

ATTACHMENT – C

Resolution for FEIR and Findings

RESOLUTION NO.

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF IMPERIAL, CALIFORNIA, APPROVING AND CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT (FEIR & DEIR) FOR THE WESTSIDE CANAL BATTERY ENERGY STORAGE PROJECT.

WHEREAS, a Final EIR (SCH #2020040122) and Candidate CEQA Findings have been prepared in accordance with the requirements of the California Environmental Quality Act, the State CEQA Guidelines, and the County's "Rules and Regulations to Implement CEQA as Amended"; and,

WHEREAS, the Board of Supervisors of the County of Imperial has been delegated with the responsibility of approving and certifying the Final EIR; and,

WHEREAS, public notice of said application has been given, and the Board of Supervisors has considered evidence presented by the Imperial County Planning & Development Services Department and other interested parties at a public hearing held with respect to this item on November 16, 2021 and,

NOW THEREFORE, the Board of Supervisors of the County of Imperial **DOES HEREBY RESOLVE** as follows:

SECTION 1. The Board of Supervisors has considered the proposed Final Environmental Impact Report (FEIR), Mitigation Monitoring and Reporting Program (MM&RP), and Candidate CEQA Findings prior to making a decision to approve and certify the proposed FEIR and Findings of Fact. The Board of Supervisors finds and determines that the Environmental Impact Report is adequate and prepared in accordance with the requirements of the California Environmental Quality Act (CEQA) which analyzes environmental effects, based upon the following findings and determinations.

SECTION 2. That in accordance with State Planning and Zoning law and the County of Imperial regulations, the following findings for the approval and certification of the FEIR, MM&RP and Findings of Fact has been made as follows:

1. That the Final Project EIR (SCH #2020040122), Candidate CEQA Findings for the Westside Canal Battery Energy Storage ("Project") has been prepared in accordance with the requirements of the California Environmental Quality Act, the State CEQA Guidelines, and the County's "Rules and Regulations to Implement CEQA, as Amended".
2. That the County has reviewed, analyzed, and considered Final Project EIR, the environmental impacts therein identified for this Project, the Candidate CEQA

Findings, and the Mitigation Monitoring and Reporting Program, and the entire Record of Proceedings prior to approving this project.

3. That the Final Project EIR, the Candidate CEQA Findings reflect the independent judgment of the County.
4. That the Candidate CEQA Findings are supported by substantial evidence and supported by information provided to the County by experts, including but not limited to the County staff and the EIR preparer, on whom the County relies.
5. That the County accept as its own, incorporate as if set forth in full herein, and make each and every one of the findings contained in the Candidate CEQA Findings, including feasibility of mitigation measures pursuant to Public Resources Code 21081(a)/CEQA Guidelines 15091.
6. That the Mitigation Monitoring and Reporting Program is designed to ensure that during project implementation, the Developer and any other responsible parties implement the Project components and comply with feasible mitigation measures identified in the CEQA Findings, the Project entitlements, and the Mitigation Monitoring and Reporting Program and that these measures are fully enforceable through permit conditions, agreements, and/or other measures, such as their inclusion in the Mitigation Monitoring and Reporting Program.
7. That the Project will not individually or cumulative have an adverse effect on fish and wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
8. That the Record of Proceedings consists of the Final EIR (and all its technical reports and addendums thereto); the County staff reports; the CEQA Findings; the Mitigation Monitoring and Reporting Program; the various Project entitlements and documents referenced therein; all final reports, applications, memoranda, maps, letters, and other planning documents prepared by the EIR planning/environmental consultant; all final reports, memoranda, maps, letters, and other planning documents prepared by the County staff; all documents submitted by members of the public and public agencies in connection with the Final EIR; minutes and transcripts of all public meetings and public hearings; all written and verbal public testimony presented during a noticed public hearing for the proposed project which such testimony was taken and any and all other materials which constitute the record of proceeding pursuant to Public Resources Code section 21167.6(e); and matters of common knowledge to the County staff, and Planning Commission, including, but not limited to the County General Plan, the County Land Use Ordinance, and County policies, which may be found during regular business hours at the Imperial County Planning & Development Services Department at 801 Main Street, El Centro, CA 92243.
9. That the Board of Supervisors does hereby certify the Final Project EIR and CEQA Findings.

NOW, THEREFORE, based on the above findings, the Board of Supervisors of the County of Imperial **DOES HEREBY ADOPT AND APPROVE** the following:

1. Adopt the "CEQA FINDINGS for the FINAL ENVIRONMENTAL IMPACT REPORT FOR THE PROJECT (SCH. No. 2020040122)" attached hereto as Exhibit A and incorporated by this reference; and
2. **APPROVE AND CERTIFY** the proposed Final Project EIR (SCH# 2020040122) and CEQA Findings for the Project.

PASSED, ADOPTED, AND APPROVED by the Board of Supervisors of the County of Imperial this 16th day of November, 2021.

AYES:

NOES:

ABSENT:

ABSTAIN:

Michael W. Kelley, Chairman
Imperial County Board of Supervisors

ATTEST: _____
BLANCA ACOSTA, Clerk of the
Board of Supervisors, County of
Imperial, State of California

**California Environmental Quality Act Findings
 (Public Resource Code §21081, CEQA Guidelines §15091)
 Final Environmental Impact Report for the
 Westside Canal Battery Storage Project
 (SCH No. 2020040122)**

1.0 INTRODUCTION

The following Findings are made for the Environmental Impact Report SCH No. 2020040122 (the "EIR") for the proposed Westside Canal Battery Storage Project (herein referred to as the Project). The EIR analyzes the significant and potentially significant environmental impacts, which may occur as a result of the Project.

Table 1.1, Agency Permit and Environmental Review Requirements, lists the anticipated permits potentially required for the Project

Table 1.1 Agency Permit and Environmental Review Requirements

Agency	Permits and Other Approvals
Imperial County	General Plan Amendment Zone Change Conditional Use Permit Development Agreement Grading Permit Conceptual Drainage Plan Domestic Wastewater/Septic System Permit Fire Suppression Plan Transportation Permits Mechanical Permits Electrical Permits Structural/Foundation Permits Haul Route Plan Rule 310 Dust Control Plan & Rule 801 Compliance National Pollutant Discharge Elimination System (NPDES) Construction General Permit NPDES General Permit for MS4 Compliance AB 52 Consultation
Imperial Irrigation District	Generator Interconnection Agreement
California Independent System Operator	Generator Interconnection Agreement
United States Army Corps of Engineers	Clean Water Act Section 404
Regional Water Quality Control Board	Clean Water Act Section 401
California Department of Fish and Wildlife	California Fish and Game Code 1600
Imperial County Air Pollution Control District	Dust Control Plan



The Project Site encompasses approximately 163 acres of land located approximately eight miles southwest of the City of El Centro and approximately five miles north of the U.S.-Mexico border in the unincorporated Mount Signal area of Imperial County (County), as shown on EIR Figure 1.2-1. The Project Site is located on land owned by the Consolidated Edison Development (CED; Applicant), Bureau of Land Management, Imperial Irrigation District (IID), and a private landowner.

The Project would store energy generated from the electrical grid, and optimally discharge that energy back into the grid upon demand. The Project would be constructed in multiple phases over a 10-year period with each phase ranging from approximately 25 Megawatts (MW) to 400 MW. The Project would be comprised of lithium-ion (Li-ion) and/or flow battery energy storage system facilities, a behind-the-meter solar energy component, a new on-site 230-kilowatt (kW) loop-in switching station, a 34.5 kV to 230 kV Project substation, underground electrical cables, and permanent vehicular access to and from the Project Site over a proposed clear-span bridge spanning IID's Westside Main Canal. The proposed loop-in switching station would connect the Project to the existing IID Campo Verde Imperial Valley (IV) 230 kV radial gen-tie line, which connects to the Imperial Valley Substation and California Independent System Operator (CAISO), approximately one-third mile south of the Project Site.

Additional Project details is further described and depicted in DEIR Chapter 2.0.

1.1 PURPOSE OF CEQA FINDINGS; TERMINOLOGY

California Environmental Quality Act (CEQA) Findings play an important role in the consideration of projects for which an EIR is prepared. Under Public Resources Code §21081 and CEQA Guidelines §15091 above, where a final EIR identifies one or more significant environmental effects, a project may not be approved until the public agency makes written findings supported by substantial evidence in the administrative record regarding each of the significant effects. In turn. The three possible findings specified in CEQA Guidelines §15091 are:

1. Changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
3. Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

CEQA Guideline §15092(b) provides that no agency shall approve a project for which an EIR was prepared unless either:

1. The project approved will not have a significant effect on the environment, or
2. The agency has:



- a. Eliminated or substantially lessened all significant effect were feasible as shown in the findings under Section 15091, and
- b. Determined that any remaining significant effects on the environment found to be unavoidable under Section 15091 are acceptable due to overriding concerns as described in Section 15093.

1.2 ENVIRONMENTAL IMPACT REPORT PROCESS

After the County reviewed the application for the proposed Project, it was concluded that the Project could have a significant impact on the environment and that preparation of an EIR was determined to be the appropriate CEQA environmental document. The County issued a Notice of Preparation (NOP) on April 13, 2020 and made the NOP available for review and comment for a 35-day period ending on May 18, 2020. The NOP was distributed to City, County, state and federal agencies, other public agencies, and various interested private organizations and individuals. The NOP was subsequently published on the County's website. Five comment letters were received during the NOP review period. A copy of the NOP is included in Appendix A of the Draft EIR.

Based upon comments the County received in response to the NOP, it was determined that the Draft EIR should analyze Project-related environmental impacts relative to the following eleven substantive potential impact areas in the Environmental Analysis section:

- Aesthetics
- Agriculture and Forestry Resources
- Air Quality
- Biological Resources
- Geology and Soils
- Greenhouse Gases
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Tribal Cultural Resources
- Utilities and Service Systems

Additionally, the Draft EIR was required to include other CEQA substantive sections, including an Executive Summary, Introduction, Environmental Setting, Project Description, Cumulative Impacts, Effects Not Significant, and Alternatives.

The Draft EIR was circulated for a 50-day public review period, starting on April 7, 2021, and ending on May 27, 2021. Three letters were received during the comment period and are responded to in the responses to comments section of the Final EIR.

2.0 PROJECT DESCRIPTION

The Project involves the development, design, operation, maintenance, and eventually decommissioning of a utility-scale energy storage complex with the capacity of up to 2,000 MW at full build-out. The Project would store energy generated from the electrical grid, and optimally discharge that energy back into the grid as a firm, dispatchable resource. The Project would be constructed multiple phases over a 10-year



period with each phase ranging from approximately 25 MW to 400 MW. For the purposes of this analysis, Project construction is assumed to occur over three to five phases. Given the approximately 10-year development of the Project, the expected end date of the Project life cycle would be 30 years from the construction of the final phase, or no more than 40 years after the effective date of the Conditional Use Permit.

The Project would be comprised of Li-ion and/or flow battery energy storage system (BESS) facilities, a behind-the-meter solar energy facility, a new on-site 230 kilovolt (kV) loop-in switching station, a 34.5 kV to 230 kV Project substation, underground electrical cables, and permanent vehicular access to and from the Project Site over a proposed clear-span bridge spanning IID's Westside Main Canal. The proposed loop-in switching station would connect the Project to the existing IID Campo Verde-Imperial Valley 230 kV radial gen-tie line, which connects to the Imperial Valley (IV) Substation and CAISO, approximately one-third mile south of the Project Site. CED has submitted the necessary Interconnection Request Applications to the CAISO and IID.

The Project complements both the existing operational renewable energy facilities, and those planned for future development in the County, and supports the broader Southern California's bulk electric transmission system by serving as a firm, dispatchable resource.

2.1 PROJECT OBJECTIVES

The Project would meet the following objectives:

- To construct and operate utility-scale energy storage technologies that are safe, efficient, and environmentally responsible
- To provide load-serving entities and system operators the ability to effectively manage intermittent renewable generation on the grid, thereby creating reliable, dispatchable generation as a firm, dispatchable resource
- To facilitate deployment of additional renewable energy resources in furtherance of the State of California Renewable Portfolio Standard
- To develop an up to 2,000 MW energy storage facility on previously disturbed land that is no longer used for agricultural production
- To promote local economic development by maximizing the utilization of the local workforce for a variety of trades and businesses

2.2 DISCRETIONARY ACTIONS/APPROVALS BY THE COUNTY OF IMPERIAL

The Imperial County Planning and Development Services (ICPDS) is the lead agency for this Project. The lead agency is defined as, "the public agency, which has the principal responsibility for carrying out or approving a project." The ICPDS must undertake the following discretionary actions and approvals for the project:

- **General Plan Amendment:** The Project proposes a General Plan Amendment to change the land use designation for the Project Site from Agriculture to Industry



- **Zone Change:** The Project proposes a Zone Change from Heavy Agriculture (A-3) to Medium Industrial (M-2)
- **Conditional Use Permit:** The use would be limited to Energy Production/Use and would require a Conditional Use Permit (CUP) to allow a utility-scale energy storage complex in an industrial zone
- **Development Agreement:** The applicant may pursue a Development Agreement with the County for the Project
- **Adoption and Certification of the Final EIR:** The Imperial County Board of Supervisors has authority to determine if the environmental document is adequate under CEQA
- **Approval of Project:** The Imperial County Board of Supervisors would consider approval of the Project

Other local approvals that may be required:

- Encroachment permits
- Parcel map
- Grading permits
- Building permits
- Decommissioning plan
- Other County approvals as necessary to develop the project

2.3 DISCRETIONARY ACTIONS/APPROVALS BY OTHER AGENCIES

Responsible Agencies are those agencies that have discretionary approval over one or more actions involved with development of a project. Trustee Agencies are state agencies that have discretionary approval or jurisdiction by law over natural resources affected by a project. These agencies may include but are not limited to the following:

- **California Department of Fish and Wildlife (Trustee Agency):** State Endangered Species Act compliance, California Native Plant Protection Act, Streambed Alteration Permit
- **California Regional Water Quality Control Board, Colorado River Basin, Region 7:** Section 401 Water Quality Certification, General Construction Activity Storm Water Permit
- **California Air Resources Board:** Review of EIR
- **California Energy Commission:** Review of EIR
- **California Public Utilities Commission:** Review of EIR
- **California Department of Toxic Substances Control:** Review of EIR
- **Imperial County Air Pollution Control District:** Rule 801 compliance
- **Imperial County Fire Department:** Review of the Site Plan and approval of the proposed fire system
- **United States Army Corps of Engineers:** The Project may impact jurisdictional waters and therefore, a Section 404 Permit may be required from the Corps

3.0 PROJECT LOCATION

The Project Site is in the unincorporated Mount Signal area of the County, approximately eight miles southwest of the City of El Centro and approximately five miles north of the U.S.-Mexico border.

Infrastructure within the Project Site includes the Westside Main Canal; a 230 kV single-circuit IID transmission line, a IID distribution line, and the Campo Verde 230 kV radial gen-tie line along with their associated easements and maintenance roads; and Liebert Road, which is a County road. Within the



Project Site, all infrastructure associated with the previous agriculture operations south of the Westside Main Canal has been removed or is deteriorated and non-functional.

Current activities on the Project Site are minimal and largely limited to the land north of the Westside Main Canal. These activities comprise IID, Customs and Border Protection (CBP), agricultural operations, and occasional fishing activity along the Canal. Vehicle travel in the Project area is limited along the Canal roads (including Mandrapa Road) and Liebert Road. Infrequent vehicle activity associated with the active agriculture occurs on Liebert Road and Mandrapa Road, north of the Canal. Some vehicular activity may also occur from CBP monitoring.

4.0 ISSUES ADDRESS IN THE EIR

Based on the analysis presented in the NOP, Initial Study (IS), and the information provided in the comments to the NOP, the following environmental topics were analyzed in the EIR.

- Aesthetics
- Agriculture and Forestry Resources
- Air Quality
- Biological Resources
- Geology and Soils
- Greenhouse Gases
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Tribal Cultural Resources
- Utilities and Service Systems

5.0 MITIGATION MONITORING AND REPORTING PROGRAM

Pursuant to PRC §21081.6, the County has adopted a detailed mitigation monitoring and reporting program prepared under the County's direction. The program is designed to ensure that all mitigation measures as hereafter required are in fact implemented on a timely basis as the Project is implemented.

6.0 RECORD OF PROCEEDINGS

For all purposes of CEQA compliance, including these Findings of Fact, the administrative record of all County proceedings and decisions regarding the environmental analysis of the Project include but are not limited to:

- The Draft and Final EIR for the Project, together with all appendices and technical reports referred to therein, whether separately bound or not, or on a CD/portable drive;
- All reports, letters, applications, memoranda, maps, or other planning and engineering documents prepared by the County, its planning consultant and environmental consultant, the Applicant or others and presented to or before the decision-makers or staff;
- All minutes of any public workshops, meetings or hearings, and any recorded or verbatim transcripts or videotapes thereof;
- Any letters, reports, or other documents or evidence submitted into the record at any public workshops, meetings or hearings; and



- Matters of common general knowledge to the County, which it may consider, including applicable state or local laws, ordinances and policies, the General Plan and all applicable planning programs and policies of the County.

Documents or other materials that constitute the record of proceedings upon which Findings are made are located at the Imperial County Department of Planning and Development Services, 801 Main Street, El Centro, CA 92243.

7.0 FINDINGS OF SIGNIFICANT IMPACTS, REQUIRED MITIGATION MEASURES AND SUPPORTING FACTS

The County, having reviewed and considered the information contained in the EIR and the entire administrative record, including but not limited to the expert opinions of the County's professional planning staff and independent consultants familiar with the environmental conditions of the County and the facts and circumstances of the Project who prepared the EIR, finds pursuant to Public Resources Code §21081(a)(1) and Guidelines §15091(a)(1) that changes or alterations have been required in, or incorporated into, the Project which would mitigate, avoid, or substantially lessen to below a level of significance. The following potentially significant environmental effects identified in the EIR.

7.1 AGRICULTURAL AND FORESTRY RESOURCES

7.1.1 Conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to non-agricultural use

- A. **Potential Impact.** The Project would result in the conversion of approximately 148 acres of agricultural land, as identified as Farmland of Local Importance, to a non-agricultural use. The loss of agricultural land designated Prime Farmland and Farmland of Statewide Importance is typically considered a significant impact under CEQA.
- B. **Finding.** Pursuant to CEQA Guidelines §15091(a)(1), changes or alteration have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
- C. **Facts in Support of Finding.** Based on the analysis provided in Section 3.2.3.4 of the EIR, the Project's potentially significant impact would be mitigation to below a level of significance with the implementation of Mitigation Measure (MM) AG-1 of the Draft EIR, as identified below. To verify farmland designation, the LESA model was used with the results provided in Section 3.2.3.4(a) of the EIR. Based on this evaluation, the final LESA score for the Project Site is 59.2. A final LESA score between 40 to 59 points is considered significant if both the Land Evaluation and Site Assessment subscores are greater than or equal to 20 points. In the case of the Project, both the Land Evaluation and Site Assessment scores are greater than 20 points. As such, the Project is considered to have a significant impact on agricultural resources. However, incorporation of MM AG-1, which would require the Project Applicant to minimize the impacts associated with the permanent loss of valuable Farmland through either provision of an agricultural conservation



easement, payment into the County agricultural fee program, or entering into a public benefit agreement, and would reduce impacts to a less than significant level.

The following mitigation measure is required for the Project:

MM AG-1: Payment of Agricultural and Other Benefit Fees

One of the following options included below is to be implemented prior to the issuance of a grading permit or building permit for the Project:

Mitigation for Non-Prime Farmland

- Option 1: Provide Agricultural Conservation Easement(s). The Permittee shall procure Agricultural Conservation Easements on a "1 on 1" basis on land of equal size, of equal quality farmland, outside the path of development. The conservation easement shall meet Department of Conservation regulations and shall be recorded prior to issuance of any grading or building permits; or
- Option 2: Pay Agricultural In-Lieu Mitigation Fee. The Permittee shall pay an "Agricultural In-Lieu Mitigation Fee" in the amount of 20 percent of the fair market value per acre for the total acres of the proposed site based on five comparable sales of land used for agricultural purposes as of the effective date of the permit, including program costs on a cost recovery/time and material basis. The Agricultural In-Lieu Mitigation Fee, will be placed in a trust account administered by the Imperial County Agricultural Commissioner's office and will be used for such purposes as the acquisition, stewardship, preservation, and enhancement of agricultural lands within Imperial County; or,
- Option 3: Public Benefit Agreement. The Permittee and County shall voluntarily enter into an enforceable Public Benefit Agreement or Development Agreement that includes an Agricultural Benefit Fee payment that is 1) consistent with Board Resolution 2012-005; 2) the Agricultural Benefit Fee must be held by the County in a restricted account to be used by the County only for such purposes as the stewardship, preservation and enhancement of agricultural lands within Imperial County and to implement the goals and objectives of the Agricultural Benefit program, as specified in the Development Agreement, including addressing the mitigation of agricultural job loss on the local economy.

7.1.2 Conflict with Existing Zoning for Agricultural use, or a Williamson Act contract

- A. **Potential Impact.** Construction and operation of the Project would conflict with the existing zoning for agricultural use, due to the change in land use designation and zoning. The Project Site currently has a general plan land use designation of Agriculture with a corresponding zoning of A-3. The Project includes the rezoning of the Project Site from A-3 to M-2 to accommodate the proposed battery storage use of the Site. Although operation of the Project would conflict with the current zoning, it provides other economic and energy benefits, which justify the loss of this agricultural use.



- B. **Finding.** Pursuant to CEQA Guidelines §15091(a)(1), changes or alteration have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
- C. **Facts in Support of Finding.** Based on the analysis provided in Section 3.2.3.4(b) of the EIR, the Project's potentially significant impact would be mitigated to below a level significance with the implementation of MM AG-1 of the Draft EIR. Objective 1.8 of the County's Agricultural Element would allow conversion of agricultural land to non-agricultural uses, including renewable energy, only where a clear and immediate need can be demonstrated, based on economic benefits, population projections and lack of other available land (including land within incorporated cities) for such nonagricultural uses. The Jobs Impact Analysis (JIA) prepared for the Project determined that the Project, at full build-out, would generate the equivalent of 1,549 full-time one-year equivalent jobs of the construction period. These are considered as new jobs with a significant economic benefit, as the Project Site has been unused for agriculture or any other uses for over 15 years. As such, the benefits of the Project, due to construction-related activities, outweigh the loss due to the conversion of agricultural uses, and this impact would be less than significant. Furthermore, the Project would implement MM AG-1, which would further reduce potential impacts caused by the rezoning of agricultural land to non-agricultural uses.

The JIA additionally estimated that over the lifespan of the Project, at full build out, 20 entirely new full-time equivalent permanent jobs would be generated as a result of Project operation. As such, based on the JIA, the Project is consistent with Objective 1.8 of the County General Plan Agricultural Element.

An Economic Impact Analysis (EIA) was prepared for the Project, in order to evaluate consistency with Objective 1.8 of the County General Plan Agricultural Element. The EIA calculates the predicted impact to a community or region as a result of a project or activity. It gives an understanding of the quantity of dollars that will flow through an economy as a result of a project. In the case of an energy battery storage project, this includes such items as labor, construction materials, local purchases, and operations. This includes all known direct (and indirect) expenditures, as a result of both construction and operation for the projected life of a project. The economic benefits to the County and region, due to Project operation, would be approximately \$165 million over the lifespan of the Project, at full build-out, not including governmental revenues from taxes and fees. As such, based on the EIA, the Project is consistent with Objective 1.8 of the County General Plan Agricultural Element.

A Fiscal Impact Analysis (FIA) was prepared for the Project, in order to complete the assessment of economic benefits attributed to the Project and evaluate consistency with Objective 1.8 of the County General Plan Agricultural Element. The FIA calculates the amount of revenue that a governmental agency is expected to receive and calculates the projected costs they will incur to provide appropriate services to both the Project and the additional population/employment generated as a result of the Project. A comparison is undertaken to determine if the Project would generate either economic benefit or cost to the government agency.



The following mitigation measure is required for the Project:

MM AG-1

7.1.3 Conversion of Farmland, to non-agricultural use or conservation of forest land to non-forest use

- A. **Potential Impact.** The Project would convert land currently designated as Agricultural to Industry and would result in the conversion of Farmland to a non-agricultural use.
- B. **Finding.** Pursuant to CEQA Guidelines §15091(a)(1), changes or alteration have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
- C. **Facts in Support of Finding.** Based on the analysis provided in Section 3.2.3.4(c) of the EIR, the Project's potentially significant impact would be mitigated to below a level of significance with the implementation of MM AG-1 of the Final EIR. Construction of the Project would result in the conversion of Farmland to a non-agricultural use. Other than the Project Site, no other agricultural land would be converted to a non-agricultural use. Due to the location of the Project Site, no "leapfrogging" or "spot zoning" of agricultural land would occur, as the Project Site is not located in the middle of other agricultural areas which would be cut off or otherwise negatively impacted by development of the Project. As described above, per Objective 1.8 of the County General Plan Agricultural Element, agricultural land may be converted to non-agricultural uses including renewable energy only where a clear and immediate need can be demonstrated based on economic benefits, population projections and lack of other available land (including land within incorporated cities) for such non-agricultural uses. As demonstrated by the EIA, JIA, and FIA, rezoning the land to be utilized for the Project would show a significant overall fiscal benefit.

Based on the evaluations above, the economic benefits of Project operations would outweigh the loss caused by the conversion of Farmland, in accordance with Objective 1.8 of the County General Plan Agricultural Element

At the end of the Project's lifespan, the Project components would be disassembled and removed from the Project Site. All battery module components, hazardous materials, and solar PV panels would be disassembled and transported off-site for proper disposal. Although the Project components would be removed from the Project Site, the Project Site itself would not revert back to is Agriculture land use designation and pre-Project condition. The Project would develop new access roads which may have the potential to attract or encourage new development of adjacent farmlands. All structural and infrastructure improvements included as part of the Project (e.g., Westside Main Canal bridge, access roads, O&M building, and buildings housing battery energy storage systems) would remain on-site after decommissioning of the Project. The Project Site would retain its Industry land use designation and M-2 zoning.

The following mitigation measure is required for the Project:

MM AG-1



7.2 AIR QUALITY

7.2.1 Cumulative Net Increase of Any Criteria Pollutants for which the Project Region is Non-Attainment under and Applicable Federal or State Ambient Air Quality Standard

- A. **Potential Impact.** Construction and operation of the Project would result in a cumulative increase in emissions of criteria pollutants and fugitive dust associated with the use of off-road diesel equipment and vehicle trips. The Project would result in emissions of criteria pollutants for which the region is nonattainment.
- B. **Finding.** Pursuant to CEQA Guidelines §15091(a)(1), changes or alteration have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
- C. **Facts in Support of Finding.** Based on the analysis provided in Section 3.3.3.4(b) of the EIR, the Project's potentially significant impact would be mitigation to below a level of significance with the implementation of MM AIR-1, MM AIR-2, and MM AIR-3 of the EIR.

Phase 1 construction would include multiple construction activities as compared to later phases and would represent the worst-case daily emissions scenario for the Project. The maximum daily emissions are predicted values for the worst-case day and do not represent the emissions that would occur for every day of construction. Table 3.3-7 shows the maximum daily construction emissions for Phase 1 of the Project. As shown in Table 3.3-7, the maximum daily construction emissions would be below all Imperial County Air Pollution Control District (ICAPCD) significance thresholds.

Prior to construction, the construction contractor will perform recordkeeping of a construction equipment list. The equipment list will include the make, model, horsepower, and actual hours of usage for off-road equipment. The equipment list(s) will be submitted periodically to the IAPCD to perform a nitrogen oxides (NOx) analysis.

Operational emissions would occur over the lifetime of the Project generating emissions from vehicle trips and area sources such as landscaping equipment. Table 3.3-6 of the EIR shows the maximum daily operational emissions.

At the end of the Project's useful operational life, the Applicant may determine that the Project Site should be decommissioned and deconstructed, or it may seek an extension of its CUP. The emissions associated with decommissioning of the Project are not quantitatively estimated, as the extent of activities and emissions factors for equipment and vehicles at the time of decommissioning are unknown. The overall activity would be anticipated to be somewhat less than Project construction, and the emissions from off-road and on-road equipment are expected to be much lower than those for the Project construction. However, without changes in fugitive dust control methods it is likely that fugitive dust emissions would be closer to those estimated for construction.



The following mitigation measures are required for the Project:

MM AIR-1: Regulation VIII (Fugitive Dust Control Measures)

All construction sites, regardless of size, must comply with the requirements contained within Regulation VIII.

Standard Mitigation Measures for Fugitive Dust (PM10) Control

- a) All disturbed areas, including Bulk Material storage which is not being actively utilized, shall be effectively stabilized and visible emissions shall be limited to no greater than 20 percent opacity for dust emissions by using water, chemical stabilizers, dust suppressants, tarps, or other suitable material such as vegetative ground cover.
- b) All on-site and off-site unpaved roads would be effectively stabilized, and visible emissions shall be limited to no greater than 20 percent opacity for dust emissions by paving, chemical stabilizers, dust suppressants and/or watering.
- c) All unpaved traffic areas 1 acre or more with 75 or more average vehicle trips per day would be effectively stabilized and visible emission shall be limited to no greater than 20 percent opacity for dust emissions by paving, chemical stabilizers, dust suppressants and/or watering.
- d) The transport of Bulk Materials shall be completely covered unless 6 inches of freeboard space from the top of the container is maintained with no spillage and loss of Bulk Material. In addition, the cargo compartment of all Haul Trucks is to be cleaned and/or washed at delivery site after removal of Bulk Material.
- e) All Track-Out or Carry-Out would be cleaned at the end of each workday or immediately when mud or dirt extends a cumulative distance of 50 linear feet or more onto a paved road within an urban area.
- f) Movement of Bulk Material handling or transfer shall be stabilized prior to handling or at points of transfer with application of sufficient amounts of water, chemical stabilizers or by sheltering or enclosing the operation and transfer line.
- g) The construction of any new unpaved road is prohibited within any area with a population of 500 or more unless the road meets the definition of a temporary unpaved road. Any temporary unpaved road shall be effectively stabilized, and visible emissions shall be limited to no greater than 20 opacity for dust emission by paving, chemical stabilizers, dust suppressants and/or watering.

MM AIR-2: Construction Equipment Control Measures

Standard Mitigation Measures for Equipment Exhaust Emissions Control

- a) Use of equipment with alternative fueled or catalyst-equipped diesel engine, including for all off-road and portable diesel-powered equipment.



- b) Minimize idling time either by shutting equipment off when not in use or limit the idling time to a maximum of 5 minutes.
- c) Limit, to the extent feasible, the hours of operation of heavy-duty equipment and/or the number of equipment in use.
- d) Replace fossil fueled equipment with electrically driven equivalents (provided they are not run via a portable generator set).

Required Mitigation for Construction Equipment Mobilization

- a) The 1.2-mile portion of the access road from the IV Substation to the Project Site shall be covered with construction mats.
- b) No more than eight pieces of construction equipment shall be delivered to the Project Site in one day.
- c) A speed limit of 15 mph on the access road shall be enforced.

Required Mitigation for Construction activities

- a) The 1.2-mile portion of the southern access road from the IV Substation to the Project Site shall be covered with construction mats.
- b) A material delivery speed limit of 15 mph on the access road shall be enforced.
- c) For material deliveries from the south, one of the following dust suppressant measures would be required for the 4.4-mile service road:
 - d) A water truck shall apply water every 3 hours, or as deliveries occur; or
 - e) A chemical dust suppressant shall be applied.
- f) For the 0.3-mile portion of the northern access route that is unpaved (south of Wixom Road to the worker parking area) one of the following dust suppressant measures would be required:
 - A water truck shall apply water every 3 hours, or as worker access occurs; or
 - A chemical dust suppressant shall be applied.
 - A water truck shall apply water to all active on-site grading areas every 3 hours.

Enhanced Mitigation Measures for Construction Equipment

To help provide a greater degree of reduction of PM emissions from construction combustion equipment, ICAPCD recommends the following enhanced measures:

- a) Curtail construction during periods of high ambient pollutant concentrations; this may include ceasing of construction activity during the peak hour of vehicular traffic on adjacent roadways.



- b) Implement activity management (e.g., rescheduling activities to reduce short-term impacts).

MM AIR-3: Operational Dust Control Plan

To help reduce fugitive dust emissions from on-site unpaved roads and accumulation of small dunes during operations, an Operational Dust Control Plan (ODCP) would be prepared. The ODCP would include strategies for how dust emissions would be controlled and maintained during Project operations. The ODCP would be submitted to the ICAPCD for approval prior to the issuance of a Certificate of Occupancy.

7.2.2 Expose Sensitive Receptors to Substantial Pollutant Concentrations

- A. **Potential Impact.** Construction of the Project may result in temporary increases in emissions of Toxic Air Contaminants.
- B. **Finding.** Pursuant to CEQA Guidelines §15091(a)(1), changes or alteration have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
- C. **Facts in Support of Finding.** Based on the analysis provided in Section 3.3.3.4(c) of the EIR, the Project's potentially significant impact would be mitigated to below a level of significance with the implementation of MM AIR-1, MM AIR-2 and MM-AIR-3 of the EIR. Construction of the Project may result in temporary increases in emissions of toxic air contaminants (TACs), mainly diesel particulate matter (DPM) from off-road diesel equipment and vehicle trips. Particle matter (PM) exhaust from diesel-fueled engines were identified as a toxic air contaminant by the California Air Resources Board (CARB) in 1998. Due to the limited intensity of construction and the distance to the nearest sensitive receptor (4,000 feet), DPM generated by Project construction activities is not expected to create conditions where the incremental cancer risk exceeds the ICAPCD's ten in one million significance threshold or non-cancer hazard index thresholds.

Localized carbon monoxide (CO) concentration is a direct function of motor vehicle activity at signalized intersections (e.g., idling time and traffic flow conditions), particularly during peak commute hours and meteorological conditions. Under specific meteorological conditions (e.g., stable conditions that result in poor dispersion), CO concentrations may reach unhealthy levels with respect to local sensitive land uses. CO hotspots due to traffic almost exclusively occur at signalized intersections that operate at a level of service (LOS) E or below. Projects may result in or contribute to a CO hotspot if they worsen traffic flow at signalized intersections operating at LOS E or F. The Project Site is in a rural environment with no signalized traffic intersections within several miles of the Project Site.

The following mitigation measure are required for the Project:

MM AIR-1

MM AIR-2



MM AIR-3

7.3 BIOLOGICAL RESOURCES

7.3.1 Loss of Foraging Habitat for Common and/or Special-Status Wildlife

- A. **Potential Impact.** Implementation of the Project would cause the loss of foraging habitat for common and/or special-status species.
- B. **Finding.** Pursuant to CEQA Guidelines §15091(a)(1), changes or alteration have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
- C. **Facts in Support of Finding.** Based on the analysis provided in Section 3.4.4.4(a) of the EIR, the Project's potentially significant impact would be mitigated to below a level of significance with the implementation of MM BR-1 and MM BR-2 of the EIR. Although the Project occurs within an area supporting large areas of open space not all these areas support the same types of habitat as the Project area and support different land use practices (i.e., agriculture, etc.). The Project would permanently impact approximately 144.51 acres and temporarily impact approximately 18.81 acres of native and non-native vegetation communities and land cover types. Therefore, while the overall loss of foraging habitat compared to available habitat in the region is low, Project-related impacts to foraging habitat for wildlife are considered significant without mitigation.

The primary mechanism for reducing impacts from habitat loss is the acquisition and preservation of mitigation lands and the reduction of indirect impacts such as the spread of weeds or degradation of habitat by fugitive dust or erosion. The measures presented in MM BR-1 include acquisition and preservation of mitigation lands and provisions that educate workers regarding the sensitivity of wildlife and how to minimize impacts to these species through Best Management Practices (BMPs), reduced vehicle speeds, and restoration of temporarily disturbed areas. Impacts would be less than significant with mitigation.

The following mitigation measures are required for the Project:

MM BR-1: Compensation for Permanent and Temporary Impacts to Vegetative Communities

To compensate for permanent and temporary impacts to on-site vegetative communities, within the Project Site, habitat (which may include preservation areas within portions of the Project Site not impacted by construction or mitigation lands outside of the main Project Site) that contains the same quality of vegetative communities impacted by the Project and that is not already public land shall be preserved and managed in perpetuity at the following ratios – temporary impacts to native vegetation communities shall be mitigated at a 1:1 mitigation ratio (one acre preserved/restored for each acre impacted) and permanent impacts shall be mitigated at a ratio of 2:1. Impacts to CDFW listed sensitive or riparian communities shall be mitigated at a ratio of 3:1. Land acquired/dedicated for impacts to native vegetation communities must be with lands occupied by habitat of a similar type and quality.



Prior to the disturbance of vegetation, the Applicant shall obtain County approval of preserved and/or mitigation lands as well as documentation of a recorded conservation easement. The compensation for the loss of habitats may be achieved either by a) on-site habitat creation or enhancement habitats with similar species composition to those present prior to construction, b) off-site creation or enhancement of, or c) participation in an established mitigation bank program.

Prior to the removal of native vegetation, if on- or off-site mitigation is required, a Habitat Restoration Plan (HRP) shall be prepared that will guide all restoration and monitoring activities (refer to MM BR-2 for details on the plan requirements).

MM BR-2: Develop a Habitat Restoration Plan

The Applicant shall restore temporarily disturbed areas to pre-construction conditions or better prior to the issuance of a grading permit and removal of any vegetation and/or wetland habitat. To this end, the Applicant shall retain a County qualified biologist, knowledgeable in the area(s) of annual grassland and wetland habitat restoration, to prepare a Habitat Restoration Plan (HRP). The Applicant shall submit the HRP to the County for approval (in consultation with CDFW and USFWS). The biologist will also be responsible for monitoring the implementation of the plan as well as the progress on achieving the established success criteria.

The HRP shall expressly identify the process by which all disturbed areas shall be restored to pre-construction conditions or better. The plan will address restoration and revegetation related to disturbance from construction. It will also address restoration and revegetation required after decommissioning of the Project should this be required. The decommissioning plan shall include, at a minimum, the following items:

- a) Figures depicting areas proposed for temporary disturbance/mitigation lands – The HRP shall include detailed figures indicating the locations and vegetation types of areas proposed for temporary disturbance. These figures shall be updated, as necessary, to reflect current Site conditions should they change.
- b) Proposed species for restoration/revegetation – The species palette proposed for restoration/revegetation shall include a combination of native annual and perennial species known to currently occur on the Project Site and in adjacent habitats.
- c) Seed source and collection guidelines – Seeds shall first be collected from the stock of native plants occurring on the Project Site, during the appropriate collection period (late spring through the summer, depending on the species) and prior to disturbance from construction activities. Additional seed may be collected from stock within a 25-mile radius will be collected to maintain local genetic integrity. If seed collection from these areas is not possible then a seed source must be obtained from a local seed supplier familiar with native species. Seed will be limited to the species and quantity specified in the seed mix palette prepared for the Project. All seed will originate from the Project region, within +/- 1000 feet elevation of the Project Site. The seed supplier chosen will provide a list of three references with the bid proposal. The references will include year, contact names, and telephone numbers. Seeds will be tested for percent purity,



percent germination, number of pure live seeds per pound, and weed seed content. Seed testing will be the responsibility of the seed supplier.

- d) Planting methodology – A description of the preferred methods proposed for container plant installation or seeding shall be provided (e.g., hydroseeding, drill seeding, broadcast seeding, etc.). Additionally, a discussion on timing of seeding, type of irrigation system proposed, potential need of irrigation, type and duration of irrigation, and erosion controls proposed for revegetation activities shall be included.
- e) Invasive, non-native vegetation Control – A comprehensive discussion on weed control for the Project Site will be developed and included in the HRP. This will serve to prevent the type conversion of natural habitats to those dominated by invasive species known to occur in the area.
- f) Monitoring program – Areas subject to restoration/revegetation shall be monitored to assess conditions and to make recommendations for successful habitat establishment. Monitoring will be performed by a County qualified biologist(s), knowledgeable in the area of annual grassland habitat restoration. Monitoring should include, at a minimum, the following:
 - 1. Qualitative Monitoring – Qualitative monitoring surveys will be performed monthly in all restored/revegetated areas for the first year following planting in any phase of the Project. Qualitative monitoring will be on a quarterly schedule thereafter, until final completion approval of each restoration/revegetation area. Qualitative surveys will assess native plant species performance, including growth and survival, germination success, reproduction, plant fitness and health as well as pest or invasive plant problems. A County qualified wildlife biologist will assist in monitoring surveys and will actively search for mammal and other wildlife use.
 - 2. Quantitative Monitoring – Quantitative monitoring will occur annually for years one to five or until the success criteria are met. Within each revegetation area, as shown figures referenced above, the biologist will collect data in a series of 1 m² quadrats to estimate cover and density of each plant species within the revegetated areas. Data will be used to measure native species growth performance, to estimate native and non-native species coverage, seed mix germination, native species recruitment and reproduction, and species diversity. Additionally, within wetland habitat restoration areas, the biologist shall conduct sampling events to document the presence of hydric soil characteristics/indicators (if present). Based on these results, the biologist will make recommendations for maintenance or remedial work on the Site and for adjustments to the approved seed mix.
- g) Success criteria – Criteria for successful restoration/revegetation of disturbed areas shall be provided.
- h) Reporting – Reporting will include progress reports summarizing Site status and recommended remedial measures that will be submitted by the biologist to the County quarterly, with the exception of the Site visits immediately preceding the development of each annual status report



(see below). Each progress report will list estimated species coverage and diversity, species health and overall vigor, the establishment of volunteer native species, topographical/soils conditions, problem weed species, the use of the Site by wildlife species, significant drought stress, and any recommended remedial measures deemed necessary to help ensure compliance with specified performance criteria.

One annual Site status report that summarizes Site conditions will be forwarded by the biologist to the County, the USFWS and the CDFW at the end of each year following implementation of this plan until the established success criteria have been met. Each annual report will list species coverage and diversity measured during yearly quantitative surveys, compliance/non-compliance with required performance standards, species health and overall vigor, the establishment of volunteer native species, hydrological and topographical conditions, the use of the Site by wildlife species, and the presence of invasive weed species. In the event of substantial non-compliance with the required performance criteria, the reports will include remedial measures deemed necessary to help ensure future compliance with specified performance criteria. Each annual report will include, at the minimum:

1. The name, title, and company of all persons involved in restoration monitoring and report preparation
2. Maps or aerials showing restoration areas, transect locations, and photo documentation locations
3. An explanation of the methods used to perform the work, including the number of acres treated for removal of non-native plants
4. An assessment of the treatment success.

7.3.2 Disturbance to Wildlife May Result in Wildlife Mortality

- A. **Potential Impact.** Implementation of the Project would result in disturbance to wildlife and may result in wildlife mortality.
- B. **Finding.** Pursuant to CEQA Guidelines §15091(a)(1), changes or alteration have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
- C. **Facts in Support of Finding.** Based on the analysis provided in Section 3.4.4.4(a) of the EIR, the Project's potentially significant impact would be mitigated to below a level of significance with the implementation of MM BR-3, MM BR-4, MM BR-5, MM BR-6 and MM BR-7 of the EIR. The Project Site supports a suite of common and sensitive wildlife species. Direct impacts to wildlife associated with construction of the Project could include mortality from trampling or crushing; increased noise levels due to heavy equipment use; light impacts from construction during low-light periods; increased vehicular and human presence along existing access roads; displacement due to habitat modifications, including vegetation removal, alterations of existing soil conditions; fugitive dust; and increased erosion and sediment transport. Operational impacts



to wildlife would include mortality from vehicle strikes, disturbance from vegetation management activities, potential disruption of nest sites, noise from transformer or facility operations and lighting, human disturbance, and the spread of noxious weeds from maintenance personnel. For avian species, lighting plays a significant role in collision risk with poles and/or towers because lights can attract nocturnal migrant songbirds.

Construction-related impacts on common wildlife are typically not considered significant under CEQA; impacts to some common wildlife (e.g., nesting birds) are considered significant may have regulatory implications under the Federal and State Endangered Species Acts. However, the large scale of the construction, multi-year schedule, and size of the land use conversion would result in potentially significant impacts on common species in the Project area. Implementation of MMs BR-1 through BR-7 would provide for the protection of common wildlife by educating workers on the avoidance mechanisms in place to avoid impacts to common and sensitive species or their habitat, restoring temporarily disturbed areas post construction, and acquiring off-site habitat. The measures would also include directives that educate workers regarding reduced vehicle speeds and general work practices that reduce conflicts with native species. Implementation of mitigation measures would reduce potential impacts on wildlife mortality to less-than-significant levels.

The following mitigation measures are required for the Project:

MM BR-3: Implement a Worker Environmental Education Program

Prior to any Project activities on the Site (i.e., surveying, mobilization, fencing, grading, or construction), a Worker Environmental Education Program (WEEP) shall be prepared and implemented by a qualified biologist(s). The WEEP shall be submitted to the County for review and approval prior to issuance of construction permits and implemented throughout the duration of the construction activities. The WEEP shall be put into action prior to the beginning of any Site related activities, including but not limited to those activities listed above, and implemented throughout the duration of Project construction. The WEEP, shall include, at a minimum, the following items:

- a) Training materials and briefings shall include, but not be limited to: a discussion of the Federal and State Endangered Species Acts, BGEPA, and the MBTA; the consequences of non-compliance with these acts; identification and values of plant and wildlife species and significant natural plant community habitats; hazardous substance spill prevention and containment measures; a contact person and phone number in the event of the discovery of dead or injured wildlife; and a review of mitigation requirements.
- b) A discussion of measures to be implemented for avoidance of the sensitive resources discussed above and the identification of an on-site contact in the event of the discovery of sensitive species on the Site.
- c) Protocols to be followed when roadkill is encountered in the work area or along access roads to minimize potential for additional mortality of scavengers, including listed species such as the California condor and the identification of an on-site representative to whom the roadkill will be reported. Roadkill shall be reported to the appropriate local animal control agency within 24 hours.



- d) Maps showing the known locations of special-status wildlife, populations of rare plants and sensitive vegetative communities, seasonal depressions and known waterbodies, wetland habitat, exclusion areas, and other construction limitations (e.g., limited operating periods, etc.). These features shall be included on the Project's plans and specifications drawings.
- e) Literature and photographs or illustrations of potentially occurring special-status plant and/or wildlife species will be provided to all Project contractors and heavy equipment operators.
- f) The Applicant shall provide to the County evidence that all on-site construction and security personnel have completed the WEEP prior to the start of Site mobilization. A special hardhat sticker or wallet size card shall be issued to all personnel completing the training, which shall be carried with the trained personnel at all times while on the Project Site. All new personnel shall receive this training and may work in the field for no more than five days without participating in the WEEP. A log of all personnel who have completed the WEEP training shall be kept on Site.
- g) A weather protected bulletin board or binder shall be centrally placed or kept on-site (e.g., in the break room, construction foreman's vehicle, construction trailer, etc.) for the duration of the construction. This board or binder will provide key provisions of regulations or Project conditions as they relate to biological resources or as they apply to grading activities. This information shall be easily accessible for personnel in all active work areas.
- h) Develop a standalone version of the WEEP, that covers all previously discussed items above, and that can be used as a reference for maintenance personnel during Project operations.

MM BR-4: Implementation of Best Management Practices

BMPs will be implemented as standard operating procedures during all ground disturbance, construction, and operation related activities to avoid or minimize Project impacts on biological resources. These BMPs will include but are not limited to the following:

- a) Compliance with BMPs will be documented and provided to the County in a written report on an annual basis. The report shall include a summary of the construction activities completed, a review of the sensitive plants and wildlife encountered, a list of compliance actions and any remedial actions taken to correct the actions, and the status of ongoing mitigation efforts.
- b) Prior to ground disturbance of any kind the Project work areas shall be clearly delineated by stakes, flags, or other clearly identifiable system.
- c) Vehicles and equipment shall be parked on pavement, existing roads, and previously disturbed areas to the extent practicable.
- d) Speed limit signs, imposing a speed limit of 15 miles per hour, will be installed throughout the Project Site prior to initiation of Site disturbance and/or construction. To minimize disturbance of areas outside of the construction zone, all Project-related vehicle traffic shall be restricted to established roads, construction areas, and other designated areas. These areas will be included in preconstruction surveys and to the extent possible, should be established in locations disturbed by previous activities to prevent further impacts. Off-road traffic outside of designated Project areas will be prohibited.
- e) No vehicles or equipment shall be refueled within 100 feet of an ephemeral drainage or wetland unless a bermed and lined refueling area is constructed. Spill kits shall be maintained on-site in sufficient quantity to accommodate at least three complete vehicle tank failures of 50 gallons each.



Westside Canal Battery Storage Project
Draft Environmental Impact Report
CEQA Findings

Any vehicles driven and/or operated within or adjacent to drainages or wetlands shall be checked and maintained daily to prevent leaks of materials.

- f) All general trash, food-related trash items (e.g., wrappers, cans, bottles, food scraps, cigarettes, etc.) and other human-generated debris will be stored in animal proof containers and/or removed from the Site each day. No deliberate feeding of wildlife will be allowed.
- g) All pipes and culverts with a diameter of greater than 4 inches shall be capped or taped closed. Prior to capping or taping the pipe/culvert shall be inspected for the presence of wildlife. If encountered the wildlife shall be allowed to escape unimpeded.
- h) No firearms will be allowed on the Project Site, unless otherwise approved for security personnel.
- i) To prevent harassment or mortality of listed, special-status species and common wildlife, or destruction of their habitats no domesticated animals of any kind shall be permitted in any Project area.
- j) Use of chemicals, fuels, lubricants, or biocides will be in compliance with all local, state, and federal regulations. All uses of such compounds shall observe label and other restrictions mandated by the U.S. EPA, California Department of Food and Agriculture, and other state and federal legislation, as well as additional Project-related restrictions deemed necessary by the USFWS and CDFW. Use of rodenticides is restricted.
- k) Any contractor or employee that inadvertently kills or injures a special-status animal, or finds one either dead, injured, or entrapped, will immediately report the incident to the on-site representative identified in the WEEP. The representative will contact the USFWS, CDFW, and County by telephone by the end of the day, or at the beginning of the next working day if the agency office is closed. In addition, formal notification shall be provided in writing within three working days of the incident or finding. Notification will include the date, time, location, and circumstances of the incident. Any threatened or endangered species found dead or injured will be turned over immediately to CDFW for care, analysis, or disposition.
- l) During the Site disturbance and/or construction phase, grading and construction activities before dawn and after dusk, is prohibited.
- m) Avoidance and minimization of vegetation removal within active construction areas, including the flagging of sensitive vegetative communities or plants.
- n) Avoidance and minimization of construction activities resulting in impacts to wetlands, streambeds, and banks of any ephemeral drainage unless permitted to do so.
- o) All excavation, steep-walled holes, or trenches in excess of 6 inches in depth will be covered at the close of each working day by plywood or similar materials or provided with one or more escape ramps constructed of earth dirt fill or wooden planks. Trenches will also be inspected for entrapped wildlife each morning prior to onset of construction activities and immediately prior to covering with plywood at the end of each working day. Before such holes or trenches are filled, they will be thoroughly inspected for entrapped wildlife. Any wildlife discovered will be allowed to escape before construction activities are allowed to resume or removed from the trench or hole by a qualified biologist holding the appropriate permits (if required).
- p) New light sources will be minimized, and lighting will be designed (e.g., using down- cast lights) to limit the lighted area to the minimum necessary.



MM BR-5: Wildlife Pre-Construction Surveys and Biological Monitoring

Prior to ground disturbance or vegetation clearing within the Project Site, a qualified biologist shall conduct surveys for wildlife (no more than 72 hours prior to Site disturbing activities) where suitable habitat is present and directly impacted by construction activities. Wildlife found within the Project Site or in areas potentially affected by the Project will be relocated to the nearest suitable habitat that will not be affected by the Project prior to the start of construction. Special-status species found within a Project impact area shall be relocated by an authorized biologist to suitable habitat outside the impact area.

MM BR-6: Implement Biological Construction Monitoring

Prior to the commencement of ground disturbance or Site mobilization activities the Applicant shall retain a qualified biologist(s), for the duration of Project construction, with demonstrated expertise with listed and/or special-status plants, terrestrial mammals, and reptiles to monitor(s), on a daily basis, all construction activities. The qualified biologist(s) shall be present at all times during ground-disturbing activities immediately adjacent to, or within, habitat that supports populations of the listed or special-status species identified within the Project boundaries. Any listed or special-status plants shall be flagged for avoidance. Any special-status terrestrial species found within a Project impact area shall be relocated by the authorized biologist and relocated to suitable habitat outside the impact area. If the installation of exclusion fencing is deemed necessary by the authorized biologist, the authorized biologist shall direct the installation of the fence. Clearance surveys for special-status species shall be conducted by the authorized biologist prior to the initiation of construction each day.

If the biological monitor observes a dead or injured listed or special-status wildlife species on the construction Site during construction, a written report shall be sent to the County, CDFW and/or USFWS within five calendar days. The report will include the date, time of the finding or incident (if known), and location of the carcass and circumstances of its death (if known). The biological monitor shall, immediately upon finding the remains, coordinate with the on-site construction foreman to discuss the events that caused the mortality (in known), and implement measures to prevent future incidents. Details of these measures shall be included with the report. Species remains shall be collected and frozen as soon as possible, and CDFW and/or USFWS shall be contacted regarding ultimate disposal of the remains.

MM BR-7: Conduct Pre-construction Surveys for Nesting and Breeding Birds and Implementation of Avoidance Measures

Prior to any Site disturbance (i.e., mobilization, staging, grading or construction), the Applicant shall retain a qualified biologist(s) to conduct pre-construction surveys for nesting birds within the recognized breeding season (generally February 15 – September 15 but may start earlier for some raptor species) in all areas within 500 feet of Project components (staging areas, substation sites, battery facility structures including, solar arrays, and access road locations). The initial survey event must be completed no more than three days prior to vegetation removal or ground disturbing activities. The required survey dates may be modified based on local conditions, as determined by the qualified biologist(s), with the approval of the County, in consultation with the USFWS and/or CDFW. Measures intended to exclude nesting birds shall not be implemented without prior approval by the County in consultation with USFWS and/or CDFW and shall not exceed County noise standards.



If breeding birds with active nests are found prior to or during construction, a biological monitor shall establish a 300-foot buffer around the nest for ground-based construction activities and no activities will be allowed within the buffer(s) until the young have fledged from the nest or the nest fails.

The prescribed buffers may be adjusted to reflect existing conditions including ambient noise, topography, and disturbance with the approval of the County, CDFW and USFWS as appropriate. The biological monitor(s) shall conduct regular monitoring of the nest to determine success/failure and to help ensure that Project activities are not conducted within the buffer(s) until the nesting cycle is complete or the nest fails. The biological monitor(s) shall be responsible for documenting the results of the surveys and ongoing monitoring and will provide a copy of the monitoring reports for impact areas to the respective agencies.

If for any reason a bird nest must be removed during the nesting season, the Applicant shall provide written documentation providing concurrence from the USFWS and CDFW authorizing the nest relocation. Additionally, the Applicant shall provide a written report documenting the relocation efforts. The report shall include what actions were taken to avoid moving the nest, the location of the nest, what species is being relocated, the number and condition of the eggs taken from the nest, the location of where the eggs are incubated, the survival rate, the location of the nests where the chicks are relocated, and whether the birds were accepted by the adopted parent.

Surveys shall be conducted to include all structural components, related structures, as well as all construction equipment. If birds are found to be nesting in battery facility structures, buffers as described above shall be implemented. If birds are found to be nesting in construction equipment, that equipment shall not be used until the young have fledged the nest or, if no young are present, until after the breeding season has passed.

If trees are to be removed as part of Project-related construction activities, they will be done so outside of the nesting season to avoid additional impacts to nesting raptors. If removal during the nesting season cannot be avoided, the biological monitor must confirm that the nest is vacant prior to its removal. If nests are found within these structures and contain eggs or young, the biological monitor shall allow no activities within a 300-foot buffer for nesting birds and/or a 500-foot buffer for raptors until the young have fledged the nest.

7.3.3 Loss of Nesting Birds or Raptors

- A. **Potential Impact.** Project construction and operation could result in the loss of nesting birds or raptors.
- B. **Finding.** Pursuant to CEQA Guidelines §15091(a)(1), changes or alteration have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
- C. **Facts in Support of Finding.** Based on the analysis provided in Section 3.4.4.4(a) of the EIR, the Project's potentially significant impact would be mitigated to below a level of significance with the implementation of MM BR-3, MM BR-4, MM BR-5, MM BR-6 and MM BR-8 of the EIR. Direct



impacts to nesting birds include ground-disturbing activities associated with construction of the Project, including battery facility structures, solar array footing preparation, construction and grading of new access roads, increased noise levels from heavy equipment, increased human presence, and exposure to fugitive dust. Indirect impacts to nesting birds include facility maintenance, human disturbance, the spread of noxious weeds and disruption of breeding or foraging activity due to facility maintenance. Weed abatement and maintenance of the retention basins could also affect nesting. Operational impacts to nesting birds pose a substantial concern for the Project. In the Project region and other ecosystems where nest substrate is often a limiting factor, birds will nest in a variety of manmade substrates including vehicles, debris piles, and other fixed structures. Some species of birds would likely nest in the Project Site during construction and operation of the facility.

Implementation of mitigation measures would provide for the protection of nesting birds through worker education, pre-construction surveys for nesting birds, avoidance of active nest sites, construction monitoring, and the control of fugitive dust. These measures would also provide for the restoration of areas subject to temporary disturbance and manage the Site for noxious weeds. These measures would be effective, are typical of those required for other construction projects and would provide for compliance with the Migratory Bird Treaty Act (MBTA). Implementation of mitigation measures would reduce potential impacts on wildlife disturbance to less-than-significant levels.

The following mitigation measures are required for the Project:

MM BR-3

MM BR-4

MM BR-5

MM BR-6

MM BR-8: Implement Avian Power Line Interaction Committee Guidelines

The Applicant will be required to construct all transmission facilities, towers, poles, and lines in accordance with and comply with all policies set forth in the *Suggested Practices for Raptor Protection on Power Lines: The State of the Art in 2006* and *Reducing Avian Collisions with Power Lines: The State of the Art in 2012* (APLIC), to minimize avian electrocutions as a result of the construction of the Project. Details of design components shall be indicated on all construction plans and measures to comply with Avian Power Line Interaction Committee (APLIC) policies and guidelines shall be detailed in a separate attachment, all of which will be submitted with the construction permit application. The Applicant shall be required to monitor for new versions of the APLIC guidelines and update designs or implement new measures as needed during Project construction, provided these actions do not require the purchase of previously ordered transmission line structures. A review of compliance with submitted materials will be conducted prior to the final County inspection.



7.3.4 Disturbance of Endangered, Threatened, Proposed, Petitioned or Candidate Plant Species or Their Habitat

- A. **Potential Impact.** The Project could disturb endangered, threatened, proposed, petition or candidate plant species of their habitat.
- B. **Finding.** Pursuant to CEQA Guidelines §15091(a)(1), changes or alteration have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
- C. **Facts in Support of Finding.** Based on the analysis provided in Section 3.4.4.4(a) of the EIR, the Project's potentially significant impact would be mitigated to below a level of significance with the implementation of MM BR-3, MM BR-4, MM BR-5, MM BR-6, MM BR-9 and MM BR-10 of the EIR. The most effective mechanism for reducing impacts to sensitive plant species is to avoid or minimize on-site impacts. Currently, listed plant species have not been identified on the Project Site. However, because the expression of listed plants can be varied even in a good rain year it is possible that listed plants may be detected during the multi-year construction period. Therefore, the key mitigation strategy is to require the Applicant to conduct surveys and avoid populations of listed plants if detected. If the plants cannot be avoided the Applicant would be required to mitigate through the acquisition and protection of listed plant populations on private lands. This strategy would necessitate botanical surveys of proposed lands acquired as mitigation for various wildlife species if these lands are intended to serve mitigation sites for listed plants. The Applicant could also protect on-site populations provided they are protected through a conservation easement. The Applicant would be required to prepare and implement a habitat management plan to help ensure long-term conservation of these species. The goal of the surveys would be to identify at minimum the number of occurrences of each special-status species on off-site compensation lands as would be impacted by the Project. To the extent that off-site surveys document listed plant occurrences on lands to be set aside by the Applicant in perpetuity as habitat mitigation for sensitive wildlife species, then on-site mitigation requirements may be reduced. These measures coupled with general avoidance and worker education would provide an effective mitigation strategy to reduce impacts to listed plant species.

To reduce impacts of the Project on endangered, threatened, proposed, petitioned or candidate plant species or their habitat, mitigation measures have been identified and are listed above. Implementation of mitigation measures would reduce potential impacts on plant species to less-than-significant levels.

The following mitigation measures are required for the Project:

MM BR-3

MM BR-4

MM BR-5

MM BR-6



MM BR-9: Conduct Pre-construction Surveys for State and Federally Threatened, Endangered, Proposed, Petitioned, and Candidate Plants and Implementation of Avoidance Measures

Prior to initial ground disturbance and for undisturbed areas in subsequent construction years, the Applicant shall conduct pre-construction surveys for State and federally listed Threatened and Endangered, Proposed, Petitioned, and Candidate plants in all areas subject to ground-disturbing activity, including, but not limited to, battery facility structures including, access roads, poles/towers, solar array footing preparation, construction areas, and assembly yards. The surveys shall be conducted during the appropriate blooming period(s) by a qualified plant ecologist/biologist according to protocols established by the USFWS, CDFW, and CNPS. All listed plant species found shall be marked and avoided. Any populations of special-status plants found during surveys will be fully described, mapped, and a CNPS Field Survey Form or written equivalent shall be prepared.

These surveys must be accomplished during a year in which rainfall totals are at least 80 percent of average and in which the temporal distribution of rainfall is not highly abnormal (e.g., with most rainfall occurring very early or late in the season) to be reasonably certain of the presence/absence of rare plant species, unless surveys of reference populations document that precipitation conditions would not have adversely affected the ability to detect the species. This condition may be waived with the approval of the County after consultation with the CDFW and USFWS. If a listed plant species cannot be avoided, consultation with USFWS and CDFW will occur.

Prior to Site grading or vegetation removal, any populations of listed plant species identified during the surveys within the Project limits and beyond, shall be protected and a buffer zone placed around each population. The buffer zone shall be established around these areas and shall be of sufficient size to eliminate potential disturbance to the plants from human activity and any other potential sources of disturbance including human trampling, erosion, and dust. The size of the buffer depends upon the proposed use of the immediately adjacent lands and includes consideration of the plant's ecological requirements (e.g., sunlight, moisture, shade tolerance, physical and chemical characteristics of soils) that are identified by a qualified plant ecologist and/or botanist. The buffer for herbaceous and shrub species shall be, at minimum, 50 feet from the perimeter of the population or the individual. A smaller buffer may be established, provided there are adequate measures in place to avoid the take of the species, with the approval of the USFWS, CDFW, and County.

Where impacts to listed plants are determined to be unavoidable, the USFWS and/or CDFW shall be consulted for authorization. Additional mitigation measures to protect or restore listed plant species or their habitat, including but not limited to a salvage plan including seed collection and replanting, may be required by the USFWS or CDFW before impacts are authorized, whichever is appropriate.

MM BR-10: Compensate for Impacts to State and Federally Threatened, Endangered, Proposed, Petitioned, and Candidate Plants

To compensate for permanent impacts to State and Federally Threatened, Endangered, Proposed, Petitioned and Candidate plants, habitat (which may include preservation areas within the undisturbed areas of the Project footprint, mitigation lands outside of the main Project Site or a combination of both) that is not already public land shall be preserved and managed in perpetuity at a 1:1 mitigation ratio (one



acre preserved for each acre impacted). Prior to the disturbance of habitat for or take of listed plant species the Applicant will be required to obtain County approval of preserved and/or mitigation lands as well as provide documentation of a recorded conservation easement(s). Compensation for temporary impacts shall include land acquisition and/or preservation at a 0.5:1 ratio. The preserved habitat for a significantly impacted plant species shall be of equal or greater habitat quality to the impacted areas in terms of soil features, extent of disturbance, vegetation structure, and will contain verified extant populations, of the same size or greater, of the State or Federally listed plants that are impacted.

Habitat shall be preserved through the use of permanent open space easements. Mitigation lands cannot be located on land that is currently held publicly. Mitigation lands may include (depending on the habitat requirements of particular species):

- Areas outside the Project boundary, but within the general Project region.
- Preservation areas within portions of the Project Site that are at least 100 feet from Project components and are either (1) not permanently impacted by construction and operation of the Project, or (2) temporarily disturbed and then restored according to the requirements in Mitigation Measure BR-2; and
- Degraded areas (e.g., areas that have been actively dry-farmed) that are restored to high quality habitat through the implementation of a County-approved restoration plan.

Criteria for appropriate mitigation land are species-specific; the following factors must be considered in assessing the quality of potential mitigation habitat: (1) Current land use; (2) Location (e.g., habitat corridor, part of a large block of existing habitat, adjacency to source populations, proximity to Project facilities or other potential sources of disturbance); (3) Vegetation composition and structure; (4) Slope; (5) Soil composition and drainage; and (6) Level of occupancy or use by relevant species.

The Applicant shall either provide open space easements or provide funds for the acquisition of such easements to a "qualified easement holder" (defined below). The CDFW is a qualified easement holder. To qualify as a "qualified easement holder" a private land trust must have the following:

- Substantial experience managing open space easements that are created to meet mitigation requirements for impacts to sensitive species
- Adopted the Land Trust Alliance's *Standards and Practices*
- A stewardship endowment fund to pay for its perpetual stewardship obligations

The County shall determine whether a proposed easement holder meets these requirements.

The Applicant shall also be responsible for donating to the conservation easement holder fees sufficient to cover: (1) Administrative costs incurred in the creation of the conservation easement (appraisal, documenting baseline conditions, etc.) and (2) Funds in the form of a non-wasting endowment to cover the cost of monitoring and enforcing the terms of the conservation easement in perpetuity. The amount of these administrative and stewardship fees shall be determined by the conservation easement holder in consultation with the County.



Open space easement(s) shall also be subject to the following conditions:

- The locations of acceptable easement(s) shall be developed with approval of CDFW and USFWS.
- The primary purpose of the easement(s) shall be conservation of impacted species and habitats, but the conservation easement(s) shall also allow livestock grazing when and where it is deemed beneficial for the habitat needs of impacted species.

Open space easement(s) shall:

- Be held in perpetuity by a qualified easement holder (defined above).
- Be subject to a legally binding agreement that shall: (1) Be recorded with the County Recorder(s); and (2) Name CDFW or another organization to which the easement(s) will be conveyed if the original holder is dissolved.
- Be subject to the management requirements outlined in Mitigation Measure BR-2.

However, if lands acquired or protected for the compensation of permanent impacts to wildlife and/or vegetative communities (discussed above) contain similar sized populations of the impacted listed plant species, no further mitigation would be required.

7.3.5 Electrocuting of State and/or Federally Protected Birds

- A. **Potential Impact.** The Project could result in electrocution of State and/or federally protected birds.
- B. **Finding.** Pursuant to CEQA Guidelines §15091(a)(1), changes or alteration have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
- C. **Facts in Support of Finding.** Based on the analysis provided in Section 3.4.4.4(a) of the EIR, the Project's potentially significant impact would be mitigated to below a level of significance with the implementation of MM BR-8 of the EIR. Coopers hawks, ferruginous hawk, northern harrier, prairie falcon, and other large aerial perching birds would be susceptible to electrocution from the Project's electric power lines (i.e., distribution/collector) because of their size, presence in the Project area, and tendency to perch on tall structures that offer views of potential prey. To reduce potential effects of the Project, mitigation will require that all transmission facilities be designed to be raptor-safe in accordance with the *Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006* and *Reducing Avian Collisions with Power Lines: The State of the Art in 2012* (APLIC). This includes placing bird flight diverters on small structures to reduce the potential for birds to perch on the poles. Implementation of MM BR-8 would reduce potential impacts on Federally or State listed avian species to less-than-significant levels.

The following mitigation measure is required for the Project:

MM BR-8



7.3.6 Collision with Overhead Wires by State and/or Federally Protected Birds

- A. **Potential Impact.** The Project could result in collision with overhead wires by State and/or federally protected birds.
- B. **Finding.** Pursuant to CEQA Guidelines §15091(a)(1), changes or alteration have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
- C. **Facts in Support of Finding.** Based on the analysis provided in Section 3.4.4.4(a) of the EIR, the Project's potentially significant impact would be mitigated to below a level of significance with the implementation of MM BR-8 of the EIR. Construction of the Project would require the placement of structures that would support the support conductors or collector lines that transport electricity to the substation. These features would pose a potential collision risk for birds. Birds are known to collide with communications towers, transmission lines, and other elevated structures. Based on the known distribution of the species in the Project area and observations made during reconnaissance surveys, it is generally expected that collision mortality would occur to some degree. To reduce potential adverse effects to State and/or federally protected birds from collision with overhead wires, the Applicant would be required to construct the facility consistent with protection measures identified in APLIC guidelines. Because it is possible that the collector lines associated with the Project result in an increased collision risk the Applicant would construct in compliance with APLIC guidelines additional mitigation is warranted to monitor, identify, and correct facility components causing significant avian mortality. Impacts to Federally or State listed avian species from collision with overhead wires would be considered significant without mitigation. Implementation of MM BR-8 would reduce potential impacts on Federally or State listed avian species to less-than-significant levels.

The following mitigation measure is required for the Project:

MM BR-8

7.3.7 Glare from the Reflection of Sunlight off Solar Modules could Contribute to the Risk of Avian Collision

- A. **Potential Impact.** Glare from the reflection of sunlight off the solar modules could contribute to the risk of avian collision on the Project Site.
- B. **Finding.** Pursuant to CEQA Guidelines §15091(a)(1), changes or alteration have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
- C. **Facts in Support of Finding.** Based on the analysis provided in Section 3.4.4.4(a) of the EIR, the Project's potentially significant impact would be mitigated to below a level of significance with the implementation of MM BR-8 of the EIR. Solar facilities present a new and relatively un-



researched risk for bird collisions. Though not physically imposing structures, the proposed solar arrays may pose some collision risk to birds if they are mounted on the rooftop. Depending on the time of day, use of the Site by various species, glare, or polarized light it is possible that birds will collide with the arrays. Operation of the solar modules could also cause an increase in Polarized Light Pollution (PLP), which occurs from light reflecting off dark colored anthropogenic structures. Arrays of solar panel occupying large open areas are not proposed as part of the Project. Solar panels would either be ground-mounted or installed on the rooftops. Therefore, impacts to Federally or State listed avian species from collisions with solar modules would be considered less than significant with implementation of MM BR-8, which would reduce potential impacts on Federally or State listed avian species to less-than-significant levels.

The following mitigation measure is required for the Project:

MM BR-8

7.3.8 Potential Loss of Special-Status Plant Species

- A. **Potential Impact.** The Project would result in the loss of special-status plant species.
- B. **Finding.** Pursuant to CEQA Guidelines §15091(a)(1), changes or alteration have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
- C. **Facts in Support of Finding.** Based on the analysis provided in Section 3.4.4.4(a) of the EIR, the Project's potentially significant impact would be mitigated to below a level of significance with the implementation of MM BR-3, MM BR-4, MM BR-5, MM BR-6, MM BR-11 and MM BR-12 of the EIR. No special-status plant species were observed during the focused rare plant surveys or other biological surveys conducted in 2018 and 2019 in support of the Project. Direct, indirect, and operational impacts to Special-status plant species, should they occur, would be the same as described for listed plant species (see Impact BR-5). These impacts include but are not limited to the direct removal of plants during the course of construction, the creation of conditions favorable to invasion of weedy exotic species, altered light and hydrologic regimes, and vegetation management. Due to the lack of presence within the Project Site and the low potential for only a few species of special-status plants to occur, impacts of the Project (if they were to occur) are considered adverse but not significant and do not reach the threshold for significance under CEQA. Although impacts to these plants are not considered significant mitigation for other species including the acquisition of lands for impacts to wildlife species will reduce impacts to these species should they occur on the acquired parcels.

The most effective mechanism for reducing impacts to special-status plant species is to avoid or minimize on-site impacts; no special-status species have been observed in the Project Site to date. If special-status plants were to occur, and avoidance was not possible, the key mitigation strategy that would be employed is to require the Applicant to mitigate through the acquisition and protection of special-status plant populations on acquired lands. The acquisition and protection of special-status plant occurrences at a minimum 1:1 ratio for permanent and a 0.5:1 ratio for



temporary impacts would be a viable strategy to mitigate the Project's impacts to special-status plants.

Implementation of this strategy would necessitate botanical surveys of lands acquired as mitigation for wildlife species if these lands are intended to serve mitigation sites for special-status plants. The Applicant could also protect on-site populations provided they are protected through a conservation easement and provided with adequate buffers. The Applicant would also be required to prepare and implement a habitat management plan to help ensure long-term conservation of these species. The goal of the surveys would be to identify at minimum the number of occurrences of each special-status species on off-site compensation lands as would be impacted by the Project (as documented previously by the Applicant and by future pre-construction surveys). These measures coupled with general avoidance and worker education would provide an effective mitigation strategy to reduce impacts to sensitive plant species. Implementation of mitigation measures would reduce potential impacts on special-status plant species to less-than-significant levels.

The following mitigation measures are required for the Project:

MM BR-3

MM BR-4

MM BR-5

MM BR-6

MM BR-11: Conduct Pre-Construction Surveys for Special-Status Plants and Implement Avoidance Measures

Prior to initial ground disturbance and for undisturbed areas in subsequent construction years, the Applicant shall conduct pre-construction surveys for special-status plant species in all areas subject to ground-disturbing activity, including, but not limited to, battery facility structures including, access roads, poles/towers, solar array footing preparation, construction areas, and assembly yards. The surveys shall be conducted during the appropriate blooming period(s) by a qualified plant ecologist/biologist according to protocols established by the USFWS, CDFW, and CNPS. All listed plant species found shall be marked and avoided. Any populations of special-status plants found during surveys will be fully described, mapped, and a CNPS Field Survey Form or written equivalent shall be prepared.

These surveys must be accomplished during a year in which rainfall totals are at least 80 percent of average and in which the temporal distribution of rainfall is not highly abnormal (e.g., with most of the rainfall occurring very early or late in the season) to be reasonably certain of the presence/absence of rare plant species, unless surveys of reference populations document that precipitation conditions would not have adversely affected the detectability of the species.

Prior to Site grading, any populations of special-status plant species identified during the surveys shall be protected by a buffer zone. The buffer zone shall be established around these areas and shall be of



sufficient size to eliminate potential disturbance to the plants from human activity and any other potential sources of disturbance including human trampling, erosion, and dust. The size of the buffer depends upon the proposed use of the immediately adjacent lands and includes consideration of the plant's ecological requirements (e.g., sunlight, moisture, shade tolerance, physical and chemical characteristics of soils) that are identified by a qualified plant ecologist and/or botanist. The buffer for herbaceous and shrub species shall be, at minimum, 50 feet from the perimeter of the population or the individual. A smaller buffer may be established, provided there are adequate measures in place to avoid the take of the species, with the approval of the USFWS, CDFW, and County. Highly visible flagging shall be placed along the buffer area and remain in good working order during the duration of any construction activities in the area. If Project related impacts result in the loss of more than 10 percent of the on-site population of any Special-Status plant species, compensatory mitigation will be required as described below.

MM BR-12: Compensate for Impacts to Special-Status Plant Special

If Project related impacts result in the loss of more than 10 percent of the on-site population of any Special-Status plant species, compensatory mitigation will be required. Prior to the disturbance of habitat for or take of Special-Status plants/populations, the Applicant must receive County approval of preserved and/or mitigation lands as well as present documentation of a recorded conservation easement(s). Compensation will be required for all impacts that exceed the 10 percent threshold (e.g., impacts to 15 percent of a population will only require compensation for 5 percent or the amount of impacts that exceed the 10 percent threshold). To compensate for permanent impacts to special-status plant species, habitat (which may include preservation of areas within the undisturbed areas of the Project footprint, mitigation lands outside of the main Project Site or a combination of both) that is not already public land shall be preserved and managed in perpetuity at a 1:1 mitigation ratio (one acre preserved for each acre impacted). Compensation for temporary impacts shall include land acquisition and/or preservation at a 0.5:1 ratio. The preserved habitat for a significantly impacted plant species shall be of equal or greater habitat quality to the impacted areas in terms of soil features, extent of disturbance, vegetation structure, and will contain verified extant populations, of the same size or greater, of the special-status plants that are impacted. Impacts could include direct impacts resulting from loss of habitat or indirect impacts if a significant population or portion thereof is unable to be avoided.

Habitat shall be preserved by using permanent open space easements. Mitigation lands cannot be located on land that is currently publicly held. Mitigation lands may include (depending on the habitat requirements of particular species) the following:

- Areas outside the Project boundary, but within the County
- Preservation areas within portions of the Project Site that are at least 100 feet from Project facilities and are either (1) not permanently impacted by construction and operation of the Project, or (2) are temporarily disturbed and then restored according to the requirements in Mitigation Measure BR-2
- Criteria for appropriate mitigation land are species-specific; however, the following factors must be considered in assessing the quality of potential mitigation habitat: (1) Current land use; (2) Location (e.g., habitat corridor, part of a large block of existing habitat, adjacency to source populations, proximity to Project facilities or other potential sources of disturbance); (3) Vegetation composition



and structure; (4) Slope; (5) Soil composition and drainage; and (6) Level of occupancy or use by relevant species

The Applicant shall either provide open space easements or provide funds for the acquisition of open space easements to a "qualified easement holder" (defined below). CDFW is a qualified easement holder. To qualify as a "qualified easement holder" a private land trust must have the following:

- Substantial experience managing open space easements that are created to meet mitigation requirements for impacts to special status species
- Adopted the Land Trust Alliance's *Standards and Practices*
- A stewardship endowment fund to pay for its perpetual stewardship obligations

The County shall determine whether a proposed easement holder meets these requirements.

The Applicant shall also be responsible for donating to the easement holder fees sufficient to cover: (1) Administrative costs incurred in the creation of the easement (appraisal, documenting baseline conditions, etc.) and (2) Funds in the form of a non-wasting endowment to cover the cost of monitoring and enforcing the terms of the easement in perpetuity. The amount of these administrative and stewardship fees shall be determined by the easement holder in consultation with the County.

Open space easement(s) shall also be subject to the following conditions:

- The locations of acceptable easement(s) shall be developed with approval of CDFW and USFWS
- The primary purpose of the easement(s) shall be conservation of impacted species and habitats, but the easement(s) shall also allow livestock grazing when and where it is deemed beneficial for the habitat needs of impacted species

Open space easement(s) shall:

- Be held in perpetuity by a qualified easement holder (defined above)
- Be subject to a legally binding agreement that shall: (1) Be recorded with the County Recorder(s); and (2) Name CDFW or another organization to which the easement(s) will be conveyed if the original holder is dissolved
- Be subject to the management requirements outlined in Mitigation Measure BR-2

If lands acquired or protected for the compensation of permanent impacts to wildlife and/or vegetative communities contain similar sized populations of the impacted special-status plant species, of equal or greater habitat value, these mitigation lands may be used to achieve the required compensation ratios for special-status plant species.

7.3.9 Potential Loss of American Badger

- A. **Potential Impact.** The Project would result in the loss of American badger.



- B. **Finding.** Pursuant to CEQA Guidelines §15091(a)(1), changes or alteration have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
- C. **Facts in Support of Finding.** Based on the analysis provided in Section 3.4.4.4(a) of the EIR, the Project's potentially significant impact would be mitigated to below a level of significance with the implementation of MM BR-3, MM BR-4, MM BR-5, MM BR-6, and MM BR-13 of the EIR. American badgers were observed adjacent to the Project Site and badger tracks were observed within the Project Site itself; the Project area supports suitable foraging and denning habitat for this species. Direct impacts to American badger include mechanical crushing of individuals or burrows by vehicles and construction equipment, noise, dust, and loss of habitat. Construction activities could also result in the disturbance of badger maternity dens during the pup-rearing season (15 February to 1 July). Because of the large size of the Project, numerous badgers may be affected.

Implementation of mitigation measures would reduce impacts to badgers through worker education, pre-construction surveys and avoidance of maternity dens, construction monitoring, and the control of fugitive dust. When required for construction the Applicant will passively relocate badgers out of the work area to reduce the potential for mortality. This includes monitoring active dens and collapsing the dens once the animal leaves the Site. However, badgers often retreat to burrows when alarmed and without active monitoring of a den it is difficult to ascertain the status of individual burrows. The proposed mitigation would require multiple days of monitoring and the use of cameras or a tracking medium to reduce the potential for entombment. These measures would also provide for the restoration of areas subject to temporary disturbance and manage the Site for noxious weeds. In addition, although not required for this species the acquisition of mitigation lands for other species would provide for the long-term conservation of habitat used by American badgers. Implementation of mitigation measures would reduce potential impacts on American badgers to less than significant levels.

The following mitigation measures are required for the Project:

MM BR-3

MM BR-4

MM BR-5

MM BR-6

MM BR-13: Complete Focused Pre-Construction Surveys for American Badger and Desert Kit Fox Surveys and Implementation of Avoidance Measures

No more than 30 days prior to the commencement of construction activities, the Applicant shall retain a qualified biologist to conduct pre-construction surveys for American badger and desert kit fox within suitable habitat on the Project Site. If present, occupied dens shall be flagged and ground-disturbing activities avoided within 50 feet of the occupied den. Maternity dens shall be avoided during pup-rearing



season (15 February through 1 July) and a minimum 200-foot buffer established. The extent of buffers shall be flagged in the field utilizing a method highly visible by construction crews. Buffers may be modified with the concurrence of the CDFW. Maternity dens shall be flagged for avoidance, identified on construction maps, and a biological monitor shall be present during construction to monitor for adequate protection of all identified dens and to help ensure that all flagging is kept in good working order.

If avoidance of a non-maternity den (impacts to maternity dens is not allowed) is not feasible, badgers or foxes shall be relocated by slowly excavating the burrow (either by hand or mechanized equipment under the direct supervision of the biologist, removing no more than 4 inches at a time) before or after the rearing season (15 February through 1 July). Any passive relocation of badgers or foxes shall occur only after consultation with the CDFW and the biological monitor.

Prior to the final County inspection or occupancy, whichever comes first, a written report documenting all badger related activities (e.g., den flagging, monitoring, badger removal, etc.) shall be provided to the County. A copy of the report will also be provided to the CDFW.

7.3.10 Potential Loss of Flat-Tailed Horned Lizard

- A. **Potential Impact.** The Project would result in the loss of the flat-tailed horned lizard.
- B. **Finding.** Pursuant to CEQA Guidelines §15091(a)(1), changes or alteration have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
- C. **Facts in Support of Finding.** Based on the analysis provided in Section 3.4.4.4(a) of the EIR, the Project's potentially significant impact would be mitigated to below a level of significance with the implementation of MM BR-2, MM BR-3, MM BR-4, MM BR-5, MM BR-6, MM BR-14, MM BR-15, and MM BR-16 of the EIR. Many occurrences of flat-tailed horned lizard have been reported in the undeveloped desert areas immediately west and south of the Project Site (CDFW 2019a), and horned lizard tracks were observed during 2018 surveys in the western portion of the Project Site, south of the Westside Main Canal. Given the cryptic nature and resulting difficulty of detection without focused surveys, these historical records are sufficient to assume this species is present in the creosote bush scrub and fourwing saltbush scrub within and adjacent to the Project Site. Temporary and permanent habitat loss and the loss of individual animals would be considered significant without mitigation.

These small, sometimes difficult to detect species are often overlooked unless weather conditions are favorable. The implementation of these mitigation measures would provide for the protection of these species by educating workers as to the natural history of these species, identifying areas where construction would be avoided, conducting pre-construction surveys, and relocating detected species to pre-selected off-site locations, monitoring during construction to salvage wildlife, and restoring temporarily disturbed areas post construction. Although not proposed nor required as mitigation for impacts to these species, the acquisition of off-site habitat will help conserve lands where these species would be expected to occur. Implementation of mitigation measures would reduce impacts to the flat-tailed horned lizard to less-than-significant levels.



The following mitigation measures are required for the Project:

MM BR-2

MM BR-3

MM BR-4

MM BR-5

MM BR-6

MM BR-14: Pre-Construction Surveys and Avoidance/Relocation Measures for Flat-Tailed Horned Lizard

Focused pre-construction surveys shall be conducted for flat-tailed horned lizard. During construction, areas of active surface disturbance shall be surveyed periodically, at least hourly, when surface temperatures exceed 29°C (85°F) for the presence of flat-tailed horned lizard. Flat-tailed horned lizards would be removed from harm's way during construction activities by the on-site biological monitor(s). To the extent feasible, methods to find flat-tailed horned lizards would be designed to achieve a maximal capture rate and would include, but not be limited to using strip transects, tracking, and raking around shrubs. During construction, the minimum survey effort would be 30 minutes per 0.40 hectare (one acre). Persons that handle flat-tailed horned lizards would first obtain all necessary permits and authorization from the CDFW. A Horned Lizard Observation Data Sheet and a Project Reporting Form, per Appendix 8 of the Rangewide Management Strategy, would also need to be completed. During construction, quarterly reports describing flat-tailed horned lizards removal activity would be submitted to the USFWS, CDFW, and the County.

The removal of flat-tailed horned lizard out of harm's way would include relocation to nearby suitable habitat in low-impact areas of the Yuba Management Area, which is located to the west and south of the Project Site. Relocated flat-tailed horned lizards would be placed in the shade of a large shrub in undisturbed habitat. If surface temperatures in the sun are less than 24°C (75°F) or exceed 38°C (100°F), a qualified biologist, if authorized, would hold the flat-tailed horned lizard for later release. Initially, captured flat-tailed horned lizards would be held in a cloth bag, cooler, or other appropriate clean, dry container from which the lizard cannot escape. Lizards would be held at temperatures between 75°F and 90°F and would not be exposed to direct sunlight. Release would occur as soon as possible after capture and during daylight hours. The qualified biologist would be allowed some judgment and discretion when relocating lizards to maximize survival of flat-tailed horned lizards found in the Project area.

- To the maximum extent practicable, grading in flat-tailed horned lizard habitat would be conducted during the active season, which is defined as March 1 through September 30, or when ground temperatures are between 24°C (75°F) and 38°C (100°F). If grading cannot be conducted during this time, any flat-tailed horned lizards found would be removed to low-impact areas (see above) where suitable burrowing habitat exists, (e.g., sandy substrates and shrub cover).



MM BR-15: Compensation for Impacts to Flat-Tailed Horned Lizard

Pursuant to Title 43 CFR and the Federal Land Policy and Management Act of 1976, federal land management agencies may permit actions that result in flat-tailed horned lizard habitat loss on their lands; however, for losses both within and outside the Management Areas, compensation is charged if residual effects would occur after all reasonable on-site mitigation has been applied. The goal of compensation is to prevent the net loss of flat-tailed horned lizard habitat and make the net effect of a project neutral or positive to flat-tailed horned lizards by maintaining a habitat base for flat-tailed horned lizards. To achieve this goal, compensation will be based on the acreage of flat-tailed horned lizard habitat lost after all reasonable on-site mitigation has been applied at a 1:1 ratio for habitat lost outside a flat-tailed horned lizard Management Area. For this Project, compensation will be required for a loss of approximately 54 acres of flat-tailed horned lizard habitat.

MM BR-16: Develop a Habitat Mitigation and Monitoring Plan

To help ensure the success of on-site preserved land and acquired mitigation lands, required for compensation of permanent impacts to vegetative communities and listed or special-status plants and wildlife, the Applicant shall retain a qualified biologist to prepare a Habitat Monitoring and Mitigation Plan (HMMP). The HMMP will be submitted to the County for approval, prior to the issuance of a construction permit. Prior to the final County inspection final impact acreages must be presented to the County and acquisition of off-site lands must be verified. The HMMP will include, at a minimum, the following information:

- a) Summary of anticipated habitat impacts and the proposed mitigation.
- b) Detailed description of the location and boundaries of undisturbed Project areas proposed for preservation, off-site mitigation lands and a description of existing site-wide conditions. The HMMP shall include detailed analysis showing that the mitigation lands meet the performance criteria outlined in MM BR-2 (Develop a Habitat Restoration Plan) and MM BR-15 (Compensate for Impacts to Flat-Tailed Horned Lizard).
- c) Discussion of measures to be undertaken to enhance (e.g., through focused management) the on-site preserved habitat and off-site mitigation lands for listed and special-status species.
- d) Description of management and maintenance measures (e.g., vegetation management, fencing maintenance, etc.).
- e) Discussion of habitat and species monitoring measures for on-site preservation areas and off-site mitigation lands, including specific objectives, performance criteria, monitoring methods, data analysis, reporting requirements, monitoring schedule, etc.
- f) Development of a monitoring strategy for the monitoring of indirect impacts to vegetation and wildlife from alteration to the solar and hydric regimes as a result of Project facilities.
- g) Development of a monitoring strategy, which shall serve to document the persistence of flat-tailed horned lizard populations within the Project Site and on mitigation lands. This monitoring will be conducted for a minimum of 5 years after the completion of construction activities. The strategy should include, at the minimum, the following:



1. Documentation of pre-Project population levels for the species noted above, based on results of focused pre-construction surveys and previously supplied Applicant data.
2. On-going monitoring of species populations upon completion of construction activities, while the Project is in operation, for a minimum of three years.
3. Monitoring of reference populations for this species in areas that contain undisturbed habitat, such as the Yuba Management Area.
4. An analysis of the comparison of percent changes in population levels at the Project and reference sites to be used in the determination of additional compensatory mitigation.
5. The applicant shall prepare a contingency plan for mitigation elements that do not meet performance or final success criteria within 5 years. This plan will include specific triggers for remediation if performance criteria are not being met and a description of the process by which remediation of problems with the mitigation site (e.g., presence of noxious weeds) will occur.

7.3.11 Potential Loss of Burrowing Owl

- A. **Potential Impact.** The Project would result in the loss of the burrowing owl.
- B. **Finding.** Pursuant to CEQA Guidelines §15091(a)(1), changes or alteration have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
- C. **Facts in Support of Finding.** Based on the analysis provided in Section 3.4.4.4(a) of the EIR, the Project's potentially significant impact would be mitigated to below a level of significance with the implementation of MM BR-2, MM BR-3, MM BR-4, MM BR-5, MM BR-6, MM BR-16, MM BR-17 and MM BR-18 of the EIR. No burrowing owls were observed on the Project Site during the 2018 breeding season surveys, but four burrowing owl observations were recorded within the Project Site during the 2018-2019 non-breeding season surveys. These observations indicate that at least two, but likely three, individuals, appear to use the Project Site and surrounding areas as a wintering site or for migration and dispersal, but do not currently use the Site as breeding habitat.

To avoid potential impacts to burrowing owls that might be nesting or residing within burrows in the Project impact area, the proposed measures include the completion of pre-construction surveys of the Site using established protocols. Because Project construction would occur over multiple years and result in the land use conversion of approximately 145 acres of habitat; passive relocation may result in the repeated harassment of resident owls. While construction of replacement burrows in off-site areas and the acquisition of mitigation lands would reduce impacts and be considered to mitigate Project impacts to the species, it is likely that owls would occupy areas close to known territories. Because of the extended construction schedule this could require multiple passive relocation events for the same owls. Each of these events stresses the bird and exposes the owls to predation, thermal stress, and potential territorial disputes. Implementation of mitigation measures would reduce impacts to the burrowing owl to less-than-significant levels.



The following mitigation measures are required for the Project:

MM BR-2

MM BR-3

MM BR-4

MM BR-5

MM BR-6

MM BR-16

MM BR-17: Burrowing Owl Protection Measures

The following measures shall be implemented during Project construction, operation, and decommissioning with respect to burrowing owls:

- A qualified biologist(s) shall be on-site during all construction activities in suitable burrowing owl habitat. A qualified biologist (i.e., a biologist with previous burrowing owl survey experience) shall conduct pre-construction clearance surveys of the permanent and temporary impact areas to locate active breeding or wintering burrowing owl burrows no more than 14 days prior to construction. The survey methodology shall be consistent with the methods outlined in the CDFG Staff Report (CDFG 2012). Copies of the survey results shall be submitted to CDFW and the County.
- If no burrowing owls are detected, no further mitigation is necessary. If burrowing owls are detected, no ground-disturbing activities, such as road construction or facility construction, shall be permitted except in accordance with the staff report or by written authorization of CDFW staff. Burrowing owls shall not be excluded from burrows unless or until a Burrowing Owl Exclusion Plan is developed by the lead biologist and approved by the applicable local CDFW office and submitted to the County. The plan shall adhere to the requirements set forth in the Burrowing Owl Mitigation Staff Report (CDFW 2012).
- In accordance with the Burrowing Owl Exclusion Plan, a qualified biologist shall excavate burrows using hand tools. Sections of flexible plastic pipe or burlap bag shall be inserted into the tunnels during excavation to maintain an escape route for any animals inside the burrow. One-way doors shall be installed at the entrance to the active burrow and other potentially active burrows within 160 feet of the active burrow. Forty-eight hours after the installation of the one-way doors, the doors can be removed, and ground-disturbing activities can proceed. Alternatively, burrows can be filled to prevent reoccupation.
- During construction activities, monthly and final compliance reports shall be provided to CDFW, the County, and other applicable resource agencies documenting the effectiveness of mitigation measures and the level of burrowing owl take associated with the Project.



MM BR-18: Compensation for Impacts to Burrowing Owl

Should burrowing owls be found on-site, compensatory mitigation for lost breeding or wintering habitat shall be implemented on-site or off-site in accordance with Burrowing Owl Mitigation Staff Report guidance and in consultation with CDFW. At a minimum, the following recommendations shall be implemented:

- Temporarily disturbed habitat shall be restored, if feasible, to pre-Project conditions, including decompaction soil and revegetating.
- Permanent impacts to nesting, occupied and satellite burrows, and burrowing owl habitat shall be mitigated such that the habitat acreage, number of burrows, and burrowing owl impacted are replaced at a 1:1 ratio based on a site-specific analysis that shall include the following:
- Permanent conservation of similar vegetation communities to provide for burrowing owl nesting, foraging, wintering, and dispersal (i.e., during breeding and nonbreeding seasons) comparable to or better than that of the impact area, and with sufficiently large acreage, and presence of fossorial mammals.
- Permanently protect mitigation lands through a conservation easement deeded to a nonprofit conservation organization or public agency with a conservation mission. If the Project is located within the service area of a CDFW-approved burrowing owl conservation bank, the applicant may purchase available burrowing owl conservation bank.
- If the acquired lands or mitigation credits for other wildlife species or vegetation communities can be managed to support burrowing owl, the proposed mitigation lands could be aggregated so that the purchase of mitigation lands for one species could cover all or a portion of the mitigation requirements for the remaining species. Mitigation lands shall not already be public land.

7.3.12 Project Impacts to Any Riparian Habitat or Other Sensitive Natural Community Identified in Local or Regional Plans, Policies, Regulations or by CDFW and USFWS

- A. Potential Impact.** The Project's construction and operational activities would result in temporary and permanent losses of sensitive vegetation communities and riparian habitat.
- B. Finding.** Pursuant to CEQA Guidelines §15091(a)(1), changes or alteration have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
- C. Facts in Support of Finding.** Based on the analysis provided in Section 3.4.4.4(b) of the EIR, the Project's potentially significant impact would be mitigated to below a level of significance with the implementation of MM BR-2, MM BR-3, MM BR-4, MM BR-5, MM BR-6, and MM BR-16 of the EIR. Construction and implementation of the Project would result in direct and indirect impacts to native and non-native vegetation communities and other land cover types. Direct impacts to native and non-native vegetation communities, including one CDFW listed sensitive riparian community and four other riparian communities, would occur as a result of grading during construction activities and construction of permanent Project facilities. Indirect impacts could



include alterations in existing light, topography, and hydrology regimes, sedimentation and erosion, soil compaction, the accumulation of fugitive dust, disruptions to native seed banks from ground disturbance, and the colonization of non-native, invasive plant species. These actions may result in reduced habitat quality for native plants. In addition, the removal of vegetation and the disruption of soil crusts create possibilities for erosion, dust, and weed invasion that can affect habitat in adjacent areas. Operational impacts would also occur during routine inspection and maintenance of Project facilities. These impacts would include, but are not limited to, trampling or crushing of native vegetation by vehicular or foot traffic, alterations in topography and hydrology, increased erosion and sedimentation, and the introduction of non-native, invasive plants due to increased human presence.

Because of the functional role that the on-site native plant communities play in the ecology of listed species, construction activities that result in the loss of these communities would be considered significant without mitigation. Restoration of temporarily disturbed areas and acquisition of off-site habitat are the primary mechanisms for reducing impacts to vegetation communities, including sensitive communities. The preservation and management of off-site habitats would functionally replace lost habitat values from Project development. Implementation of mitigation measures would reduce impacts to riparian habitat to less-than-significant levels.

The following mitigation measures are required for the Project:

MM BR-2

MM BR-3

MM BR-4

MM BR-5

MM BR-6

MM BR-16

7.3.13 Project Impacts to State or Federally Protected Wetlands through Direct Removal, Filling, Hydrological Interruption, or Other Means

- A. **Potential Impact.** The Project would result in the loss of jurisdictional wetland habitats.
- B. **Finding.** Pursuant to CEQA Guidelines §15091(a)(1), changes or alteration have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
- C. **Facts in Support of Finding.** Based on the analysis provided in Section 3.4.4.4(c) of the EIR, the Project's potentially significant impact would be mitigated to below a level of significance with



the implementation of MM BR-2, MM BR-3, MM BR-4, MM BR-5, MM BR-6, and MM BR-16 of the EIR.

A routine jurisdictional waters/wetland delineation was performed by the applicant to gather field data at locations with potential jurisdictional waters in the Project area and within a 100-foot buffer. The Project would impact all delineated jurisdictional waters mapped within the Site. A total of 6.75 acres would be permanently impacted and 2.68 acres would be temporarily impacted. Direct impacts to jurisdictional habitats could include the removal of native vegetation, the discharge of fill, degradation of water quality, and increased erosion and sediment transport. Because the area is generally dry for most of the year (not including the canals) and potential water quality impacts would be attenuated. Most of these impacts would occur during the use of access roads by heavy equipment and vehicle passage, where jurisdictional waters traverse access roads. Indirect impacts could include alterations to the existing topographical and hydrological conditions and the introduction of non-native, invasive plant species. Temporary and permanent impacts to State and federal jurisdictional waters would be considered significant without mitigation.

As required by law the Applicant would comply with the regulations regarding conducting Project activities in waterbodies under the jurisdiction of the State and federal government. As such, the applicant would obtain required permits pursuant to Section 401 and 404 of the CWA and the State Porter-Cologne Act and CDFG Code 1602. In accordance with the CWA, there would be no net loss of wetlands from the implementation of the Project. As such, mitigation would include restoration, enhancement, and/or compensation, as appropriate. These measures would help ensure that impacts from erosion and sedimentation that could occur during road construction upslope of a jurisdictional waterway would be minimized and would also help ensure that the applicant obtain all appropriate permits. Where avoidance of impacts is not feasible, the applicant shall mitigate through the restoration, enhancement, and/or preservation of existing wetlands. Implementation of mitigation measures would reduce impacts to the wetland habitats to less-than-significant levels.

The following mitigation measures are required for the Project:

MM BR-2

MM BR-3

MM BR-4

MM BR-5

MM BR-6

MM BR-16



7.4 GEOLOGY AND SOILS

7.4.1 Substantial Soil Erosion or Loss of Topsoil

- A. **Potential Impact.** During construction, soil erosion could result in association with grading and earthmoving activities. The Project Site soils have a slight potential for erosion and would be located on a relatively flat topography and would not involve grading steep slopes; however, earthmoving and construction activities would loosen soil and could contribute to soil loss and erosion by wind and stormwater runoff.
- B. **Finding.** Pursuant to CEQA Guidelines §15091(a)(1), changes or alteration have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
- C. **Facts in Support of Finding.** Based on the analysis provided in Section 3.5.3.4(a) of the EIR, the Project's potentially significant impact would be mitigated to below a level of significance with implementation of MM HYD-1. In compliance with federal Clean Water Act and regulations of the SWRCB, the Project would require implementation of a construction Stormwater Pollution Prevention Plan (SWPPP), including site-specific BMPs for erosion and sediment control as noted in mitigation measure HYD-1. The SWPPP would require BMPs be adopted for the specific conditions at the Project Site and would minimize any risk for substantial erosion during construction. Therefore, with implementation of MM HYD-1, impacts from construction-related erosion would be reduced to a less than significant level.

The following mitigation measure is required for the Project:

MM HYD-1: Prepare Stormwater Pollution Prevent Plan and Implement Best Management Practices

See Section 7.5 Hydrology and Water Quality for details.

7.4.2 Directly or Indirectly Destroy a Unique Paleontological Resource or Unique Geological Feature

- A. **Potential Impact.** Project construction could potentially uncover in-situ fossils during earthwork. If the Quaternary-aged alluvial deposits and Cahuilla Beds of the existing, onsite geologic features are underlain by Pleistocene alluvium, the potential for encountering fossils is high. The potential to encounter paleontological resources remains, and the Project could directly or indirectly destroy unique paleontological resources resulting in a potentially significant impact.
- B. **Finding.** Pursuant to CEQA Guidelines §15091(a)(1), changes or alteration have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
- C. **Facts in Support of Finding.** Based on the analysis provided in Section 3.5.3.4(e) of the EIR, the Project's potentially significant impact would be mitigated to below a level of significance with



the implementation of MM GEO-1. MM GEO-1 requires the presence of a paleontologist to assess the scientific significance of the find and the halting of all work within 50 feet of the discovery. The Project would require earthwork, including both rough and final grading and trenching. As part of these activities, the existing Site surface would need to be modified and would require earthwork activities. It is anticipated that the proposed excavation depths would not be deep enough to encounter Pleistocene alluvium, thereby reducing the potential for encountering on-site fossils. Nevertheless, the potential to encounter paleontological resources remains. As such, the Project could directly or indirectly destroy a unique paleontological resource; however, Project construction would not be expected to affect a unique geological feature, since none are known to occur. With implementation of Mitigation Measure GEO-1, which provides measures to be taken in the case of inadvertent discovery of a paleontological resource, potential construction-related impacts to undiscovered paleontological resources would be less than significant.

The following mitigation measure is required for the Project:

MM GEO-1 Inadvertent Discovery

In the event that unanticipated paleontological resources or unique geologic resources are encountered during ground-disturbing activities, work must cease within 50 feet of the discovery and a paleontologist shall be hired to assess the scientific significance of the find. The consulting paleontologist shall have knowledge of local paleontology and the minimum levels of experience and expertise as defined by the Society of Vertebrate Paleontology's Standard Procedures for the Assessment and Mitigation of Adverse Impacts to Paleontological Resources. If any paleontological resources or unique geologic features are found within the Project Site, the consulting paleontologist shall prepare a paleontological Treatment and Monitoring Plan to include the methods that will be used to protect paleontological resources that may exist within the Site, as well as procedures for monitoring, fossil preparation and identification, curation of specimens into an accredited repository, and preparation of a report at the conclusion of the monitoring program.

7.5 HYDROLOGY AND WATER QUALITY

7.5.1 Violate Water Quality Standard or Waste Discharge Requirements or Substantially Degrade Surface or Groundwater Quality

- A. **Potential Impact.** There are multiple construction related activities that could have potential to direct or indirect impacts on the water quality of local surface water features and shallow groundwater resources, including; sedimentation, erosion, and handling hazardous materials. Additionally, there are operational related activities that could have potential to impact water quality, including; hazardous materials handling and increase in impervious surfaces. Contamination associated with industrial non-point source pollution (e.g., grease, oils, sediment, and heavy metals) could impact surface water quality as a result of construction or operational activities, thus could result in significant direct or indirect impacts to water quality.



- B. **Finding.** Pursuant to CEQA Guidelines §15091(a)(1), changes or alteration have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
- C. **Facts in Support of Finding.** Based on the analysis provided in Section 3.8.3.4(a) of the EIR, the Project's potentially significant impact would be mitigated to below a level of significance with the implementation of MM HYD-1 and MM HYD-2. These measures include the preparation of a Stormwater Pollution Prevention Plan, implementation of BMPs, and preparation of a Final Project Drainage Plan. Since construction of the Project would result in disturbance of an area greater than one acre, the Project Applicant would be required to enroll for coverage under the Storm Water Construction General Permit for the NPDES program. The Storm Water Construction General Permit requires the submittal of Permit Registration Documents to the SWRCB prior to the start of construction and a NOI, risk assessment, site map, annual fee, signed certification statement, SWPPP, and post-construction water balance calculations would be included in the submittal. A Project-specific SWPPP would be prepared and BMPs would be implemented during construction. During operation, Approval of an On-Site Wastewater Treatment System permit from the County for the septic system would require compliance with requirements identified in the LAMP and reduce potential impacts on water quality standards, waste discharge, or degradation of surface or groundwater quality to a less than significant level.

The following mitigation measures are required for the Project:

MM HYD-1: Prepare Stormwater Pollution Prevention Plan and Implement Best Management Practices

Prior to issuance of any grading permit, the Applicant or its contractor shall prepare a Project-specific SWPPP and be responsible for securing coverage under SWRCB's NPDES stormwater permit for general construction activity (Order 2009-0009-DWQ). The SWPPP shall detail the treatment measures and BMPs to control pollutants that shall be implemented and complied with during both the construction and decommissioning of the Project. Example BMPs may include but are not limited to the following practices:

- Designation of restricted-entry zones
- Sediment tracking control measures (e.g., crushed stone or riffle metal plate at construction entrance)
- Truck washdown areas
- Diversion of runoff away from disturbed areas
- Protective measures for sensitive areas, outlet protection
- Provision mulching for soil stabilization during construction, and provision for revegetation upon completion of construction within a given area



- Treatment measures to trap sediment once it has been mobilized, such as straw bale barriers, straw mulching, fiber rolls and wattles, silt fencing, and siltation or sediment ponds

MM HYD-2: Final Project Drainage Plan

Prior to issuance of any grading permit, the applicant shall submit a Final Project Drainage Plan. The Drainage Plan shall adhere to the County's Engineering Guidelines Manual, IID "Draft" Hydrology Manual, or other recognized source with approval by the County Engineer to control and manage the discharge of stormwater to the proposed retention basins. Retention basins shall be integrated into the Drainage Plan to the maximum extent practical. The Drainage Plan shall provide both short- and long-term drainage solutions to ensure the proper sequencing of drainage facilities and management of runoff generated from the Project's impervious surfaces, as necessary.

7.5.2 Alter Existing Drainage Pattern that Would Result in Substantial Erosion or Siltation On- or Off-Site or Result in Flooding On- or Off-Site

- A. **Potential Impact.** Construction of the Project would disturb more than one acre of land and result in grading and soil exposure at the Project site increasing the potential for erosion. Additional construction activities would result in ground disturbance, excavation, and grading increasing the potential for flooding. The increased soil exposure and ground disturbance could result in significant direct and indirect impacts to erosion or flooding on- or off-site.
- B. **Finding.** Pursuant to CEQA Guidelines §15091(a)(1), changes or alteration have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
- C. **Fact in Support of Finding.** Based on the analysis provide in Section 3.8.3.4(b) of the EIR, the Project's potentially significant impact would be mitigation to below a level of significance with implementation of MM HYD-1 and MM HYD-2 of the EIR. The Project Site experiences very low annual rainfall (on average three inches per) and is in a minimal flood hazard area, and as a result, the soils are rarely saturated to the point that any measurable runoff can be generated. Furthermore, most of the rainwater that would run off the impervious Project facilities (e.g., concrete pads or other impervious improvements) would run off onto the proposed retention basin and infiltrate into the ground. Although on-site drainage patterns would be altered the Project would not result in the alteration of a stream or river since none exist on-site. Implementation of mitigation measures would reduce potential impacts on drainage patterns to less-than-significant levels. These measures include the preparation of a Stormwater Pollution Prevention Plan, implementation of BMPs, and preparation of a Final Project Drainage Plan.

The following mitigation measures are required for the Project:

MM HYD-1

MM HYD-2



7.6 TRIBAL CULTURAL RESOURCES

7.6.1 Adverse Change in the Significance of a Tribal Cultural Resource Defined by Public Resources Code Section 21074

- A. **Potential Impact.** Although there were no listed tribal cultural resources identified by the NAHC or through AB 52 consultation efforts, the San Pasqual Band of Mission Indians requested continued consultation with Imperial County. The potential to encounter tribal cultural resources remains, and the Project could directly or indirectly destroy unique cultural resources resulting in a potentially significant impact.
- B. **Findings.** Pursuant to CEQA Guidelines §15091(a)(1), changes or alteration have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
- C. **Facts in Support of Finding.** Based on the analysis provided in Section 3.10.3.4(b) of the Final EIR, the Project's potentially significant impact would be mitigation to below a level of significance with implementation of MM CULT-1 and MM CULT-2 of the Final EIR. These measures include an environmental awareness program and continued consultation with the San Pasqual Band of Mission Indians. There were no listed TCRs identified by the NAHC received by RECON August 27, 2018, or through AB 52 consultation efforts; however, the San Pasqual Band of Mission Indians requested continued consultation with Imperial County, if the Campo Band of Diegueno Mission Indians did not respond. The Campo Band of Diegueno Mission Indians have not requested consultation, and correspondence between the County and the San Pasqual Band of Mission Indians is ongoing. MM CULT-1 requires a process to be implemented if unexpected archaeological resources or human remains are encountered and in the event that those remains are determined to be Native American. MM CULT-2 addresses the request by the San Pasqual Band of Mission Indians to continue consultation. With implementation of MM CULT-1 and MM CULT-2, impacts to TCRs will be reduced to a less-than-significant level.

The following mitigation measures are required for the Project:

MM CULT-1: Workers Environmental Awareness Program

A qualified archaeologist shall be retained to prepare a cultural resource focused Workers Environmental Awareness Program (WEAP) training that shall be given to all ground disturbing construction personnel to minimize harm to undiscovered archaeological resources or potential tribal resources that may be discovered during construction. All Site workers shall be required to complete WEAP Training with a focus on cultural resources, including education on the consequences of unauthorized collection of artifacts and that reviews discovery protocol. WEAP training shall also explain the protocol for notification, and requirements to retain a qualified archaeologist to evaluate any unexpected finds, as well as protocols regarding notification of tribal representatives.



MM CULT-2: Continued Consultation with the San Pasqual Band of Mission Indians

If no other responses to Imperial County's invitation to consult on the Project are received, prior to construction, the County shall continue consultation with the San Pasqual Band of Mission Indians (San Pasqual). If the County, as the lead agency, determines through continued consultation that there is substantial evidence the Project may adversely impact a yet unidentified Tribal Cultural Resource that meets criteria established in Public Resources Code Section 5024.1, the County shall determine if measures are needed to minimize potential impacts to TCRs including:

- Requirements for Native American Monitoring of Project Ground Disturbing Activities
- Development of an Unexpected Discovery Plan for Archaeological Resources
- Development of a Treatment Plan for Artifacts Considered to be Tribal Cultural Resources

