disturbance activities in the vicinity of exclusionary fencing (if required) and shall have the authority to stop work as needed to avoid direct impacts to tortoises. Periodic biological inspections and maintenance shall be conducted during the construction period to ensure the integrity of exclusionary fencing (if required). Work may proceed within the excluded area when the biologist confirms all tortoises have left the excluded area. Should tortoises be found during construction activities, the biological monitor shall have the authority to stop work as needed to avoid direct impacts to tortoises, and further consultations with the USFWS and CDFW shall take place to determine if the issuance of an Incidental Take Permit is warranted. Trash and food items shall be

contained in closed containers and removed daily to reduce attractiveness to opportunistic predators of desert tortoise (e.g., ravens, coyotes, and feral dogs)

This modification adds clarity to the EIR and does not reflect a new or substantially increased significant impact or otherwise trigger recirculation under CEQA Guidelines Section 15088.5.

- 6-F:** The commenter recommends adherence to USFWS standards to determine the presence of desert tortoise at or near the entrance of a suitable burrows/dens and requests that Mitigation Measure MM 4.4-4 be revised to indicate that handheld mirrors or lights be used to inspect any burrows found on the project site for potential presence of desert tortoise.

Typical biological surveys use mirrors and flashlights to look at the entrance of a burrow, however, the use of this equipment limits the inspection of the burrow/den to the entrance only. Mitigation Measure MM 4.4-4 does not preclude the use of either mirrors, lights or a burrow scope, and a burrow scope allows for the entire burrow/den to be thoroughly inspected to ensure confirmation of whether it is unoccupied. This practice is standard for biologists so that no harm comes to the potential occupant. However, the lead agency concurs that Mitigation Measure MM 4.4-4 should be revised. The revised mitigation measure will read as follows:

- MM 4.4-4:** Within 14 days of the start of project ground disturbance activities, a pre-activity survey shall be conducted by a qualified biologist. If needed, the timing of the pre-activity surveys may be phased to ensure appropriate evaluation before initiation of ground disturbance. If greater than 14 days elapse between the survey and the start of activities, an additional survey shall be required.

The pre-activity survey shall include walking transects to identify presence of burrowing owls and their burrows, desert tortoise and their burrows, American badgers and their dens, and desert kit foxes and their dens. A handheld mirror, light, and/or burrow scope shall be used to examine the burrow for desert tortoise at or near the entrance during surveys. The pre-activity survey shall be walked using transects spaced at intervals of not greater than 30 feet to enable 100 percent coverage of the project site and a 250-foot buffer. Some areas of the buffer may not be accessible (other private land and inaccessible property) so transects within the buffer shall only be required where feasible. If no evidence of these special-status species is detected, no further action is required. If evidence special status species are detected, the following mitigation (MM 4.4-5 through MM 4.5-7) for the listed terrestrial species shall be required. Results of the surveys will be documented in a written report provided to the County.

This modification adds clarity to the EIR and does not reflect a new or substantially increased significant impact or otherwise trigger recirculation under CEQA Guidelines Section 15088.5.

- 6-G:** The commenter requests Mitigation Measure MM 4.4-6 be revised to reflect the CDFW 2012 *Staff Report Burrowing Owl Mitigation*. The commenter also recommends coordinating with CDFW to establish appropriate buffer around active buffers and burrowing owl permits.

The lead agency concurs and Mitigation Measure MM 4.4-6 has been revised to read as follows:

MM 4.4-6: If dens or burrows that could support any of these species are discovered during the pre-activity survey conducted under Mitigation Measure MM 4.4-4, the avoidance buffers outlined below should be established. No work ~~would~~ shall occur within these buffers unless the biologist approves and monitors the activity. The qualified biologist may reduce the buffer if it is determined a smaller buffer would be adequately protective of the species.

Burrowing Owl (active Burrows only)

- ~~Non-breeding season (September 1 – January 31): 160 feet~~
- ~~Breeding season (February 1 – August 31): 250 feet~~

Location	Time of Year	Level of Disturbance		
		Low	Med	High
Nesting Sites	April 1–Aug 15	200 m*	500 m	500 m
Nesting Sites	Aug 16-Oct 15	200 m	200 m	500 m
Nesting Sites	Oct 16-Mar 31	50 m	100 m	500 m

*meters

American Badger and Desert Kit Fox

- Potential or Atypical den: 50 feet
- Known den: 100 feet
- Natal or pupping den: 200 feet.

Burrows and dens may be excavated by a qualified biologist once it is determined that the burrow or den is not occupied. To determine occupation, each den shall be inspected with the use of mirrors, flashlights and /or burrow scopes, and shall be monitored for three consecutive days/nights using tracking medium and/or remote cameras fitted with a motion detector and/or infra-red triggering system. In addition, prior to excavation of burrows or dens, one-way doors may be installed (only in non-breeding season) and the burrows or dens shall be scoped with optic cameras to ensure no occupation of wildlife are present. All excavations shall be accomplished by hand or backhoe under the direct supervision of a qualified biologist.

This modification adds clarity to the EIR and does not reflect a new or substantially increased significant impact or otherwise trigger recirculation under CEQA Guidelines Section 15088.5.

6-H: The commenter recommends revisions to mitigation measure MM 4.4-12 in Chapter 4.4, *Biological Resources*. However, based on the text referenced the comment is referring to mitigation measure MM 4.4-11 which would require a biological monitor during all initial ground disturbing activities within and adjacent to all habitat with the potential to support special status wildlife species. The commenter cites the State of California Staff Report on Burrowing Owl which discourages using relocation to artificial burrows as mitigation without including protection of adjacent foraging habitat and recommends MM 4.4-11 be revised as follows:

“A qualified biologist shall monitor all initial ground-disturbing activities. The qualified biologist shall be present at all times during initial ground-disturbing activities (including trenching) within and adjacent to habitat with the potential to support special-status wildlife species, including northern legless lizard, desert tortoise, burrowing owl, American badger,

desert kit fox, and nesting birds. If a special-status species is found within the construction area, all construction shall cease immediately and the animal will be allowed to leave the area of its own accord or relocated by an authorized biologist to suitable habitat outside of the project area **with permanent protection of adjacent foraging habitat.**”

However, as noted in the Draft EIR (page 4.4-5), the project site consists mostly of annual grassland and native desert scrub vegetation communities. Existing developments adjacent to or in close proximity of the project site include renewable energy facilities, namely the Antelope Valley Solar Project, the Rosamond Central Solar Project, and the proposed Raceway 2.0 Solar Project, renewable energy supporting infrastructures, rural access roads, paved roads, and scattered rural residences. Because the project site is predominantly surrounded by land that is disturbed, developed or contains little to no suitable habitat for any of special status species, the requirement to relocate any animal found on the site to an area with permanently protected foraging habitat is infeasible and is unnecessary to minimize potential impacts. The lead agency has determined that MM 4.4-11 is sufficient as written to reduce potential impacts to special status species to a less than significant level. Therefore, no changes or modifications to the Draft EIR have been made and no further comment is required.

- 6-I:** The comment notes the project’s potentially significant and unavoidable cumulative impacts and claims that the Swainson’s hawk habitat mitigation ratio set forth in Mitigation Measure MM 4.4-8 should be increased from the current ratio of 0.5:1 acres to a 2:1 ratio.

As noted in the Draft EIR Section 4.4, *Biological Resources*, the project site contains low and moderate foraging habitat with no high value foraging habitat. Approximately 622.7 acres of the project are classified as low-quality foraging habitat (Desert Scrub consisting of dense creosote brush, low visibility to a prey base, a lower density of small mammal burrows and/or close proximity to existing solar fields for foraging Swainson’s hawks), where conditions for foraging are not preferred. Approximately 668.1 acres of the project site contain moderate foraging habitat for Swainson’s hawk, open Grassland where prey visibility and accessibility is better. Compensation for the loss of such foraging habitat should be commensurate with the lack of high-quality habitat on the project and the availability of higher quality foraging habitat within 10 miles.

The Lead Agency has determined that increasing the compensation ratio is not feasible as a matter of the lower quality Swainson’s hawk foraging habitat value of the project site. It is also infeasible due to the limited amount of available land within the Antelope Valley that would provide suitable Swainson’s hawk breeding and foraging habitat, and of that land, an extensive amount is fallow farmland not considered habitat due to water issues, and therefore, provides no vegetation for Swainson’s hawk to either breed or forage.

Available land within the Antelope Valley region is limited. Land uses in the Antelope Valley region are becoming urbanized with a population of 475,000 residents and the incorporated cities of Lancaster and Palmdale occupying over 128,550 acres. Further urban and renewable land uses in the Kern County portion of the Antelope Valley are primarily unsuitable land for habitat acquisition and include the Boron Specific Plan area (929 acres), Rosamond Specific Plan area (17,870 acres), and renewable energy (both wind and solar) covering more than 12,300 acres within the 50,675-acre Willow Springs Specific Plan area (Kern County, 2021). An additional 301,100 acres of military land, predominately desert scrub, is protected as Federal land on Edwards Air Force Base.

Additionally, while agricultural lands are available for SWHA foraging within the Antelope Valley, which is known to be the SWHA preferred foraging, the Antelope Valley groundwater adjudication

mandates step downs for agricultural water use over the next several years that will impact continued agriculture. The total remaining irrigated farmland left within the Antelope Valley is only 10,000 acres, and not all of that is of suitable crop or available to acquire as mitigation land.

At a 2:1 mitigation ratio, the project would be required to provide approximately 1,136 acres of Swainson's hawk foraging habitat of moderate to good quality within the breeding range of the Antelope Valley Swainson's hawk. This is infeasible considering the amount of land within the Antelope Valley that is available, much of which is fallow farmland without sufficient water supplies and that provides no vegetation for Swainson's hawks to either breed or forage.

Based on these considerations and in accordance with County requirements and Mitigation Measure MM 4.4-8, the project would mitigate at a 0.5:1 ratio for the loss of moderate quality Swainson's hawk foraging habitat available on the project site. Impacts to Swainson's hawk foraging habitat would remain less than significant.

The comment has been noted for the record and revisions to the Draft EIR are not necessary.

- 6-J:** The commenter states that the project is located within the Pacific Flyway, which is a significant avian migration route. The commenter asserts that studies indicate birds may be attracted to large solar arrays due to "lake effect" caused by polarized light and recommends coordination with USFWS and CDFW to discuss the need to obtain an ITP.

The Draft EIR acknowledges that "fake lake effect" may impact avian species. See Draft EIR pages 4.4-67 and 68. That discussion can be summarized as follows:

Potential indirect impacts to migratory bird species from the operations and maintenance phase of the project may occur through "lake effect" from utility-scale solar panel arrays. The lake effect refers to the perception of solar panels as water by birds. As a result, some have theorized that solar panels can attract bird species that mistake the panels for bodies of water, potentially leading to increased collisions, stranding within site fencing once they land, or other forms of distress.

The lake effect is at present a hypothesis that remains unsupported by empirical research. The cause of avian injuries and fatalities at commercial-scale solar projects are being evaluated by the USFWS, CDFW, and others. No formal studies have been conducted at commercial-scale solar projects that establish a clear causal link between such projects and the types of avian mortality and injury documented on existing solar project sites.

As also noted in the Draft EIR, a study estimated avian mortalities ranging from 1.82 to 2.49 mortalities per megawatt per year. Applying these values to the proposed project results in an estimated annual avian mortality rate of 182 to 249 mortalities per year. This is a very small mortality rate compared to injuries and death from natural causes in the region each year from natural and other anthropogenic causes. To ensure direct and indirect impacts to migratory birds are minimized, Mitigation Measures MM 4.1-6 and MM 4.1-7 would be implemented to ensure solar panels, hardware, and onsite buildings are designed to minimize glare as described in Section 4.1, *Aesthetics*. Mitigation Measure MM 4.4-9 requires power lines to be installed in conformance with Avian Power Line Interaction Committee (APLIC) standards to reduce the potential for electrocution to avian species. Impacts to avian species would be less than significant during operation and maintenance with the implementation of these mitigation measures.

It should also be noted that migratory birds are protected under the Migratory Bird Treaty Act (MBTA). While USFWS previously announced a potential rulemaking that would create an MBTA

take permitting regime, it is not possible for solar projects to obtain migratory bird incidental take permits at this point.

This comment has been noted for the record and revisions to the Draft EIR are not necessary.

Comments Received After August 29, 2022 Close of Public Comment Period

Comment Letter 7: Kern County Department of Agriculture and Measurement Standards (September 16, 2022)

From: [Darin Heard](#)
To: [Katrina Slayton](#)
Subject: Re: EIR SCH# 2021060079 Rosamond South Solar Project by Golden Fields Solar
Date: Friday, September 16, 2022 10:52:06 AM

Hi Katrina,

On page 4.4-20 of the EIR, they recognize the *California Desert Native Plants Act* (CDNPA) and they conclude that 1,084 individual Joshua trees were observed on the project site.

Although they recognize the potential need to comply with California Fish and Game Commission as it relates to Joshua trees, they do not reference the permit requirements mandated within the CDNPA. The CDNPA prohibits the harvest, transport, sale, or possession of specific native desert plants unless a person has a valid permit or wood receipt, and the required tags and seals. The appropriate permits, tags and seals must be obtained from the sheriff or agricultural commissioner of the county where collecting will occur, and the county will charge a fee.

I just wanted to make certain the project was aware of this permit requirement.

With sincere appreciation,

Darin Heard
Assistant Commissioner/Sealer
Kern County Department of Agriculture and Measurement Standards
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Bakersfield, California 93307
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email heardd@kerncounty.com

7-A

**Response to Letter 7: Kern County Department of Agriculture and Measurement Standards
(September 16, 2022)**

7-A: The commenter notes that the Draft EIR recognizes the California Desert Native Plants Act (CDNPA) and concludes that 1,084 individual Joshua trees were observed on the project site. The commenter notes that while the Draft EIR recognizes the potential need to comply with California Fish and Game Commission as it relates to Joshua trees, it does not reference the permit requirements mandated within the CDNPA.

The project proponent is aware of the CDNPA permit requirement and will obtain appropriate permits, tags and seals from the sheriff or agricultural commissioner of the county where collecting will occur, if necessary, and pay the pertinent fees.

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