



Sacramento Group



September 7, 2023

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Delivered via email to: doberneckn@saccounty.gov and inmanj@saccounty.net

RE: Coyote Creek Agrivoltaic Ranch Project – PLN2021-00191
(SCH 2022010271)

Dear Mr. Doberneck and Ms. Inman,

These comments are submitted on behalf of the California Native Plant Society, California Wildlife Foundation, Central Valley Bird Club, Defenders of Wildlife, Habitat 2020, Sacramento Audubon Society, and Sierra Club on the proposed Coyote Creek Agrivoltaic Ranch Project (Project).

Our organizations strongly support renewable energy development. A low-carbon energy future is critical for California's economy, communities, and environment. Achieving this future—and *how* we achieve it—is critical for protecting California's internationally treasured wildlife, landscapes, and diverse habitats. We believe transitioning to a renewable energy future need not exacerbate the ongoing extinction crisis if planning for projects is thoughtfully executed to protect habitat critical to species.

California Native Plant Society (CNPS) is a non-profit environmental organization with more than 12,500 members in 36 Chapters across California and Baja California, Mexico. CNPS's mission is to protect California's native plant heritage and to preserve it for future generations through the application of science, research, education, and conservation. We work closely with decision-makers, scientists, and local planners to advocate for well-informed policies, regulations, and land management practices. CNPS supports science-based, rational policies and actions, on the local, state, national, and international levels, that lead to the continued study and enjoyment of the state's botanical resources.

California Wildlife Foundation is committed to conserving, restoring, and maintaining habitats and corridor linkages throughout the state to ensure the biological diversity of species over time. California Wildlife Foundation's California Oaks program works to conserve oak ecosystems because of their critical role in sequestering carbon, maintaining healthy watersheds, providing plant and wildlife habitat, and sustaining cultural values.

Central Valley Bird Club represents over 500 birders, biologists, resource managers and conservationists in California's Central Valley.

Defenders of Wildlife (Defenders) has 2.1 million members and supporters in the United States, 316,000 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.

Habitat 2020 is the Environmental Council of Sacramento's coalition of Sacramento area environmental organizations that works to protect the lands, waters, wildlife and native plants in the Sacramento region.

Sacramento Audubon Society is a volunteer run organization. Through extensive educational programs, ongoing community outreach, land stewardship, and scientific-based conservation efforts, our volunteers seek to effect positive change in our community and work towards preserving our region's biodiversity for future generations.

Sierra Club has 4,200 members and supporters in Sacramento County, over 400,000 members in California, and 3.8 million members in the United States. Our mission is to explore, enjoy and protect the planet. To practice and promote the responsible use of the earth's ecosystems and resources; to educate and enlist humanity to protect and restore the quality of the natural and

human environment; and to use all lawful means to carry out those objectives. We champion solutions to the climate crisis. We work for clean air, safe water, land protection, and a vibrant natural world. We fight for environmental and social justice. We believe in getting people outside to enjoy the outdoors.

Comments

As California transitions to a clean energy future, it is imperative for our future and the future of our wild places and wildlife that while addressing the long-term impacts of climate change, we also consider the near-term impact of solar development on our biological diversity, fish and wildlife habitat, and natural landscapes. Sacramento County needs smart planning for renewable power that avoids and minimizes adverse impacts on wildlife and lands with known high-resource values. Energy projects must be sited to avoid or minimize impacts to wildlife and habitat, and, where necessary, unavoidable impacts must be offset through compensatory or off-site mitigation. Some projects, however, are so poorly sited that significant impacts to imperiled species and their habitat can neither be avoided nor minimized. These projects face lengthy, expensive permitting processes with uncertain outcomes.¹ Unfortunately, this Project is one of those and should be relocated onto other more suitable land with lower conservation values.

1. Project Location and Environmental Setting

The proposed 2,555-acre industrial-scale solar photovoltaic solar energy facility would generate 200 MW of renewable energy. The Project is within the Cosumnes community in unincorporated Sacramento County. Specifically, it is located off of Scott Road on what is known as the "Barton Ranch" and is southeast of the Prairie City State Vehicle Recreation Area.

The proposed Project would result in the permanent conversion of important habitat lands into an industrialized facility and land use. The NOP states the planned operational life of the Project is approximately 35 years, with the opportunity for repowering. However, it is imperative to recognize the Project will reasonably and foreseeably result in a permanent change to the site from an open space/rangeland use to an industrial land use and is not a temporary conversion of land. This site will have new roads, new transmission lines, grading for energy equipment, energy storage, and the accompanying infrastructure. Therefore, it is more reasonable to assume that with such

¹ Dashiell, S.; Buckley, M.; Mulvaney, D. Green Light Study: Economic and Conservation Benefits of Low-Impact Solar Siting in California, 2019.

an investment in energy infrastructure, this site will not revert to open space after 35 years.

California's aggressive renewable goals will require ever-increasing renewable energy for the foreseeable future.² Solar projects currently being constructed are expected to be repowered/upgraded and continue to operate well beyond the end of their initial contract. In the unlikely event that the project is decommissioned, it is still unlikely that the project site will return to its current state, given that industrial-scale infrastructure will already be constructed on the site, and the ecological function of the site will be greatly diminished.

Once the natural hydrology of this location is disrupted and the habitat is destroyed, the land will no longer have habitat value and will not return to its current state. These rare and sensitive habitats that would be permanently altered include intact oak woodlands, streams, vernal pools, and wetlands. Coyote Creek and Carson Creek intersect the proposed site and ephemeral drainages and creeks are scattered throughout. Numerous special-status wildlife and plant species rely on these important habitat types, and therefore could occur in the project area, including but not limited to the following:³

Common Name	Scientific Name	Status
American badger	<i>Taxidea taxus</i>	State Species of Special Concern
Bald eagle	<i>Haliaeetus leucocephalus</i>	State Endangered
Boggs Lake hedge-hyssop	<i>Gratiola heterosepala</i>	State Endangered
Burrowing owl	<i>Athene cunicularia</i>	State Species of Special Concern
Crotch's bumble bee	<i>Bombus crotchii</i>	Candidate Species for State Endangered
Legenere	<i>Legenere limosa</i>	California Rare Plant Rank 1B.1
Loggerhead shrike	<i>Lanius ludovicianus</i>	State Species of Special Concern
Northern harrier	<i>Circus hudsonius</i>	State Species of Special Concern
Rickseckers water scavenger beetle	<i>Hydrochara rickseckeri</i>	South Sacramento Habitat Conservation Plan Covered Species

² See <https://www.energy.ca.gov/sb100>

³ California Natural Diversity Database (CNDDDB). Accessed 8/17/2023. <https://wildlife.ca.gov/Data/CNDDDB/Maps-and-Data>

Common Name	Scientific Name	Status
Sacramento Orcutt grass	<i>Orcuttia viscida</i>	Federal and State Endangered
Sanfords arrowhead	<i>Sagittaria sanfordii</i>	California Rare Plant Rank 1B.2
Slender Orcutt grass	<i>Orcuttia tenuis</i>	Federal Threatened and State Endangered
Swainson's hawk	<i>Buteo swainsoni</i>	State Threatened
Tricolored blackbird	<i>Agelaius tricolor</i>	State Threatened
Valley elderberry longhorn beetle	<i>Desmocerus californicus dimorphus</i>	Federal Threatened
Vernal pool fairy shrimp	<i>Branchinecta lynchi</i>	Federal Threatened
Western pond turtle	<i>Emys marmorata</i>	State Species of Special Concern
Western spadefoot	<i>Spea hammondii</i>	State Species of Special Concern
White-tailed kite	<i>Elanus leucurus</i>	State Fully Protected

2. Inconsistency with Sacramento County's General Plan

The applicant's *Consistency with General Plan*⁴ document includes several erroneous statements regarding impacts to oak trees from this poorly cited project. Specifically, the proposed Project is inconsistent with Public Facilities (PF) Element 69 and PF-78 of the General Plan. The intent language for the Solar Electric and Other Renewable Energy Generating Facilities of the Element clearly articulates the undesirable impacts that projects such as the proposed Project have on oak woodlands, stating that projects should be located away from sensitive habitats:

"Sprawling facilities can despoil pristine landscapes and natural resources such as oak woodlands and vernal pools. Larger scale multi-megawatt systems should be designed in a manner that minimizes land use and environmental impacts, and therefore should be located away from sensitive habitats."⁵

PF-69 includes oak woodlands in the list that follows this statement: "Cooperate with the serving utility to minimize the potential adverse impacts of energy production and distribution facilities to environmentally sensitive areas by, when possible, avoiding siting in the following areas."⁶ The proposed Project is also inconsistent with PF-78,

⁴ Coyote Creek Agrivoltaic Ranch (UPB-SPP-DRS). June 2021. *Coyote Creek Agrivoltaic Ranch Consistency with General Plan*. <https://planningdocuments.saccounty.net/projectdetails.aspx?projectID=7814&communityID=4>

⁵ County of Sacramento, Office of Planning and Environmental Review. 2019. *General Plan Public Facilities Element*.

⁶ Ibid

which states that "[l]arge multi-megawatt solar and other renewable energy facilities should be sited at locations that will minimize impacts." Specific guidance is provided:

"Site on lands with the lowest habitat and open space values, and consider how a site will affect conservation planning, e.g., the Conservation Strategy in the South Sacramento Habitat Conservation Plan. Avoid areas containing vernal pool complexes and associated uplands."⁷

The habitat values of the Coyote Creek site will be degraded by the oak removals and other natural resource impacts if the proposed project is advanced. Furthermore, PF-78 also articulates cultural resources goals, which the proposed Project is inconsistent with: "[s]ite in areas that are known to have limited potential for containing cultural resources. Otherwise, avoid sites with known cultural resources."⁸

The proposed project is also potentially inconsistent with Agricultural Policy 29, Farmland Flooding. The *Consistency with General Plan* document states, "the proposed project is not an urban development and will maintain similar drainage patterns to those that exist today."⁹ This statement does not consider the impacts of the oak removals on the site. Oak leaf litter and root systems retain soil, capture sediment, minimize erosion by slowing surface runoff, and recharge groundwater. The impacts of the proposed oak removals on drainage patterns must be analyzed in the environmental documentation associated with the project. Further, the discussion of the project's alignment with AG-28 states that "areas subject to grading/disturbance will be reseeded and/or compacted."¹⁰ Soil compaction also needs to be addressed in the project's environmental documentation. Please also note the erosion control requirements articulated in the South Sacramento Habitat Conservation Plan:

"BMP-2 (Erosion Control): Plan Permittees and Third-Party Project Proponents implementing ground-disturbing Covered Activities will install temporary control measures for sediment, stormwater, and pollutant runoff as required by the Plan Permittee to protect water quality and species habitat. Silt fencing or other appropriate sediment control device(s) will be installed downslope of any Covered Activity that disturbs soils."¹¹

⁷ Ibid

⁸ Ibid

⁹ Coyote Creek Agrivoltaic Ranch (UPB-SPP-DRS). June 2021. *Coyote Creek Agrivoltaic Ranch Consistency with General Plan*. <https://planningdocuments.saccounty.net/projectdetails.aspx?projectID=7814&communityID=4>

¹⁰ Ibid

¹¹ County of Sacramento, City of Rancho Cordova, City of Galt, Sacramento County Water Agency, Sacramento

Lastly, the Consistency with the General Plan includes no discussion of the proposed project's alignment with the General Plan's Conservation Element, including Conservation Objective policy 58: "Ensure no net loss of wetlands, riparian woodlands, and oak woodlands."¹²

3. Inconsistency with the South Sacramento Habitat Conservation Plan

The proposed Project is located within the South Sacramento Habitat Conservation Plan (SSHCP) area, a regional plan to protect habitat, open space and agricultural lands while streamlining the permitting process for development and infrastructure projects. The SSHCP provides a framework to improve the conservation of natural resources, including endangered habitats, while streamlining the permitting process for development and infrastructure projects on 317,000 acres in south Sacramento County. Coverage for take and conservation actions are provided within the SSHCP to protect 28 species with the potential to occur within the plan area to accommodate impacts from development. The SSHCP is split into two areas: inside or outside the Urban Development Area (UDA).

The proposed Project site is located within the SSHCP area and outside the UDA and contains documented occurrences for several SSHCP-covered species. Since the site is outside the UDA, where solar energy development is not considered a covered activity, the Project will not receive take coverage for the special-status species. However, mitigation and compensatory measures must still adhere to the SSHCP to allow for a consistent approach to mitigation within the SSHCP Plan Area and to avoid adverse impacts to species covered by the SSHCP.

a. Oak-Dependent Species

Eleven of the vertebrate species covered by the SSHCP are identified by the California Department of Fish and Wildlife (CDFW) California Wildlife Habitat Relationship information system as oak-dependent:¹³ American badger, burrowing owl, California tiger salamander, giant garter snake, loggerhead shrike, Northern harrier, Swainson's hawk, western spadefoot, western pond

Regional County Sanitation District, and the Southeast Connector Joint Powers Authority. 2018. *Final South Sacramento Habitat Conservation Plan*. Sacramento, CA.

¹² County of Sacramento, Office of Planning and Environmental Review. 2019. *General Plan Public Facilities Element*.

¹³ Moskow, Angela. (2021). *California Oaks in the 21st Century: Oak Habitat for Endangered, Threatened, and Candidate Species*. Oaks, Spring/Summer 2021. <https://californiaoaks.org/wp-content/uploads/2021/05/Spring-Summer2021NewsletterDigitized.pdf>

turtle, western red bat, and white-tailed kite. Additionally, eight of the SSHCP's covered crustaceans, insects, and plants are considered to be oak-associated species based on cross-references of California Natural Diversity Database occurrence records with the oak woodland dataset in the CDFW Areas of Conservation Emphasis System: Boggs Lake hedge-hyssop, dwarf downingia, Legenere, pincussion navarretina, Ricksecker's water scavenger beetle, Sanford's arrowhead, Slender orcutt grass, and Valley elderberry longhorn beetle.

The SSHCP addresses the importance of many oak ecosystem elements for the covered species:

"Oak Woodland and Savanna provide important cover, nesting, and roosting sites for native bird species, as well as caching sites for acorn storage, for a variety of birds, mammals, and other native species. Covered Species that use Blue Oak Woodland and/or Savanna include American badger, Cooper's hawk, western burrowing owl, and white-tailed kite. Where suitable aquatic land cover occurs in association with Blue Oak Woodland and Blue Oak Savanna land cover, western spadefoot and western pond turtle may also occur. Old, large oak trees are of particular habitat value, providing an array of living and dead branches as sites for woodpeckers to excavate cavities and for insect-eaters to forage for larvae and adult insects. Dead branches and trunks are critically important for cavity nesting birds, for mammals as storage sites for acorns, and as perches for sight-dependent predators, such as raptors. The fallen logs of dead oaks provide sustenance and cover for arthropods, fungi, and wildlife, and may potentially extend activity periods for these species in drier climates by retaining soil moisture and providing shade. Oak trees produce a critically important food crop, acorns."¹⁴

Per the proposed Project's arborist report, the Project would remove over 790 oak trees. The DEIR needs to assess adverse impacts to oak ecosystems and provide mitigation to benefit species covered by the SSHCP. Further, the assessment and mitigation measures should include consideration of the importance of the entire oak ecosystems in supporting these species through acorn production, downed woody material, and other habitat components that require a more robust approach than a tree-by-tree or canopy coverage

¹⁴ County of Sacramento, City of Rancho Cordova, City of Galt, Sacramento County Water Agency, Sacramento Regional County Sanitation District, and the Southeast Connector Joint Powers Authority. 2018. *Final South Sacramento Habitat Conservation Plan*. Sacramento, CA.

approach. A tree planted as mitigation takes many years to produce acorns and confer other ecosystem services that the removal of a mature tree will destroy. The DEIR must address how alterations of the oak landscape will threaten the species covered by the SSHCP.

4. Valley Oak Protection

Valley oak has suffered a population decline of more than 90% statewide and has been designated a species of conservation concern.¹⁵ Valley oaks are a uniquely important part of California's unique and imperiled biodiversity. For example, the authors of *The Importance of Native Valley Oaks (Quercus lobata) as Stopover Habitat for Migratory Songbirds in Urban Sacramento, California, USA* evaluated the importance of valley oak as stopover foraging habitat used by Neotropical migrant birds in urban areas of the Sacramento region from 2010 to 2013. Migrant bird abundance was closely correlated with valley oak canopy abundance and increased linearly with oak canopy, especially during fall migration. Migrants were nearly absent from areas lacking oak canopy. Migrant bird species as a group also foraged in valley oak substantially (74%) more often than would be expected based on its relative 15% canopy cover, as did all species whose selectivity could be tested.¹⁶ Valley oak protection and mitigation measures should reflect the tree's imperiled status and importance to wildlife.

As noted above, PF-69 of the Sacramento County General Plan states that energy projects should be located away from sensitive habitats. The DEIR should include an analysis of Project impacts to valley oaks. If impacts are identified, the Project should adhere to the Sacramento County General Plan and relocate the project away from the sensitive valley oak woodland habitat.

5. Root Protection Zones

Root protection zones (RPZs) of oak trees, which are 1.5 times larger than the area from the trunk to the dripline of an oak, are the most critical to the health of oak trees. RPZs of oak trees should remain undisturbed during construction and during the lifetime operation of the Project. A certified arborist must approve work within the RPZ.

6. Public Resources Code Section 21083.4

For discretionary permits, Public Resources Code Section 21083.4 requires mitigation for removing non-commercial oak species greater than 5 inches in diameter, measured at a point 4.5 feet (breast height) above natural grade level. The code requires a seven-year

¹⁵ Beckman E et al. 2020. *Conservation Gap Analysis of Native U.S. Oaks*. Lisle, IL. p 147.

¹⁶ Greco, Steve E., Airola, Daniel A. 2018. *The Importance of Native Valley Oaks (Quercus lobata) as Stopover Habitat for Migratory Songbirds in Urban Sacramento, California, USA*. Urban Forestry & Urban Greening.

establishment period for oaks planted as mitigation and limits mitigation plantings to 50% of the mitigation. The DEIR should address proposed oak removal by the Project and require compliance with Public Resources Code Section 21083.4.

7. Vernal Pool Habitat

The proposed Project site contains vernal pools, a unique type of state-protected seasonal wetland. Vernal pools are ecological islands in the Sacramento Valley that provide important habitat and ecosystem services to surrounding flora and fauna. They are home to nearly 200 native plant species, as well as uniquely adapted arthropods and vertebrate species, several of which are threatened or endangered, including but not limited to Boggs Lake hedge-hyssop, Sacramento Orcutt grass, vernal pool fairy shrimp and western spadefoot.¹⁷ However, over 97% of California's vernal pools have been destroyed by human impact through development, agriculture, and off-road vehicles.¹⁸

Grading associated with the proposed Project can reasonably be expected to directly and indirectly adversely affect vernal pools in the area. Altering the site's topography will alter hydraulic movement, impacting vernal pools that exist on site and downslope, impacting necessary habitat for several sensitive species. Vernal pools are already threatened across the state due to climate change, agriculture, and development; eradicating the remaining areas of this habitat would have serious consequences for our state's biodiversity and native plants.

The Sacramento County General Plan specifically mentions the importance of vernal pools and why it is necessary to conserve them. "Protection of [vernal pools] from impacts related to development is critical due to their importance to wildlife habitat, water purification, scenic values, and unique and sensitive plant life. Reduced vernal pool habitat threatens the continued existence of the many dependent plant and animal species living within them and reduces habitat for migratory waterfowl, shorebirds, and wading birds".¹⁹ The General Plan further highlights the assurance that any modifications or losses of vernal pools must be mitigated (CO-59). In addition, a major component of the South Sacramento Habitat Conservation Plan is to "[r]e-establish or establish Vernal Pool land cover to ensure the Plan meets County, state, and federal

¹⁷ Barry, Sheila. 1998. *Managing the Sacramento Valley Vernal Pool Landscape to Sustain the Native Flora. Ecology, Conservation, and Management of Vernal Pool Ecosystems – Proceedings from a 1996 Conference*. California Native Plant Society, 236-240.

¹⁸ See <http://www.chaparralconservancy.org/projects/vernal-pool-preservation/#:~:text=Over%2097%25%20of%20California's%20vernal,%2C%20trash%20dumping%2C%20and%20more>.

¹⁹ County of Sacramento, Office of Planning and Environmental Review. 2017. *General Plan Conservation Element*.

requirements for 'no-net-loss' of waters and wetlands and to offset impacts to vernal pool Covered Species."²⁰ Since the site is located within the SSHCP, the proposed Project should be consistent with the SSHCP, including no net loss of wetlands. We request that the DEIR include a robust analysis of the potential impacts to vernal pools and the species that rely on them. If it is determined that the proposed Project may adversely impact vernal pools, we recommend consultation with CDFW to develop vernal pool mitigation plans and a multi-year commitment to monitoring and evaluation of the mitigation site that results in a no-net-loss of vernal pool habitat. We request the avoidance of any adverse impacts first, and any impacts that cannot be avoided must be mitigated to the fullest extent possible to prevent further wetland ecosystem loss.

8. Carbon Impacts

The proposed Project is inconsistent with carbon sequestration priorities articulated in several Sacramento County policies. For example, the *Sacramento County Climate Action Plan* cites the blue oak woodland habitat and carbon sequestration goals in the SSHCP:

"Prioritize work to ensure that the blue oak woodland and associated habitats conservation goal in the northeast portion of the SSHCP Plan area laid out in the Appendix J "above and beyond" conservation" targets are realized. This will have the benefit of preserving important GHG sequestration resources while also providing protection for the only large remaining connectivity corridor to join the south and the north county in the eastern portion of the county."²¹

The Climate Action Plan also reiterates the importance of protecting oak woodlands and archaeological sites articulated in PF-69. The 2017 Sacramento County Landscape Carbon Assessment Initial Study issued by Sacramento Municipal Utility District (SMUD) specifically calls out the importance of oak trees in carbon sequestration:

"Slow growing trees with higher wood density increase the amount of carbon that can be stored; trees native to Sacramento, such as oaks, have high wood density, increasing the amount of carbon storage potential per tree."²²

²⁰ County of Sacramento, City of Rancho Cordova, City of Galt, Sacramento County Water Agency, Sacramento Regional County Sanitation District, and the Southeast Connector Joint Powers Authority. 2018. *Final South Sacramento Habitat Conservation Plan*. Sacramento, CA.

²¹ Sacramento County. 2022. *Climate Action Plan*.

²² Sacramento Municipal Utility District. 2017. *Sacramento County Landscape Carbon Assessment*.

Further, the report found that forests, which include oak woodlands with canopy cover at or above 10%, covered only 3% of Sacramento County and accounted for 8% of the county's carbon storage.²³ The report highlighted this as an essential factor to consider, as development in these areas would have a higher carbon impact than other land types.

Lastly, California requires analyzing and mitigating greenhouse gas (GHG) emissions associated with proposed oak woodland or forest conversions. California Environmental Quality Act's (CEQA) sole GHG focus is "the mitigation of greenhouse gas emissions or the effects of greenhouse gas emissions."²⁴ The net present value of GHG emissions forms the foundation of the state's greenhouse reduction objectives and the California Forest Protocol preservation standards. Every ton of carbon dioxide released into the atmosphere by oak woodland or forest conversion represents a measurable potential adverse environmental effect, which is subject to CEQA analysis. If the proposed Project advances, the carbon impacts of the proposed Project's oak impacts must be assessed and mitigated.

9. Impacts to Wildlife

The proposed Project site and surrounding area is an important area for wildlife in the highly suburbanized Sacramento County. The proposed Project poses potentially significant impacts to a variety of special-status wildlife species, including burrowing owl, Crotch's bumble bee, loggerhead shrike, Swainson's hawk, tricolored blackbird, vernal pool fairy shrimp, and western spadefoot, among others. The area also serves as an important remnant corridor to maintain connections of wildlife populations in the region.

a. Tricolored Blackbird

Tricolored blackbird has been documented nesting in the pond within the project area in two of the last eight years, and another colony is located within the foraging range of the Project area.²⁵ Recent research has shown that large amounts of suitable foraging habitat are required to sustain colony occupancy in the foothill region.²⁶ Considering the substantial loss of colonies due to development in adjacent Eldorado Hills and Folsom, the Coyote Creek area is important to the regional population. Recent research has also shown that many

²³ Ibid.

²⁴ CA Pub Res Code § 21083.05 (2022).

²⁵ Airola, Daniel et al. 2023. Unpublished data.

²⁶ Airola, Daniel. 2023. *Foraging Habitat and Its Effects on the Tricolored Blackbird's Breeding Distribution and Abundance in the Sierra Nevada Foothills, California*. *Western Birds* 54(1):19-31.

areas identified for Tricolored blackbird mitigation in the SSHCP are not occupied by the species and may not be suitable mitigation sites.²⁷ Thus, any mitigation for habitat losses to the Tricolored blackbird should incorporate recent findings on nesting locations and foraging and habitat requirements. Ultimately, the loss of foraging habitat to solar development is a significant direct impact and contributes to significant cumulative adverse impacts that likely cannot be avoided or suitably mitigated.

b. Loggerhead Shrike

A few loggerhead shrike pairs are known to occur at the adjacent Deer Creek Hills Preserve in a habitat similar to that at the Coyote Creek site. Habitat requirements and reproductive success were evaluated as part of an initial long-term study.²⁸ Considering the similarity of the habitat conditions at Deer Creek Hills and the Coyote Creek project site, it is reasonable to expect that loggerhead shrikes breed on the project site and the proposed Project would detrimentally affect the species, which also could not be readily mitigated. The DEIR should include results of field surveys to determine the status of loggerhead shrike onsite and should comprehensively address impacts to loggerhead shrike onsite and to the surrounding population.

c. Lewis' Woodpecker and Wintering Raptors

The East County Corridor area, which includes Coyote Creek, is an important, though diminished, wintering area for Lewis' woodpecker and wintering raptors, including the northern harrier, ferruginous hawk, and possibly burrowing owl. Populations of these grassland- and woodland-associated species have been significantly reduced by recent habitat losses in Folsom and Eldorado Hills.²⁹ The conversion of the site to a solar farm will further reduce habitat and populations of these species in a key area of their winter range.

d. Swainson's Hawk

Swainson's hawk is a state-listed threatened species under the California Endangered Species Act and may occur on the Project site as there are documented occurrences for Swainson's hawk breeding season records on adjacent land.³⁰ If compensatory mitigation is utilized based on protocol-level

²⁷ Airola, Daniel et al. 2023. Unpublished data.

²⁸ Robin Smith, unpub. data

²⁹ Pandolfino, Edwards R. and Douglas, Lily A. 2022. *Breeding Phenology of Birds in Sacramento County, California*.

³⁰ eBird. 2021. eBird: An online database of bird distribution and abundance [web application]. eBird, Cornell Lab of Ornithology, Ithaca, New York. Available: <http://www.ebird.org>.

survey results, we recommend retention of as many oaks and other large trees as possible and adherence to the SSHCP recommended ratio for protection and enhancement of foraging habitat, which establishes a minimum 1:1 compensatory mitigation ratio.³¹

e. White-tailed kite

White-tailed kite is a fully protected species that requires – under the recently revised fully protected statute (Senate Bill 149) – that take must be avoided to the maximum extent possible. If take cannot be avoided to the maximum extent possible, then a project applicant must fully mitigate that take, ensure that all further measures necessary to satisfy the conservation standard of Section 2805(d) of the Fish and Game Code are in place, and provide for monitoring and adaptive management. The proposed Project site and surrounding area may provide suitable habitat for white-tailed kite and has a probability of white-tailed kite occurrence, as noted in the California Department of Fish and Wildlife's February 7, 2022, letter to the county in response to the Notice of Preparation. Given that the Project site provides suitable habitat for this protected species, complete protocol-level surveys for white-tailed kite must be performed across the entirety of the Project site to ensure that take will be avoided to the maximum extent possible.

f. Other Wildlife Species

The oak woodland, oak savannas, and grassland habitat in eastern Sacramento County supports a high diversity of wildlife species, including several special-status species. Loss of habitat to solar development will reduce habitat and connectivity for fragile populations of lowland species that may occur now, such as the greater roadrunner and lesser nighthawk. Habitat loss and security fencing will detrimentally affect the movements of animals and gene flow among populations.

Given that the proposed Project has the potential to adversely impact special-status species, it is vital that the biological resources surveys adhere to wildlife agency-approved species-specific protocols to provide thorough and accurate results that support impact analysis and identification of appropriate avoidance, minimization, and mitigation measures for each species. The DEIR must address both direct impacts from

³¹ County of Sacramento, City of Rancho Cordova, City of Galt, Sacramento County Water Agency, Sacramento Regional County Sanitation District, and the Southeast Connector Joint Powers Authority. 2018. Final South Sacramento Habitat Conservation Plan. Sacramento, CA.

the proposed Project and cumulative impacts on special-status species, sensitive habitats and connectivity. The DEIR must, at a minimum, include avoidance, minimization, and compensatory mitigation measures for species and habitats the Project will adversely impact. We recommend avoidance and minimization measures be exhausted, with concurrence by trustee and responsible wildlife agencies, before the compensatory mitigation options are considered. Additionally, translocation is not an appropriate mitigation approach. Per CDFW's February 7, 2022, letter responding to the notice of preparation for the Project, "CDFW generally does not support the use of relocation, salvage, and/or transplantation as the sole mitigation for impacts to rare, threatened, or endangered species as these efforts are generally experimental in nature and largely unsuccessful."³²

10. Cumulative Impacts

The increasing development within the region is having a significant impact on biological resources and habitats, including but not limited to burrowing owl, oak woodlands, Swainson's hawk, vernal pools, and western spadefoot. This Project is no exception and would significantly add to the loss of Sacramento County's important and declining biological resources. We recommend the DEIR comprehensively analyze the direct and indirect cumulative impacts of past, present, and reasonably foreseeable activities that adversely impact the region's biological resources. The analysis must also include the cumulative impacts to habitat connectivity and provide mitigation measures for any adverse impacts. Furthermore, this analysis should not be limited to examining other renewable energy projects and should analyze the cumulative impacts of other regional land development projects. We recommend coordination with CDFW regarding the methods of analyzing the cumulative impacts. We also caution against relying solely on SSHCP measures for determining impact significance and mitigation requirements. Much of the biological information in the SSHCP is old and some is outdated. These determinations should be made based on the best available information, including recent studies.

11. Alternatives Analysis

The Project objective of "providing a local supply of solar energy for the Sacramento County region..." is overly narrow. Project objectives should not limit the scope of reasonable alternatives within an EIR. Too narrowly defined project objectives prevent identifying and considering reasonable project alternatives to avoid or minimize adverse project impacts. While the goal of procuring locally sourced renewable energy is

³² <https://ceqanet.opr.ca.gov/2022010271/Attachment/S94hFW>

laudable, it creates a needless obstacle to meeting SMUD's zero carbon goals. A variety of renewable technologies and locations within the Sacramento Valley on least-conflict lands would reduce the obstacles, extended timelines, and expense associated with permitting and mitigation that will be required for the Coyote Creek project site. We recommend revising the project objective of "*local supply of solar energy*" to *renewable energy from the Sacramento Valley*. This would allow consideration of alternative renewable energy technologies and site locations in SMUD's territory and the Sacramento Valley that not only meet SMUD's clean energy goals but do so in an environmentally responsible way that achieves project viability and meets ratepayer needs.

Conclusion

Thank you for considering our comments on the proposed Coyote Creek Agrivoltaic Ranch Project. We look forward to reviewing the Draft EIR and request to be notified when it is available. Please feel free to contact us with any questions.

Respectfully submitted,

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