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STATE OF CALIFORNIA

Energy Resources
Conservation and Development Commission

In the Matter of:	**DOCKET NO: 24-OPT-05**
Opt-In Application for the **CORBY BATTERY ENERGY STORAGE PROJECT**	**North Bay Interconnect, LLC and Corby Energy Storage, LLC Proposed Revisions to Biology Conditions of Certification Contained in the Darden Clean Energy Project Final Order**

North Bay Interconnect, LLC and Corby Energy Storage, LLC (Applicant) files these proposed revisions to Biology Conditions of Certification contained in the Darden Clean Energy Project Final Order (TN264234) (Darden Biology COCs)[1]. The purpose of this filing is to provide Staff with relevant feedback and suggested revisions to the Darden Biology COCs that we propose be included in the Corby Battery Energy Storage Project (Project) Staff Assessment and Environmental Impact Report and ultimately the Final Decision.

Applicant asserts that with the modified Conditions of Certification the Project can be constructed and operated without significant biological resource impacts and in compliance with all applicable laws, ordinances, regulations and standards. To that end,

[1] The Darden Clean Energy Project Final Order incorporates by reference and includes the Updated Final Staff Assessment and the Final EIR (TN263053) and Errata Number 1, which collectively contain the Final Conditions of Certification.

Applicant agrees with most of the requirements contained in the Darden Biology COCs. Below is our suggested modification to each of the Darden Biology COCs followed by the basis for the modifications.

PROPOSED REVISIONS TO BIO-1

BIO-1 Designated Biologist Selection. The project owner shall assign at least one Designated Biologist to the project (multiple personnel may be required to meet the license conditions). The project owner shall submit the resume of the proposed Designated Biologist, with at least three references and contact information, to the Energy Commission Compliance Project Manager (CPM) for approval.

The Designated Biologist must meet the following minimum qualifications:

1. Bachelor's degree in biological sciences, zoology, botany, ecology, or a closely related field;
2. Three years of experience in field biology or current certification of a nationally recognized biological society, such as The Ecological Society of America or The Wildlife Society; and
3. At least three years of field experience with biological resources found in or near the project area.

In lieu of the above requirements, the resume shall demonstrate to the satisfaction of the CPM that the proposed Designated Biologist or alternate has the appropriate training and background to effectively implement the conditions of certification.

For work related to Swainson's hawk and burrowing owl, these qualifications shall also apply. The Designated Biologist must meet the following minimum qualifications:

1. Knowledgeable in the biology, natural history, exclusion and/or monitoring techniques as applicable, construction and operational impact monitoring, and of the Swainson's hawk and burrowing owl as applicable and as permitted to perform duties described in BIO-2~~; and~~

2. ~~Specific experience as a Designated Biologist with Swainson's hawk or burrowing owl, or both, experience implementing conditions of a CDFW Incidental Take Permit or acting as a Designated Biologist, or other experience implementing a CDFW Incidental Take Permit as a Biological Monitor.~~

Verification: The project owner shall submit the specified information at least 75 days prior to the start of site mobilization or construction-related ground disturbance activities. No pre-construction site mobilization or construction related activities shall commence until a Designated Biologist has been approved by the CPM.
If a Designated Biologist needs to be replaced, the specified information regarding the proposed replacement must be submitted to the CPM at least ten working days prior to the termination or release of the preceding Designated Biologist. In an emergency, the project owner shall immediately notify the CPM to discuss the qualifications and approval of a short-term replacement while a permanent Designated Biologist is proposed to the CPM for consideration.

Basis: The survey data provided to the CEC demonstrates that the project is not likely to result in a take of any listed species and therefore, the Applicant is not proposing to obtain an Incidental Take Permit. Therefore, references to the Designated Biologist experience associated with an Incidental Take Permit has been removed from the measure.

PROPOSED REVISIONS TO BIO-2

BIO-2 Designated Biologist Duties. The project owner shall ensure that the Designated Biologist performs the following during any site (or related facilities) mobilization, ground disturbance, grading, construction, ~~operation,~~ and decommissioning activities. ~~The project owner may request approval from the CPM to terminate the Designated Biologist's function during plant operation in writing and provide justification of the request. However, t~~ The project owner shall appoint a replacement Designated Biologist at any time as directed by the CPM and will ensure the same duties are performed during closure and restoration activities.

If no Designated Biologist is available at any time during the life of the project ~~(including operation phase)~~ and the CPM determines that project-related actions may affect biological resources, the CPM may direct the project owner to assign a Biological Monitor or replacement Designated Biologist~~, for short-term or long-term monitoring and reporting~~. The Designated Biologist may be assisted by the approved Biological Monitor(s) but remains the primary contact for the project owner and CPM. The Designated Biologist Duties shall include the following:

1. Advise the project owner's Construction ~~and Operation~~ Managers on the implementation of the biological resource conditions of certification;
2. Ensure that all conditions of certification are met and that all reporting standards for each condition of certification are completed and submitted to the CPM and any other regulatory agencies in compliance with specified timelines.
3. Consult on the preparation of the Biological Resources Mitigation Implementation and Monitoring Plan (BRMIMP) to be submitted by the project owner.
4. Be available to supervise other biological resource staff, conduct and coordinate ~~mitigation,~~ monitoring, and other biological resources compliance efforts, particularly in areas requiring avoidance or containing sensitive biological resources, such as special status species or their habitat.
5. Ensure that all sensitive biological resource areas are flagged, delineated, or marked, and inspect these areas at appropriate intervals for compliance with regulatory terms and conditions.
6. Ensure monitoring activities are conducted to ~~help minimize and fully mitigate or~~ avoid the incidental take of ~~Swainson's hawk and burrowing owl~~ <u>special status species</u> and to minimize disturbance of these species' habitat.
7. Notify the CPM if any unanticipated sensitive biological resources are encountered during all phases of the project. Unanticipated resources include sensitive species not addressed in the environmental document because of a

perceived low potential to occur, species that are known to occur but have been proposed as a candidate for state or federal listing after the approval of the project; and common species whose range is unexpected in the project area.

8. Inspect or direct the site personnel how to inspect active construction areas where animals may have become trapped prior to construction commencing each day. Inspect or direct the site personnel how to inspect the installation of structures that prevent entrapment or allow escape during periods of construction inactivity. If site personnel perform these inspections, then they will be trained by the Designated Biologist and the name of the personnel and date of training shall be included in a log in the Monthly Compliance Report.
9. Periodically inspect areas with high vehicle activity (e.g., parking lots) for animals in harm's way. Inspect soil or spoil stockpiles and dust abatement watering for compliance with Condition of Certification BIO-7. Inspect erosion control materials (e.g., hay bales) to confirm weed-free certification. Inspect weed infestations and monitor eradication measures to determine success. Inspect trash receptacles, monitor site personnel compliance with trash handling, pet prohibitions, and all other Worker Environmental Awareness Program (WEAP) components (BIO-5).
10. Notify the project owner and the CPM of any non-compliance with any biological resources condition of certification.
11. Notify the project owner and the CPM directly of any special-status species injury or mortality by the end of the business day.
12. Respond directly to inquiries of the CPM regarding biological resource issues by phone, email, or other correspondence within a timely manner.
13. Maintain written records of the tasks specified above and those included in the BRMIMP; Summaries of these records shall be submitted in the Monthly Compliance Reports (MCRs) and the Annual Compliance Report (ACR).

14. Train the Biological Monitors as appropriate, and ensure their familiarity with the BRMIMP, Worker Environmental Awareness Program (WEAP) training, and all permits.
15. Maintain the ability to be in regular, direct communication with representatives of CDFW, USFWS, and the CPM, including notifying these agencies of dead or injured listed species and reporting special status species observations to the California Natural Diversity Database.
16. The Designated Biologist will notify the CPM of any non-compliance or special-status species injury or mortality by the end of the business day (notifications for Swainson's hawk or burrowing owl, are addressed per BIO-10 and BIO-12).

Verification: The Designated Biologist shall submit in the MCRs to the CPM copies of all written reports and summaries that document construction activities that have the potential to affect biological resources. The Designated Biologist's written records will be made available for the CPM's inspection on request at any time during normal business hours. During project operation, the Designated Biologist shall submit record summaries in the ACR unless their duties cease, as approved by the CPM.

Basis: The COC has been revised to remove reference to mitigation requirements associated with CDFW Incidental Take Permits since the Applicant will not be filing an Incidental Take Permit. Additionally, Operations and maintenance activity outside of the fenced facility will be limited and infrequent and take place in areas that have been documented to have limited habitat value and potential for special status species. The limited and infrequent operations and maintenance activities outside of the fenced facility will also occur within areas subject to regular disturbances from ongoing agricultural practices, vehicular travel along Kilkenny Road, and disturbances associated with the established PG&E electrical line corridors. Please see the modifications proposed in COC BIO-5 below which would require operations and maintenance staff to be appropriately trained to perform limited biological monitoring appropriate for the limited infrequent operation and maintenance activity.

NO REVISIONS TO BIO-3

NO REVISIONS TO BIO-4

PROPOSED REVISIONS TO BIO-5

BIO-5 Worker Environmental Awareness Program (WEAP). The project owner shall develop and implement a project-specific Worker Environmental Awareness Program (WEAP) and shall secure approval for the WEAP from the CPM. The WEAP shall be administered to all onsite personnel who will enter the project site including but not limited to surveyors, construction engineers, employees, contractors, contractor's employees, supervisors, inspectors, and subcontractors (but excluding delivery personnel). An abbreviated WEAP (WEAP Light) can be provided to vendors who periodically enter the project site and are limited to areas such as existing access roads and or lay down areas. The WEAP Light shall also be submitted for approval from the CPM. The WEAP/WEAP Light shall be implemented during site mobilization, vegetation clearing, construction, commissioning, operation, non-operation, and decommissioning and shall include specific detailed information to allow operations and maintenance workers to be sufficiently trained to perform biological monitoring during limited and infrequent operations and maintenance activities.

The WEAP shall:

1. Be developed by or in consultation with the Designated Biologist (See BIO-1) and consist of an on-site or training center presentation in which supporting written material and electronic media, including photographs of protected species and their habitat, is made available to all participants.
2. Identify the lead agencies, provide an overview of the conditions of certifications, other regulatory permit requirements, and applicable LORS that must be complied with and the ramifications of non-compliance which may include fines, imprisonment, work stoppages, or loss of employment depending on the violation.
3. Identify the roles of environmental staff and define communication protocols and chain of command between environmental and construction staff. Define what actions

~~monitors~~ Designated Biologists and Biological Monitors can approve such as stopping work under specific circumstances, providing guidance to comply with conditions, conducting surveys, and what actions ~~monitors~~ Designated Biologists and Biological Monitors cannot approve such as directing work, expanding work areas from approved limits, changing conditions of certification requirements, or approving variances to conditions of certification. Identify key field contacts and ensure that this information is posted in all break areas.

4. Provide examples of environmental signage and flagging that would be used to delineate work limits (such as for nesting bird ~~or American badger~~ buffers), areas for avoidance, or other protected areas, evacuation routes, and approved staging areas.
5. Discuss the locations and types of sensitive biological resources on the project site and adjacent areas, and explain the reasons for protecting these resources, and provide information to participants that no snakes or other wildlife shall be intentionally harmed (unless posing a reasonable and immediate threat to humans).
6. Describe standard environmental commitments and best management practices that apply to the project including but not limited to: storing trash in closed receptables and removing weekly to prevent attracting animals; capping pipes and other cavities that could be used by birds and small mammals; collecting and removing the carcasses of dead animals; limiting work to daytime hours; limiting work during periods of high rainfall; restricting smoking to designated areas; storing chemicals and fuel in designated areas; spill prevention measures; and reporting requirements.
7. Identify project vehicle speeds on paved and unpaved access roads.
8. Place special emphasis on the protection of state and federally protected species, including Swainson's hawk, burrowing owl, ~~tricolored blackbird, San Joaquin kit fox,~~ nesting birds, species of special concern and listed species including pictures and

information on physical characteristics, distribution, behavior, ecology, sensitivity to human activities, legal protection, penalties for violations, reporting requirements, and temporary and permanent protection measures.

9. Provide information about the distribution and habitat needs of Swainson's hawk, and burrowing owl, sensitivity of these species to human activities, their status pursuant to CESA including legal protection, recovery efforts, penalties for violations and project-specific protective measures (See BIO-10 ~~and~~ BIO-12, and BIO-16).
10. Provide an overview for all personnel of the risk of potential impacts to small mammals, birds, reptiles and amphibians from vehicle strikes on all project roads (paved and unpaved) during construction and operations, reporting requirements, and protection measures.
11. Provide an overview of potential impacts to avian and bat species from collisions with the ~~photovoltaic (PV) panels,~~ transmission lines, towers, and other features associated with the operations phase, reporting requirements, and protection measures.
12. Identify whom to contact if there are further comments and questions about the material discussed in the program.
13. Include a training acknowledgment form to be signed by each worker indicating that they received training and shall abide by the guidelines. A small wallet card with key contacts and resource information shall be prepared and provided after the training. A hard hat sticker shall also be provided to each worker to demonstrate to the monitors that they have participated in the training.
14. The WEAP Light shall include a summary of the items above as they relate to the limited areas that vendors need to access such as existing access roads and/or laydown areas.
    The specific program can be administered by a competent individual(s) acceptable to the Designated Biologist and documented within the MCRs.

Verification: At least 45 days prior to start of site mobilization the project owner shall provide to the CPM for review and approval, the draft WEAP/WEAP Light and all supporting written materials and electronic media prepared or reviewed by the Designated Biologist and a resume of the person(s) administering the program. The CPM must approve the WEAP materials prior to their use. At least 10 days prior to site and related facilities mobilization, the project owner shall provide the CPM a copy of the CPM-approved final WEAP/WEAP Light.

The project owner shall provide in the Monthly Compliance Report the number of persons who have completed the training in the prior month and a running total of all persons who have completed the training to date. At least 10 days prior to site mobilization the project owner shall submit the approved final WEAP/WEAP Light and implement the training for all workers.

The WEAP/WEAP Light shall be routinely administered within 1 week of arrival to any new construction personnel, foremen, contractors, subcontractors, and other personnel working at the project site. Upon completion of the orientation, employees shall sign a form stating that they attended the program and understand all protection measures. These forms shall be maintained by the project owner and shall be made available to the CPM upon request. Workers shall receive and be required to visibly display a hardhat sticker or certificate that they have completed the training. Training acknowledgement forms signed during construction shall be kept on file by the project owner for at least 6 months after the start of commercial operation.

Throughout the life of the project, the WEAP/WEAP Light shall be repeated annually for permanent employees, and shall be routinely administered within 1 week of arrival to any new construction personnel, foremen, contractors, subcontractors, and other personnel potentially working within the project area. During project operation, signed statements for operational personnel shall be kept on file for 6 months following the termination of an individual's employment.

Basis: Minor revisions to language and to remove species which are not applicable to the project and to include a specific provision that the WEAP Light should provide sufficient detailed information to allow operations and maintenance personnel to perform the biological

monitoring for the limited and infrequent operations and maintenance activities that will occur during the life of the project.

PROPOSED REVISIONS TO BIO-6

BIO-6 Biological Resources Mitigation Implementation and Monitoring Plan.

The project owner shall develop a Biological Resources Mitigation Implementation and Monitoring Plan (BRMIMP). The BRMIMP shall be prepared in consultation with the Designated Biologist and shall include the following:

1. All biological resources mitigation, monitoring, and compliance measures proposed and agreed to by the project owner;
2. All biological resources conditions of certification identified as necessary to avoid or mitigate impacts;
3. All biological resource mitigation, monitoring, and compliance measures required in other regulatory agency terms and conditions, such as those provided in the National Pollution Discharge Elimination System (NPDES)~~, and the Helicopter Use Plan~~;
4. A discussion of all sensitive biological resources that could be impacted by project site mobilization, construction, operation, and decommissioning;
5. A detailed description of measures that shall be taken to avoid or mitigate impacts on each special-status species potentially impacted by construction and operation;
6. All locations on a map, at an approved scale, of special-status biological resource areas subject to disturbance and areas requiring temporary protection and avoidance during construction and operation;
7. Aerial photographs, at an approved scale, of all areas to be disturbed during project construction activities; include one set prior to any site or related facilities mobilization disturbance and one set subsequent to completion of project construction; Provide planned timing of aerial photography and a description of why times were chosen. Provide a final accounting of the

before/after whole acreages ~~and a determination of whether more or less habitat compensation is necessary~~;

8. All measures that shall be taken to avoid or mitigate temporary disturbances from construction activities;
9. Duration for each type of monitoring and a description of monitoring methodologies and frequency;
10. Performance standards to be used to help decide if/when proposed mitigation is or is not successful;
11. All performance standards and remedial measures to be implemented if performance standards are not met;
12. A discussion of biological resources-related facility closure measures including a description of funding mechanism(s);
13. A process for proposing plan modifications to the CPM for review and approval; and
14. A requirement to submit any sightings of any special-status species that are observed on or in proximity to the project site during construction and operation, or during project surveys, to the California Natural Diversity Database (CNDDB) per CDFW requirements.

Verification: The project owner shall submit the BRMIMP to the CPM for review and approval at least 60 days prior to start of any site mobilization. The project owner shall provide final BRMIMP to the CPM at least 10 days prior to start of any site mobilization.

If there are any permits that have not yet been received when the BRMIMP is first submitted, copies of these permits shall be submitted to the CPM within 5 days of their receipt, and a revised BRMIMP shall be submitted to the CPM for review within 10 days of receipt of permits by the project owner. Any changes to the approved BRMIMP shall be submitted to the CPM at least 10 days prior to implementation and must be approved by the CPM prior to implementation.

Implementation of BRMIMP measures shall be reported in the MCRs (e.g., survey results, construction activities that were monitored, non-compliance incidences and resolution, species observed, etc.). Within

30 days after completion of project construction, the project owner shall provide to the CPM, for review and approval, a written construction closure report identifying which items of the BRMIMP have been completed, a summary of all CPM-approved modifications to mitigation measures made during the project's pre-construction site mobilization and construction, and which items are still outstanding.

Basis: The COC has been revised to remove any reference to a Helicopter Use Plan and compensatory mitigation which are not applicable to the Project.

PROPOSED REVISIONS TO BIO-7

BIO-7 General Impact Avoidance and Minimization Measures. The project owner shall ensure implementation of the following measures during site mobilization, construction, operation, and decommissioning to manage their project site and related facilities in a manner to avoid or minimize impacts to biological resources:

1. Limit Disturbance Areas. The boundaries of all areas to be temporarily or permanently disturbed (including staging areas, access roads, and sites for temporary placement of spoils) shall be delineated with stakes and flagging prior to any site mobilization, vegetation clearing, ground disturbance, or construction activities in consultation with the Designated Biologist. Spoils shall be stockpiled 50-feet away from drainages and stabilized to ensure sediment laded water does not enter any waterway or drainage. Parking areas, staging and disposal site locations shall similarly be located in areas without native vegetation or special-status species habitat. All disturbances, vehicles, and equipment shall be confined to the flagged areas.
2. Minimize Road Impacts. New and existing roads that are planned for construction, widening, or other improvements shall not extend beyond the flagged impact area as described above. All vehicles passing or turning around would do so within the planned impact area or in previously disturbed areas. Where new access is required outside of existing roads or the

construction zone, the route shall be clearly marked (i.e., flagged and/or staked) prior to the onset of construction.

3. Minimize Traffic Impacts. Vehicular traffic during project site mobilization, construction and operation shall be confined to existing routes of travel to and from the project site, and cross-country vehicle and equipment use outside designated work areas shall be prohibited. The speed limit shall not exceed 25 miles per hour on paved or stabilized unpaved roads within the project area, on maintenance roads for linear facilities, or on access roads to the project site. No vehicle shall exceed 10 miles per hour on unpaved areas within the project site, except on stabilized unpaved roads. Project vehicles shall abide by posted speed limits on public paved access roads outside the project site.
4. Inspect Pipes and Trenches. At the end of each workday, the Designated Biologist, Biological Monitor, and/or site personnel (approved and trained by the Designated Biologist) shall ensure that all potential wildlife pitfalls (trenches, bores, and other excavations) have been backfilled. If site personnel are inspecting trenches, bores, and other excavations and wildlife is trapped, they will immediately notify the Designated Biologist and/or Biological Monitor. If backfilling is not feasible, all trenches, bores, and other excavations shall be covered to prevent wildlife entrapment or sloped at a 3:1 ratio at the ends to provide wildlife escape ramps. Should wildlife become trapped, the Designated Biologist or Biological Monitor shall remove and relocate the animal to a safe location. Any wildlife encountered during the course of construction shall be allowed to leave the construction area unharmed;
5. Prevent Wildlife Entrapment. Any construction pipe, culvert, or similar structure with a diameter greater than three inches, stored less than eight inches aboveground for one or more nights, would be inspected for wildlife before the material is moved, buried, or capped. As an alternative, all such structures may be capped before being stored outside the fenced area, or placed on pipe racks, in compliance with BIO-12.

6. Relocate Wildlife. The Designated Biologist or Biological Monitor shall salvage or relocate sensitive wildlife during ground disturbance activities including clearing, grubbing, and grading operations when feasible to off-site habitat or out of harm's way. The species shall be salvaged or relocated when conditions will not jeopardize the health and safety of the monitor;
7. Minimize Lighting Impacts. To minimize adverse effects of artificial light on wildlife, exterior lighting fixtures used during project construction shall be downward facing, fully shielded, and designed and installed to minimize backscatter, reflection, minimize skyward illumination, minimize spillover onto adjacent wildlife habitat. Night lighting shall be limited to the lowest illumination necessary for human safety. Lights used shall be lower on the light spectrum (lower Kelvins with fewer short-wavelength blue light emissions).
   Permanent light fixtures on project infrastructure for use during operation shall be installed only where necessary for personnel safety. Facility lighting shall be designed, installed, and maintained to minimize light spill into wildlife habitats and sensitive resource areas. Lighting shall be kept to the minimum necessary for safety and security by using motion or infrared sensors or ~~and~~ switches to ensure lights remain off when not needed. Operational lights must be shielded downward to reduce skyward illumination. High-intensity, steady-burning, or bright lights—such as sodium vapor lamps or spotlights—shall not be used. Aviation lighting shall be designed to be as wildlife-friendly as possible while complying with FAA regulations.
8. Use Non-toxic Soil Binders. Soil bonding and weighting agents used on unpaved surfaces shall be non-toxic to wildlife and plants and shall be approved by the CPM prior to use;
9. Minimize Impacts from Pest Control. Anticoagulants shall not be used for rodent control. Pre-emergent and other herbicides with documented residual toxicity shall not be used. Herbicides shall be applied in conformance with federal, State, and local laws and according to the guidelines for wildlife-safe use of

herbicides in BIO-9 (Swainson's Hawk Conservation Strategy and Foraging Habitat Revegetation and Management Plan);

10. Minimize Standing Water. Water applied to dirt roads and construction areas (trenches or spoil piles) for dust abatement shall use the minimal amount needed to meet safety and air quality standards to prevent the formation of puddles, which could attract predators of special-status species to construction sites. During construction, site personnel shall patrol these areas to ensure water does not puddle and attract crows and ravens and other wildlife to the site, and shall take appropriate action to reduce water application rates where necessary;

11. Handling of Road-killed Animals. Report all inadvertent deaths of special-status species to the appropriate project representative, including roadkill. Species name, physical characteristics of the animal (sex, age class, length, weight), and other pertinent information shall be noted and reported in the Monthly Compliance Reports. For special-status species, the Designated Biologist or Biological Monitor shall contact the CPM, CDFW and USFWS within 1 working day of receipt of the carcass for guidance on disposal or storage of the carcass. During construction, injured or dead animals detected by personnel in the project area shall be reported immediately to a Biological Monitor or Designated Biologist, who shall remove the carcass or injured animal promptly. During operations, the Project Environmental Compliance Monitor shall be notified, and they shall contact the Biological Monitor or Designated Biologist for further instructions. The veterinary fees for the treatment of injured wildlife shall be covered by the project owner for project-related injuries or found injured on the project site.

12. Minimize Spills of Hazardous Materials. All vehicles and equipment shall be maintained in proper working condition to minimize the potential for fugitive emissions of motor oil, antifreeze, hydraulic fluid, grease, or other hazardous materials or wastes. The Designated Biologist shall be informed immediately of any hazardous spills. Any on-site servicing of vehicles or construction equipment shall take place only at a

designated area approved by the Designated Biologist. Service/maintenance vehicles shall carry a bucket and pads to absorb leaks or spills;

13. Remove Trash Weekly. During construction all trash and food-related waste shall be placed in self-closing containers and removed weekly or more frequently from the site.
14. No Feeding Wildlife or Pets On-Site. Workers shall not feed wildlife or bring pets to the project site.
15. No Firearms. Except for law enforcement or security personnel, no workers or visitors to the site shall bring firearms or weapons to the project site;
16. Avoid Use of Toxic Substances. Soil bonding and weighting agents used on unpaved surfaces shall be non-toxic to wildlife and plants;
17. Minimize Disturbance Areas. Limit the size of any vegetation and/or ground disturbance to the minimum area needed for safe completion of project activities, and limit ingress and egress to defined routes;
18. Weed and Monofilament Free Wattles. Use only weed-free straw, hay bales, and seed for erosion control and sediment barrier installations. Monofilament plastic will not be used for erosion control. In addition, invasive non-native species shall not be used in landscaping plans and erosion control. Monitor and rapidly implement control measures to ensure early detection and eradication of weed invasions;
19. Minimizing Impacts of Generation Tie-Line Alignment. Construction staging areas for the generation intertie line (gen-tie) shall be confined within delineated project boundaries. Impacts to aquatic resources shall be avoided and impacts to sensitive biological resources shall be avoided, to the extent feasible, by adjusting the placement of poles, laydown areas, and road alignments. Construction drawings and grading plans shall identify sensitive resource locations and clearly indicate areas where temporary impacts can and cannot be avoided.

20. Conform to APLIC Guidelines. Transmission lines and all electrical components shall be designed, installed, and maintained in accordance with the Avian Power Line Interaction Committee's (APLIC's) Suggested Practices for Avian Protection on Power Lines (APLIC 2006), Reducing Avian Collisions with Power Lines (APLIC 2012), or updated guidance, to reduce the likelihood of large bird electrocutions and collisions;

21. ~~Aviation Lighting. To the extent feasible, any aviation warning lighting shall employ only strobed, strobe-like or blinking incandescent or LED lights, preferably with all lights illuminating simultaneously. Minimum intensity, maximum "off-phased" dual strobes are preferred, and no steady burning lights (e.g., L-810s) shall be used;~~

22. Herbicide Use. During construction and operation, the project owner shall conduct pesticide management in accordance with standard BMPs. The BMPs shall include non-point source pollution control measures. The project owner shall use a licensed herbicide applicator and obtain recommendations for herbicide use from a licensed Pest Control Advisor. Herbicide applications must follow EPA label instructions. Minimize use of rodenticides and herbicides in the project area and prohibit the use of chemicals and pesticides known to cause harm to non-target plants and wildlife. The project owner shall only use pesticides for which a "no effect" determination has been issued by the EPA's Endangered Species Protection Program for any species likely to occur within the project area or adjacent wetlands.

23. Minimize Stormwater Impacts. Standard best management practices (BMPs) from the project Storm Water Pollution Prevention Plan shall be implemented during all phases of the project (construction, operation, and decommissioning) where storm water run-off from the site could enter adjacent drainages. Sediment and other flow-restricting materials shall be moved to a location where they shall not be washed back into the jurisdictional waters. All disturbed soils within the

project site shall be stabilized to reduce erosion potential, both during and following construction.

24. Minimize Noise Impacts. ~~Loud construction activities (e.g., pile driving or other high-impact noise sources exceeding 60 dB(A) at active nest sites) shall be avoided during nesting season from February 1 to August 31 to the extent possible.~~ The Designated Biologist(s) or Biological Monitor(s) shall monitor active nests within the range of construction-related noise in accordance with BIO-8. The BRMIMP (BIO-6) shall outline adaptive management actions, including halting construction if the Designated Biologist determines it is causing disturbance. Triggers for adaptive management include evidence of project-related disturbance to nesting birds, such as agitation behavior (displacement, avoidance, or defense), increased vigilance at nest sites, altered foraging or feeding behavior, or nest abandonment.

25. ~~Bird-Safe/Bat-Safe Photovoltaic (PV) Panels. Photovoltaic (PV) panels installed on the project site shall, if feasible, include a light-colored, ultraviolet (UV)-reflective, or otherwise non-polarizing outline, frame, grid, or border. These features have been shown to significantly reduce the attraction of aquatic insects to panel surfaces, thereby decreasing the likelihood of attracting insectivorous birds and/or bats. This measure aims to mitigate avian and bat mortality by minimizing collisions with panel faces.~~

Verification: The project owner shall submit the BRMIMP to the CPM for review and approval at least 60 days prior to start of any site mobilization. The project owner shall provide final BRMIMP to the CPM at least 10 days prior to start of any site mobilization.

Basis: The COC has been modified to remove the requirement related to construction noise. Any loud construction noise with the potential to affect active nest sites would be addressed through monitoring and adaptive management as described in BIO-7.24.The COC has also been modified to remove measures BIO-7.21 and BIO-7.25 which are not applicable to the Project because the Project will not include aviation lighting or PV panels.

PROPOSED REVISIONS TO BIO-8

BIO-8 Nesting Bird Avoidance and Minimization Measure ~~and Tricolored Blackbird Avoidance and Minimization Measures~~. The project owner shall develop and implement a Nesting Bird Management Plan (NBMP) and submit to the CPM for approval, in coordination with CDFW and USFWS. The NBMP shall describe methods, included in BIO-8, to minimize potential project effects to nesting birds and avoid any potential for unauthorized take for tricolored blackbird, or other listed species without incidental take authorization. Where scheduling allows, the project owner shall clear or remove any vegetation, conduct site preparation in open or barren areas, or other project-related activities that may adversely affect breeding birds outside the nesting season. The NBMP will be applicable throughout the nesting season, defined as February 1 through September 15.

Pre-construction nest surveys shall be conducted if pre-construction site mobilization or construction shall initiate during the breeding season, from February 1 through September 15. The Designated Biologist and/or Biological Monitor shall perform surveys in accordance with the following guidelines:

1. Survey Requirements. Surveys shall cover all potential nesting substrate within the project site and areas surrounding the project site within 500 feet of the project boundary, where access is permitted. Pre-construction surveys for Swainson's hawk will include the project site and a 0.5 miles around the project site in accordance with BIO-10.
2. Survey Schedules. ~~At least two~~ A pre-construction survey~~s~~ shall be conducted ~~Pre-construction surveys shall be conducted~~ no more than 14 days prior to initiation of construction activity. ~~One survey needs to be conducted within the 3-day period preceding initiation of site mobilization, vegetation removal, ground disturbance, or construction activity.~~

   Surveys may be conducted in phases aligned with the phased construction approach, ensuring each area is surveyed, as required, prior to site mobilization or construction activities. ~~Surveys shall be repeated throughout construction to ensure that birds are not nesting on equipment or have moved into an~~

~~area after the initial vegetation clearance or ground disturbance has been completed. The NBMP shall include a survey schedule and a map of the project site that identifies each area to be surveyed for each phase. Any updates to the survey schedule and maps shall be provided to the CPM.~~

3. Nest and Avian Monitoring and Surveys During Construction. Additional follow-up surveys shall be required if periods of construction inactivity exceed three weeks during February 1 through September 15 in any given area, an interval during which birds may establish a nesting territory and initiate egg laying and incubation.

4. Nest Detection. If active nests are detected during the survey, a no-disturbance buffer zone (protected area surrounding the nest) shall be established around each nest.

   Specific buffer distances will be described and approved by the CPM in the NBMP; these buffers may be modified with the CPM's approval. For special-status species, if an active nest is identified, the size of each buffer zone shall be determined by the Designated Biologist in consultation with the CPM or as described in COCs specific for those species. Nest locations shall be mapped using GPS technology.

5. Active Nest Protection. If active nests are detected during the survey, the Designated Biologist or Biological Monitor shall monitor all nests with buffers at least once per week, to determine whether birds are being disturbed. If signs of disturbance or distress are observed, the Designated Biologist or Biological Monitor shall immediately implement adaptive measures to reduce disturbance in coordination with the CPM. These measures could include, but are not limited to, increasing buffer size, halting disruptive construction activities in the vicinity of the nest until fledging is confirmed, or placement of visual screens or sound dampening structures between the nest and construction activity, based on coordination with the CPM.

The Designated Biologist or Biological Monitor shall monitor the nest until it is determined that nestlings have fledged and dispersed, or the nest is

no longer active. Activities that might, in the opinion of the Designated Biologist or Biological Monitor, disturb nesting activities (e.g., exposure to exhaust), shall be prohibited within the buffer zone until such a determination is made. Any nest buffer reduction would require full time monitoring if reduced form the levels identified in the approved NBMP.

6. NBMP Content. The NBMP shall include:
    a. Definitions of default nest avoidance buffers for each species or group of species, depending on characteristics and conservation status for each species and the nature of planned project activities in the vicinity.
    b. A notification procedure for buffer distance reductions should they become necessary.
    c. A pre-construction survey protocol (surveys no longer than 3 days prior to starting work activity at any site).
    d. A monitoring protocol, to be implemented until adjacent construction activities are completed or the nest is no longer active, including qualifications of monitors, monitoring schedule, and field methods, to ensure that any project-related effects to nesting birds will be minimized.
    e. A protocol for documenting and reporting any inadvertent contact with or effects to birds or nests.
    f. A survey schedule and a map of the project site that identifies each area to be surveyed for each phase.
    g. Specify the responsibilities of construction workers and site personnel with regard to nests and nest issues and specify a direct communication protocol to the Biological Monitor and/or Designated Biologist;
    h. Specify a procedure to be implemented following accidental disturbance of nests, including wildlife rehabilitation options;
    i. Specify a procedure for removal of inactive nests, including verification that the nest is inactive and a notification/approval process.

7. Nest Deterrents. The NBMP shall describe any proposed measures or deterrents to prevent or reduce bird nesting activity on project equipment or facilities such as securing of materials netting of materials, vehicles, and equipment.

It shall also include timing for installation of nest deterrents and field confirmation to prevent effects to any active nest; guidance for the contractor to install, maintain, and remove nest deterrents according to product specifications; and periodic monitoring of nest deterrents to ensure proper installation and functioning and prevent injury or entrapment of birds or other animals.

In the event that an active nest is located on project facilities, materials or equipment, the project owner shall avoid disturbance or use of the facilities, materials or equipment (e.g., by red-tag) until the nest is no longer active.

8. Nest Start Removal. Prior to removing any suitable nesting habitat, pre-construction nesting bird surveys shall inform as to where existing raptor nests, and other special status bird nests, occur throughout the project area. The locations of existing special status bird nests within the habitat removal footprint shall be recorded and mapped by a qualified biologist. Due to the potential for nest building during active construction, the Designate Biologist and/or Biological Monitor shall regularly inspect for nest building attempts that may occur on/within construction equipment and/or within an area of active construction disturbance. In the event nest building is detected, the biologist shall deter birds from nesting using non-invasive methods to modify the circumstances. Methods may include, but are not limited to, removal of attempted nesting starts, visual deterrents, like reflective materials and/or physical barriers, based on coordination with the CPM.

In the event a nest is built, and eggs are laid, the nest shall be considered active nest and shall be avoided. This may include placing a buffer around a piece of equipment or closing off a work area until the nest has fledged. Nest start removal shall not be employed for state or federally-listed special-status species.

9. Accidental Nest Disturbance. The NBMP shall specify a procedure to be implemented following accidental disturbance of nests, including wildlife rehabilitation options. The project owner shall identify an appropriate wildlife care facility before starting site mobilization. The location of the care facility shall be provided to the CPM prior to site mobilization. The project owner shall bear any costs associated with the care or treatment of project related injured birds. The project owner shall provide a letter report detailing the outcome of the care to the CPM.

10. Reporting. Throughout the construction phase of the project, nest locations, project activities in the vicinity of nests ~~(including helicopter routes)~~, and any adjustments to buffer areas shall be updated and available to the CPM upon request. All buffer reduction notifications and prompt notifications of nest-related non-compliance and corrective actions will be made via email to the CPM. In addition, the NBMP shall specify the format and content of nest data to be provided in regular monitoring and compliance reports. At the end of each year's nest season, the project owner shall submit an annual NBMP report to the CPM. Specific contents and format of the annual report will be reviewed and approved by the CPM. Monthly reporting shall be included in the Monthly Compliance Report.

11. ~~Tricolored Blackbird Specific Avoidance Measures.~~

    a. ~~If construction activities take place during the tricolored blackbird breeding season (March 15 through August 31), the Designated Biologist, or Biological Monitor, shall conduct focused surveys for nesting tricolored blackbird within the project site and within 500 feet of the project boundary, where legally or safely accessible. If access is not available, surveys shall be conducted from public roads using binoculars or spotting scopes to assess potential nesting activity. Surveyors must have prior experience surveying for tricolored blackbirds to ensure accurate identification.~~

    b. ~~Surveys shall occur within or near areas that have suitable nesting habitat for tricolored blackbird, including freshwater~~

~~wetlands, cattail/bulrush stands, flooded areas, blackberry or other vegetation thickets, and agricultural grain field. Survey shall occur within 10 days prior to the start of site mobilization or ground-disturbing construction activities. These areas shall be identified on a map and included in the NBMP.~~

c. ~~If an active tricolored blackbird nesting colony is detected during pre-construction surveys, a minimum 300-foot no-disturbance buffer shall be established by the Designated Biologist, per CDFW's Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields in 2015 (CDFW 2015) or more recent guidance. This buffer shall remain in place until the breeding season ends or the Designated Biologist confirms that nesting has ceased, nestlings have fledged, and are no longer dependent on the colony or parental care for survival.~~

d. ~~If an active tricolored blackbird nesting colony is detected, daily monitoring shall be conducted by the Designated Biologist or Biological Monitor until it is determined that the nestlings have successfully fledged.~~

e. ~~If an active tricolored blackbird nesting colony is detected, a Nesting Tricolored Blackbird Monitoring Report shall be prepared by the Designated Biologist and submitted to the CPM. The Nesting Tricolored Blackbird Monitoring Report shall contain at a minimum: nest locations; project activities in the vicinity of nests; any adjustments to buffer areas; and any other pertinent information or anecdotal observations. All buffer reduction notifications and prompt notifications of nest-related non-compliance and corrective actions will be made via email to the CPM within 24 hours or the Monday following a weekend event.~~

Verification: The project owner shall submit the NBMP to the CPM at least 30 days prior to start of site mobilization activities. The project owner shall submit pre-construction survey reports to the CPM no more than 30 days after each survey effort has been completed. The project owner shall submit reports in the MCR during nesting season, and an

annual NBMP report to the CPM within 60 days of the end of nesting season. The project owner shall provide a letter report detailing the outcome of the care of any special-status injured birds or nest failures to the CPM within 14 days of the incident. ~~If nesting tricolored blackbird are detected, the project owner shall submit the Nesting Tricolored Blackbird Monitoring Report bi-monthly to the CPM.~~

Basis: COC BIO-8.1 has been revised to clarify the survey buffer distance for Swainson's hawk surveys. Given the small size of the Project area, nearby disturbances, lack of natural habitat, and the required presence of Biological Monitor during construction activities, pre-construction surveys have been decreased to one survey prior to initiation of construction activities (BIO-8.2). Measures specifically related to tricolored blackbird have been removed as these are not applicable to the project (BIO-8.11).

PROPOSED REVISIONS TO BIO-9

BIO-9 REMOVED

Basis: A Swainson's Hawk Conservation Strategy and Foraging Habitat Revegetation and Management Plan is not applicable to the project. Post-construction revegetation is addressed in proposed condition BIO-18.

PROPOSED REVISIONS TO BIO-10

BIO-10: Swainson's Hawk Impact Avoidance~~, Minimization, and Mitigation~~ Measures ~~for Take~~. To avoid~~, and minimize, and mitigate take of the~~ impacts to Swainson's hawk, the project owner shall perform the following:

1. Swainson's Hawk Nest Survey Methodology. The Designated Biologist(s) experienced in Swainson's hawk identification and behavior shall conduct Swainson's hawk preconstruction surveys during the nesting season (February 15 through September 15) at and within 0.5 mile of the project area and determine the status of any identified nests. The Designated Biologist shall report any active Swainson's hawk nest sites to the CPM within 24 hours. ~~Post-construction annual surveys~~

~~shall also be conducted according to the final Swainson's Hawk Conservation Strategy approved pursuant to BIO-9.~~

2. ~~Swainson's Hawk Nest Abandonment Contingency Plan. The Designated Biologist shall prepare and implement a Swainson's Hawk Nest Abandonment Contingency Plan. The plan shall include, but not be limited to, identification of capture methods, handling methods, methods to return Swainson's hawk back into the wild, and the identification of a CPM-approved wildlife rehabilitation center or veterinary facility. The project owner shall fund the recovery and hacking (controlled release) of the Swainson's hawk nestlings. Once the Swainson's hawk Nest Abandonment Contingency Plan is approved in writing by the CPM, it shall be used for the duration of the licensed project unless updated by the CPM to reflect best available science, in which case the CPM will contact the project owner to discuss needed updates. Any proposed changes to the Swainson's Hawk Nest Abandonment Contingency Plan shall be submitted, in writing, to the CPM and approved in writing prior to implementation of any proposed modifications.~~

3. Swainson's Hawk Nest(s) and Nest Buffers. If a nesting Swainson's hawk is located at or within 0.25-mile of a distinct work area(s) within the Project Area, a 0.25-mile no-work buffer will be implemented between construction activities and the active nest(s) until it has been determined that the young have fledged or as otherwise approved through consultation with CPM. The Designated Biologist(s) will mark the no-work buffer with stakes and signs and will check the location to ensure that the signs are in place and the buffer is being maintained. No work will be authorized within the buffer during the breeding season, except for vehicle travel. ~~the Designated Biologist(s) shall be present daily for the entire duration of any project activities occurring during the nesting season (February 15 through September 15) and within 0.25-mile of the active nest, to monitor the behavior of the potentially affected SWHA. The Designated Biologist(s) shall have the authority to order the cessation of all project activities (e.g. pre-construction site mobilization, construction, or operation) if the bird(s) exhibits~~

~~distress and/or abnormal nesting behavior (swooping/stooping, excessive vocalization [distress calls], agitation, failure to remain on nest, failure to deliver prey items for an extended time period, failure to maintain nest, etc.) which may cause reproductive failure (nest abandonment and loss of eggs and/or young). The project owner shall not resume project activities until the Designated Biologist(s) confirm that the bird's behavior has normalized, and the CPM provides agreement by email or telephone.~~

4. ~~Swainson's Hawk Nest Buffers. The project owner and Designated Biologist(s) shall ensure that no project activities occur within 100 feet of a Swainson's hawk nest during the nesting season (February 15 through September 15). The 100-foot no disturbance buffer shall not be reduced or otherwise modified without prior written CPM approval. Worker foot traffic, water and restroom facilities, employee break areas (permanent or temporary), and worker vehicle parking is prohibited within 1,000 feet of any Swainson's hawk nest without prior written CPM approval.~~

5. Swainson's Hawk Injury. If a Swainson's hawk is injured as a result of project related activities, the Designated Biologist(s) shall immediately take it to a CPM approved wildlife rehabilitation or veterinary facility. The project owner shall identify the facility and shall bear any costs associated with the care or treatment of such injured Swainson's hawk. The project owner shall notify the CPM of the injury to the Swainson's hawk immediately by telephone and e-mail followed by a written incident report as described in Section 10 below. Notification shall include the name of the facility where the animal was taken. The Designated Biologist(s) shall respond directly to CPM inquiries.

6. Final Construction Phase Report. No later than 45 days after completion of all construction activities, including all required monitoring, the project owner shall provide the CPM with a Final Construction Phase Report. The Designated Biologist shall prepare the Final Construction Phase Report which shall include, at a minimum: (1) a summary of all Monthly

Compliance Reports during the construction phase; ~~(2) all available information about project- related incidental take of the Swainson's hawk during construction;~~ (3) information about other project impacts on the Swainson's hawk ~~and burrowing owl~~; (4) beginning and ending dates of construction activities, including pre-construction site mobilization; (5) an assessment of the effectiveness of this condition of certification in avoiding ~~minimizing and fully mitigating~~ Project impacts of the taking on Swainson's hawk; (6) recommendations on how mitigation measures might be changed to more effectively avoid ~~minimize~~ take ~~and mitigate~~ the impacts of future projects on the Swainson's hawk; and (7) any other pertinent information. This report shall be included as part of the written construction termination report required under BIO-7.

7. Swainson's Hawk Nest Avoidance During Operation. Unless otherwise approved by CPM, the Designated Biologist(s) shall establish a ~~100-foot~~ 0.25-mile no disturbance buffer around all active SWHA nest(s) during the nesting season (February 15 through September 15). The ~~100-foot~~ 0.25-mile no disturbance buffer shall not be reduced or otherwise modified without prior written CPM approval. ~~Worker foot traffic, water and restroom facilities, employee break areas (permanent or temporary), and worker vehicle parking is prohibited within 1,000 feet of any Swainson's hawk nest without prior written CPM approval.~~ If an active nest is abandoned or a Swainson's hawk is injured, the Designated Biologist(s) shall ~~follow~~ notify the CPM ~~approved Swainson's Hawk Nest Abandonment Contingency Plan (BIO-10, Item 2) and Condition of Certification BIO-10, Item 5 (Swainson's Hawk Injury) as applicable.~~

~~8. Helicopter Use Along the Gen-Tie Line. During the Swainson's hawk nesting season (February 15 through September 15), the project owner shall implement at a minimum the following buffers during helicopter activities: as described in Table 1 a vertical and horizontal buffer distance of at least 1,320 feet shall be maintained from a Swainson's hawk nest, and shall be adjusted according to the approved Designated Biologist(s)~~

specifications (BIO-1 and BIO-2).

TABLE 1 HELICOPTER AVOIDANCE BUFFER GUIDELINES

Species	Vertical and Horizontal Buffer Distance (feet)*
Swainson's Hawk	1320
Fully protected avian species	1320
Special status raptors**	1200
Common raptors	300
Special status passerines	300
Common passerines	200

Notes: *These distances are applicable to small helicopters, which typically cause a downdraft of 15 to 18 miles per hour at up to 150 feet, operating in nest vicinity for up to 3 minutes once or twice per day, with a minimum of 4 hours between helicopter activities. Buffers will be re-evaluated and adjusted for larger helicopters or longer work periods.

**Helicopter Use Buffers for burrowing owl should reflect BIO-12 buffer distances of 1,200 feet.

9. Vehicle Parking During Operation. During operation, the project owner shall not allow vehicles to park within 100 feet of an active Swainson's hawk nest. Vehicles left overnight shall not be located within 100 feet of an active Swainson's hawk nest.

10. Notification of Observation, Take or Injury. The project owner shall notify the Designated Biologist by the end of the business day if a Swainson's hawk is observed within or near the project site or taken or injured by a project-related activity, or if a Swainson's hawk is otherwise found dead or injured within the vicinity of the project. Swainson's hawk observations (other than take or injury) must only be reported pursuant to this condition if an active nest is observed. The initial notification to CPM shall include information regarding the location, species, and number of animals observed, taken or injured. If the take or injury is a result of project activities then following initial notification, the project owner shall send (email) CPM a written report within two calendar days of the discovery. The report shall include the date and time of the finding or incident, GPS location of the Swainson's hawk, photographs and maps of the location and the Swainson's hawk, explanation as to cause of take or injury, and any other pertinent information. The Designated Biologist(s) shall respond directly to CPM inquiries.

Verification: The project owner shall provide the preconstruction survey results to the CPM in a written report at least five (5) days prior to beginning pre-construction site mobilization. A Swainson's Hawk Nest Survey Report shall be submitted to the CPM on an annual basis, during construction activities. ~~The Designated Biologist shall prepare a Swainson's hawk Nest Abandonment Contingency Plan and submit it to the CPM for written approval at least 45 days prior to the start of pre-construction site mobilization.~~

Basis: The COC has been revised to remove buffer distances and reporting associated with a Swainson's hawk Incidental Take Permit. Specifically, buffer distances in BIO-10.3, -10.4, and -10.7 have been increased to ensure protection of Swainson's hawk rather than using buffer distances from an issued Incidental Take Permit. Annual surveying, preparation of a Nest Abandonment Continency Plan, and reporting associated with take of Swainson's hawk have been removed from this measure (BIO-10.1, -10.2, and -10.6) as the Applicant will not be seeking an Incidental Take Permit. Measure 10.8 has been removed as helicopter use is not applicable to the project.

PROPOSED REVISIONS TO BIO-11

BIO-11 REMOVED

Basis: Compensatory mitigation associated with an Incidental Take Permit for impacts to Swainson's hawk is not applicable to the Project.

PROPOSED REVISIONS TO BIO-12

BIO-12 Burrowing Owl ~~Impact~~ Avoidance~~, and~~ Minimization~~, and Take Mitigation~~ Measures. The project owner shall implement the following measures to avoid~~, minimize and offset~~ impacts to breeding and foraging burrowing owls during construction and operation, and decommissioning:

1. Burrowing Owl Pre-Construction Nesting Surveys and Reporting. The Designated Biologist and/or Biological Monitor shall conduct pre-construction surveys for burrowing owls to identify potential, known, and/or nesting burrowing owl burrows. A potential burrowing owl burrow includes the presence of

additional burrowing owl-preferred habitats elements (e.g., topography, vegetation height, and proximity to foraging resources/pretty) in the vicinity of any subterranean hole ~~three~~ four inches or larger for which no evidence is present to conclude that the burrow is being used or any past use by a burrowing owl; a known burrowing owl burrow is a burrow that shows evidence the burrow is being used, known to have been used, or past use by a burrowing owl, or an "atypical" burrow (e.g., a pipe, culvert, buckled concrete, etc.) showing signs of occupancy (e.g. burrowing owl presence, whitewash, pellets, prey remains, etc.); and a nesting burrowing owl burrow is used for nesting (e.g. known burrowing owl burrow indications of the presence of eggs, chicks, dependent young, and/or brooding or egg incubation. The survey area shall include the project disturbance area and surrounding 500-foot survey buffer, as accessible. A minimum of two surveys will be conducted, with the first survey no more than 14 days prior to initial construction activities and the second survey conducted no more than 2 days prior to initial construction activities. If no burrowing owl or their sign (i.e., pellets, prey remains, whitewash, etc.) is observed during the preconstruction surveys the burrowing owl pre-construction report will be submitted to the CPM, construction may continue as planned, and no further action is required.

2. ~~Burrowing Owl Artificial Burrow Replacement Plan. The project owner shall replace each known burrowing owl burrow (as defined in the Burrowing Owl Burrow Avoidance, Item 6) that cannot be avoided within the project site with an artificial burrow to compensate for the loss of important shelter used by burrowing owl for protection, reproduction, and escape from predators. The project owner shall submit a Burrowing Owl Artificial Burrow Replacement Plan prepared by the approved Designated Biologist to the CPM prior to pre-construction site mobilization. Implementation of the Burrowing Owl Artificial Burrow Replacement Plan shall not proceed until this plan has been approved in writing by the CPM. The Burrowing Owl Artificial Burrow Replacement Plan shall include, but not be limited to: a discussion and map of potential artificial burrow~~

~~replacement locations; description of the replacement burrow design and dimensions (e.g., depth and width of burrow, width of burrow entrance, orientation of burrow entrance, number and placement of entrances to natal burrows); artificial burrow installation methods; long-term artificial burrow maintenance methods; and timing of burrowing owl burrow installation/construction.~~

~~Upon CPM approval, in writing, the Burrowing Owl Artificial Burrow Replacement Plan, it shall be used for the duration of construction, operation, and decommissioning, unless updated by the CPM to reflect best available science and/or to update mitigation and conservation strategies in which case the CPM will contact the project owner to discuss needed updates. Any proposed changes to the Burrowing Owl Burrow Replacement Plan shall be submitted to the CPM and approved by the CPM in writing, prior to the implementation of any proposed modifications.~~

3. ~~BUOW Mortality Reduction Plan. The project owner shall submit a Burrowing Owl Mortality Reduction Plan prepared by an approved Designated Biologist to the CPM prior to commencing burrowing owl burrow exclusion, burrow excavation, artificial burrow construction, and other relocation activities (collectively termed Burrowing Owl Exclusion Activities). Burrowing Owl Exclusion Activities shall not proceed until this plan has been approved in writing by the CPM. The Burrowing Owl Mortality Reduction Plan shall include, but not be limited to: detailed description of survey methodology; detailed burrow exclusion and excavation methods; proposed Covered Activities that may be performed within burrowing owl avoidance buffers; identification of a wildlife rehabilitation center or veterinary facility capable of and willing to treat injured burrowing owl or care for at-risk burrowing owl, burrowing owl eggs, and/or burrowing owl chicks; and procedure for collection and storage of burrowing owl carcasses. Only CPM-approved Designated Biologists, or personnel following directions from and under the supervision of the Designated Biologist, are authorized to handle and transport injured burrowing owl for treatment or impacted burrowing owl eggs for salvage. All other burrowing owl handling is prohibited.~~

~~Once the Burrowing Owl Mortality Reduction Plan is approved in writing by the CPM, it shall be used for the duration of the project unless updates are required by CPM to reflect best available science and/or to update mitigation and conservation strategies in which case the CPM will contact the project owner to discuss needed updates. Any proposed changes to the Burrowing Owl Mortality Reduction Plan shall be submitted, in writing, to the CPM and approved in writing prior to the implementation of any proposed modifications.~~

4. ~~Burrowing Owl Pre-Construction Surveys and Reporting. The Designated Biologist(s) shall conduct surveys to identify potential, known, and/or nesting burrowing owl burrows (as defined in the nesting Burrowing Owl Pre-Construction Surveys (Item 1)) prior to beginning Burrowing Owl Exclusion Activities in each distinct work area(s) (a work site/phase within the project site). Surveys shall include the work area and 500 feet (where feasible) beyond the limits of the project site (or distinct work area(s)), unless otherwise approved in advance in writing by the CPM. If the Designated Biologist(s) identifies any potential, known, or nesting burrowing owl burrows, the burrow(s) shall be monitored following the Burrowing Owl Burrow Blockage (Item 7) and Burrowing Owl Burrow Excavation (Item 8), unless avoided per the nesting Burrowing Owl Burrow Avoidance (Item 6).~~ The project owner shall provide the preconstruction survey results with a Burrow Map (see Burrow Map Item 5) in a written report to the CPM prior to starting ~~Burrowing Owl Exclusion Activities~~ <u>construction activities</u> on the project site or in each distinct work area(s). The report shall include, but not be limited to, methodology, survey date, and apparent status of each burrow (potential, known, or nesting).

5. Burrow Map. The Designated Biologist shall provide a Keyhole Markup Language zipped (KMZ) map and Geographic Information System (GIS) shapefiles to the CPM of all Burrowing Owl burrows found during the surveys performed per the Burrowing Owl Pre-Construction Surveys and Reporting (Item 1). The map shall show details and locations of all burrowing owl sightings and potential, known, and nesting

burrowing owl burrows as defined in the Burrowing Owl Burrow Avoidance (Item 6). The map shall include an outline of the project area and any distinct work area(s) surveyed within the project area, title, north arrow, scale bar, and legend.

6. Burrowing Owl Burrow Avoidance. The project owner shall establish no-disturbance buffer zones around potential, known and nesting burrowing owl burrows according to the following guidelines:

    a. If a potential burrowing owl burrow (any subterranean hole ~~three~~ four inches or larger for which no evidence is present to conclude that the burrow is being used or any past use by a burrowing owl) is discovered, the burrow may be plugged or excavated prior to or during construction activities. ~~the project owner shall establish a minimum a 50-foot no-disturbance buffer around the burrow. the burrow may be temporarily blocked, plugged, or excavated prior to or during construction activites. Blockage, plugging, or excavation of burrows shall only occur after the Designated Biologist has determined that burrowing owl is not currently present after four consecutive 24-hour periods of monitoring with infrared cameras. Burrowing owl burrows shall be carefully excavated with hand tools, or by mechanical means if a specific methodology is approved in writing by the CPM, until it is clear no individuals of burrowing owl are inside.~~

    b. If a known burrowing owl burrow (a burrow that shows evidence the burrow is being used, known to have been used, or past use by a burrowing owl) or an "atypical" burrow (e.g., a pipe, culvert, buckled concrete, etc.) showing signs of occupancy (e.g. burrowing owl presence, whitewash, pellets, prey remains, etc.) is discovered, a Project-specific mitigation plan shall be prepared for the CEC and CDFW review, approval, and implementation to protect burrowing owl and their nest sites. As defined in the *Staff Report on Burrowing Owl Mitigation* (CDFG 2012), buffer size is dependent upon time of year and level of disturbance at the Project site.

Depending on the level of disturbance, a smaller buffer may be established in consultation with CEC and CDFW. The burrowing owl survey may be conducted in conjunction with the preconstruction nesting bird survey, if timing is appropriate. ~~the project owner shall establish a minimum no-disturbance buffer of at least 100 feet around the burrow. A no-disturbance buffer of at least 1,600 feet shall be established around known burrowing owl burrows currently occupied by burrowing owl during the nesting season (typically February 1 to August 31 in this area).~~

c. If a nesting burrowing owl burrow (e.g. known burrowing owl burrow indications of the presence of eggs, chicks, dependent young, and/or brooding or egg incubation) is discovered within or immediately adjacent to the project area, the project owner shall notify the CPM immediately via e-mail. An initial no-disturbance buffer following the guidance as defined in the *Staff Report on Burrowing Owl Mitigation* (CDFG 2012) ~~of at least 1,600 feet~~ shall be established around the nest burrow, while a Project-specific mitigation plan is prepared for the CEC and CDFW review, approval, and will subsequently be implemented to protect the burrowing owl and their nest sites. ~~A no-disturbance buffer of at least 1,600 feet shall be established around known burrowing owl burrows currently occupied by burrowing owl during the nesting season (February 1 to August 31).~~ An established nesting burrowing owl burrow no-disturbance buffer may be removed once the burrowing owl(s) is/are no longer using the burrow.

   If the Designated Biologist determines that specific project activities are not likely to affect the burrowing owl using known or nesting burrowing owl burrows due to the nature of the specific project activities and/or due to objects or topography that might reduce potential noise disturbance and obstruct view of the project activities from the nest, then the Designated Biologist may email a

written request to the CPM to reduce the buffer distance with documented observational data (Buffer Reduction Request). The CPM will review each Buffer Reduction Request on a case-by-case basis and provide a determination in response to each Buffer Reduction Request in writing. The CPM may request additional and/or ongoing biological monitoring prior to approving a Buffer Reduction Request.

d. ~~If burrowing owl burrows cannot be avoided as described above, then the project owner shall follow the Burrowing Owl Burrow Blockage (Item 7), Burrowing Owl Burrow Excavation, (Item 8) and Burrowing Owl Mortality Reduction Plan (Item 3) as appropriate. If burrowing owl are visibly stressed by the project activities or workers in the vicinity after these no-disturbance buffers are established, all work in the vicinity shall immediately cease and increased no-disturbance buffers will be determined by the Designated Biologist(s) based on their behavioral observations of the affected burrowing owl.~~

~~The buffers prescribed above shall not be reduced or otherwise modified without prior written CPM approval. If the Designated Biologist determines that specific project activities are not likely to affect the burrowing owl using known or nesting burrowing owl burrows due to the nature of the specific project activities and/or due to objects or topography that might reduce potential noise disturbance and obstruct view of the project activities from the nest, then the Designated Biologist may email a written request to the CPM to reduce the buffer distance with documented observational data (Buffer Reduction Request). The CPM will review each Buffer Reduction Request on a case-by-case basis and provide a determination in response to each Buffer Reduction Request in writing. The CPM may request additional and/or ongoing biological monitoring prior to approving a Buffer Reduction Request.~~

7. ~~Burrowing Owl Burrow Blockage. Where the CPM has approved a buffer reduction, the project owner shall block rather than destroy any Burrowing Owl Burrow located within the buffer distances prescribed by the Burrowing Owl Burrow Avoidance (Item 6), but outside the discrete work area(s) within~~

~~the project site where ground- and vegetation-disturbing project activities will be performed. Burrows (including burrows in natural substrate and in/under man-made structures) may be blocked only immediately after the Designated Biologist(s) has conducted four consecutive 24-hour periods of monitoring with infrared camera and determined that burrowing owl is not currently present. Burrow blockage shall be done in a manner that prevents burrowing animals from digging back into the burrow. All blocked burrows shall be monitored by the Designated Biologist or Designated Monitor at least once every 48 hours to ensure that the exclusion material is still intact. If burrowing owl regains access to the burrow, the project owner shall contact the CPM immediately and obtain written guidance regarding how to proceed. All blocked burrows shall be unblocked within 48 hours of completion of construction within the prescribed buffer distance.~~

8. ~~Burrowing Owl Burrow Excavation. The Designated Biologist, or Biological Monitor under direct supervision of the Designated Biologist, shall excavate known or potential burrows that exhibit signs of current or past burrowing owl use or characteristics suggestive of a burrowing owl burrow (including burrows in natural substrate and in/under man-made structures) that cannot be avoided per the Burrowing Owl Burrow Avoidance (Item 6) and that are within the project site. All excavation shall be conducted in accordance with the approved Burrowing Owl Mortality Reduction Plan.~~

~~Excavation of known burrowing owl burrows shall only occur after the Designated Biologist has determined that burrowing owl is not currently present after four consecutive 24-hour periods of monitoring with infrared cameras. If the excavation process reveals evidence of current use by burrowing owl, then burrow excavation shall cease immediately, and camera monitoring as described above shall be conducted/resumed. Burrowing owl burrows shall be carefully excavated with hand tools, or by mechanical means if a specific methodology is approved in writing by the CPM, until it is clear no individuals of burrowing owl are inside.~~

~~Potential burrowing owl burrows without any signs of burrowing owls or characteristics suggesting it is an active burrowing owl burrow may be~~

~~excavated under the direct supervision of the Designated Biologist without camera monitoring.~~

~~Nesting burrowing owl burrows used for nesting shall not be excavated until monitoring by the Designated Biologist and camera monitoring confirm that the chicks have fledged and are no longer dependent on the nest and then only after written concurrence from the CPM.~~

~~Immediately following excavation, burrows shall then be filled with soil, and compacted to ensure that burrowing owl cannot reenter or use the burrow during project activities.~~

~~If the excavation process reveals burrowing owl eggs, young, or adults, then burrow excavation shall cease immediately and monitoring as described above shall be conducted/resumed. The project owner shall contact the CPM within 24 hours of the observation and get written guidance prior to proceeding with burrow filling if an individual burrowing owl does not vacate the partially excavated burrow within a reasonable timeframe.~~

~~An established burrowing owl burrow no-disturbance buffer may be removed once the burrow is collapsed and the burrowing owl(s) is/are no longer using the burrow.~~

9. Burrowing Owl Injury. If a burrowing owl is injured or found dead within the vicinity of the project site, the project owner shall notify the CPM of the injury or mortality to the burrowing owl immediately by e-mail. The initial notification to the CPM shall include information regarding the location, species, and number of animals taken or injured. Following initial notification, the project owner shall send the CPM a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible, provide a photograph(s), explanation as to cause of take or injury, and any other pertinent information.

~~The Designated Biologist shall follow the Burrowing Owl Mortality Reduction Plan (Item 3) to either immediately transport injured individuals to a CPM -approved wildlife rehabilitation center or veterinary facility or follow approved collection and storage procedures for deceased animals.~~ The project owner shall bear any cost associated with care and recovery

of any injured burrowing owl adults, nestling(s) or egg(s) and hacking (controlled release of captive reared young).

10. Burrowing Owl Observations and Notification. All workers shall inform the Designated Biologist if burrowing owl is seen within or near the project area during implementation of any project activity. All work in the vicinity of the burrowing owl which could harm the individual, shall cease until the individual moves from the project site of its own accord ~~or the Designated Biologist passively encourages the individual to move out of harm's way, in compliance with the timing and methods identified in the Burrowing Owl Mortality Reduction Plan (Item 3)~~.

11. ~~Operation Activities Designated Biologist On-site. The CPM-approved Designated Biologist(s) or Biological Monitor(s) shall be on-site during all ground- and vegetation-disturbing activities. The Designated Biologist shall be on-site during all non-emergency ground- and vegetation-disturbing project activities performed at night.~~

12. Operation and Maintenance Activities Work Hours. The project owner shall confine any operation and maintenance project activities to daylight hours (sunrise to sunset) with the exception of any operation or replacement work that must occur after dark ~~to ensure PV arrays are not energized~~, emergency response activities (e.g. catastrophic failures, security issues, etc.), or burrowing owl take <u>avoidance</u> ~~minimization~~ measures as applicable. The project owner shall ensure that all vehicle traffic necessary during project activities be conducted at speeds of less than 10 mph to <u>avoid</u> ~~minimize~~ impacts to burrowing owl (only on project site; not on public roads).

13. Operation Activities Vehicle Parking. During all operation activities or burrowing owl take <u>avoidance</u> ~~minimization~~ measures, the project owner shall not allow vehicles to park on top of potential burrowing owl burrows. Vehicles left overnight shall not be located within 50 feet of burrowing owl (known or potential) burrows.

14. ~~Operation Phase Vehicle and Equipment Inspection. During the operation phase, workers shall inspect for burrowing owl under~~

~~vehicles and equipment every time the vehicles and equipment are moved. If a burrowing owl is present, the worker shall wait for the burrowing owl to move unimpeded to a safe location. Alternatively, the Designated Biologist shall be contacted to passively encourage the burrowing owl to move away from the vehicle or equipment, in compliance with the timing and methods identified in the Burrowing Owl Mortality Reduction Plan (Item 3).~~

15. Operation Activities Pipes and Materials Inspection. The project owner shall ensure that all pipes or similar materials stockpiled or replaced in the Project Area are capped or otherwise enclosed at the ends to prevent entry by burrowing owl. The project owner shall not leave any permanent pipes or similar materials or structures open where burrowing owl or other species may enter them and become trapped. The Designated Biologist shall thoroughly inspect all such materials for burrowing owl before they are moved, buried, or capped. If a burrowing owl is discovered inside such material, that section of material shall not be moved until the animal has escaped of its own accord. ~~Alternatively, the Designated Biologist may passively encourage the burrowing owl to move away from the pipes, culverts, or similar structures, in compliance with the timing and methods identified in the Burrowing Owl Mortality Reduction Plan (Item 3).~~

16. Operation Ground- and Vegetation-Disturbing Project Activities. The Burrowing Owl Pre-Construction Surveys and Reporting (Item 1) shall be implemented within 30 calendar days prior to commencing ground- or vegetation-disturbing activities during operation in each distinct Work Area(s) within the project site. If the Designated Biologist identifies any potential, known, or nesting burrowing owl burrows, the burrow(s) shall be ~~monitored following the Burrowing Owl Burrow Blockage (Item 6) and Burrowing Owl Burrow Excavation (Item 8), unless~~ avoided per the Burrowing Owl Burrow Avoidance (Item 6).

17. Operation Activities Burrowing Owl Observations. During all Operation Activities within the project site, all workers shall inform the Designated Biologist(s) if a burrowing owl is

observed within or near the Project Area. All work in the vicinity of the burrowing owl, which could ~~injure or kill~~ impact the animal, shall cease immediately until the burrowing owl moves from the project site of its own accord ~~or the Designated Biologist passively encourages the individual to move out of harm's way, in compliance with the timing and methods identified in the Burrowing Owl Mortality Reduction Plan (Item 3)~~.

18. Operation Activities Burrowing Owl Injury. If a burrowing owl is injured or found dead within the vicinity of the Project Area, the Project Owner shall notify the CPM of the injury or mortality to the burrowing owl immediately by e-mail as described in Item 9. ~~The Designated Biologist shall follow the Burrowing Owl Mortality Reduction Plan (Item 3) to either immediately transport injured individuals to a CPM-approved wildlife rehabilitation center or veterinary facility or follow approved collection and storage procedures for deceased animals. The project owner shall bear any cost associated with care and recovery of any injured burrowing owl adults, nestling(s) or egg(s) and hacking (controlled release of captive reared young.~~

Verification: The Designated Biologist shall provide to the CPM preconstruction survey results to the CPM within 10 days of the completion of the survey. If surveys detect burrowing owls within 500 feet of proposed construction activities, the Designated Biologist shall provide to the CPM documentation indicating that an initial non-disturbance buffer ~~fencing~~ has been installed no less than 10 days prior to the start of any project-related site disturbance activities. The documentation shall include information as specified in Items 4 and 5, or as otherwise requested by the CPM.

If pre-construction surveys detect burrowing owls or active burrowing owl burrows within the project disturbance area, the project owner shall establish a non-disturbance buffer ~~provide to the CPM a Burrowing Owl Mortality Reduction Plan~~ prior to the start of activities (~~the measures described in the plan shall be incorporated into the BRMIMP and implemented.) The plan shall be for review and comment by the CPM and shall be finalized no less than 30 days prior to commencing activities which may disturb or take burrowing~~

~~owls.~~ During operations, the project owner shall provide a written report with Burrow Map (Item 5) to the CPM 10 days prior to starting Burrowing Owl Exclusion Activities on the site or in each distinct work areas(s).

~~The project owner shall submit a Burrowing Owl Artificial Burrow Replacement Plan to the CPM for review and comment at least 30 days prior to initiation of pre-construction site mobilization. The final approved Burrowing Owl Artificial Burrow Replacement Plan shall be submitted prior to activities which may disturb or take burrowing owls. At the conclusion of the construction period, the Project Owner shall submit a final Burrowing Owl Mitigation Implementation Report detailing location of all burrowing owl observed, take measures implemented, and their effectiveness.~~

~~During operations, the project owner shall include in the Annual Compliance Report an accounting of all burrowing owl documented on site, including copies of the Designated Biologist or Biological Monitor's field notes, any buffers zones erected, maps, additional avoidance and minimization measures implemented, and their perceived effectiveness.~~

Basis: This COC has been revised to remove requirements associated with an Incidental Take Permit for burrowing owl. These include the Artificial Burrow Replacement Plan (BIO-12.2), Burrowing Owl Mortality Reduction Plan (BIO-12.3), Burrow Blockage (BIO-12.7), Burrow Excavation (BIO-12.8) and measures that include passive relocation or references to these plans. The burrowing owl burrow avoidance measure (BIO-12.6) has been revised to state if a burrowing owl is observed during surveys, then a project-specific mitigation plan would be prepared for review and approval. Any potential impacts and specific measures would be effectively addressed in a specific plan, if burrowing owls are observed.

PROPOSED REVISIONS TO BIO-13

BIO-13 REMOVED

Basis: Compensatory mitigation associated with an Incidental Take Permit for impacts to burrowing owl is not applicable to the Project.

PROPOSED REVISIONS TO BIO-14

BIO-14 REMOVED

Basis: American badger measures are not applicable to the Project.

PROPOSED REVISIONS TO BIO-15

BIO-15 REMOVED

Basis: San Joaquin kit fox measures are not applicable to the Project.

PROPOSED REVISIONS TO BIO-16

BIO-16 Crotch's Bumble Bee Avoidance ~~and Minimization~~ Measures.

Part A: To avoid impacts to Crotch's bumble bee, the Designated Biologist(s) and/or Biological Monitor(s) shall conduct a habitat assessment to determine if the project site and the immediate surrounding vicinity (up to 50 feet) contain habitat suitable to support foraging, nesting, and/or overwintering resources for Crotch's bumble bee. Potential nesting and overwintering sites, which include all small mammal burrows, perennial bunch grasses, thatched annual grasses, brush piles, old bird nests, dead trees, and hollow logs would need to be documented as part of the assessment. All floral resources shall be documented as well to identify potential for foraging at the site.

If potentially suitable habitat is identified, the Designated Biologist shall perform pre-construction surveys in all suitable habitat within the disturbance area and a 50-foot buffer within 2 weeks prior to construction activities. Surveys will include a minimum of two survey efforts which shall not occur on sequential days and ~~. conduct focused (protocol level) surveys for Crotch's bumble bee and their requisite habitat features~~ following the methodology outlined in the Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species (CDFW 2023) (or more recent published guidelines).

If Crotch's bumble bee is detected during construction or operation:

~~All small mammal burrows, thatched/bunch grasses, and suitable floristic resources shall be avoided by a minimum radius of 50 feet to avoid take and potentially significant impacts.~~

A 25-foot no-disturbance buffer will be implemented around Crotch's bumble bee individuals within the area and monitored until it leaves the area on its own.

If an active nest colony is found, a 50-foot no-work buffer will be implemented to protect the active nest and floral resources. Construction activities will not occur within the no-work buffer until the colony is no longer active (that is, no bees are seen flying in or out of the nest for three consecutive days, indicating the colony has completed its nesting season and the next season's queens have dispersed from the colony).

~~An avoidance buffer of 50 feet shall be established around any observed nests during both construction and operation.~~

~~If ground-disturbing activities will occur during the overwintering period (October through February), the project owner shall consult with the CPM to discuss how to implement project activities and avoid take~~.

~~Part B: If, at the time of construction, Crotch's bumble bee is no longer candidate species under the California Endangered Species Act, but retains special status (e.g. State Rank S2 or other), and suitable habitat remains within the project site or 50 feet immediately offsite, the project owner shall implement the following avoidance and minimization measures to reduce potential impacts:~~

1. ~~Pre-construction surveys shall be performed during the species' active season (typically March through September) in areas with suitable flowering plant and nesting/burrowing habitat(including 50 feet offsite as feasible), conducted by a qualified entomologist or biologist familiar with Crotch's bumble bee ecology. The surveyor shall be approved by the CPM per BIO-1 and/or BIO-3.~~
2. ~~Mapping of suitable habitat within the project footprint and establishment of 50-foot avoidance buffers or phased work zones where feasible, which may be reduced with approval from the CPM.~~

3. ~~If Crotch's bumble bee individuals are observed, work in the immediate area shall pause until the individual voluntarily relocates, or the CPM approves relocation measures, in coordination with CDFW.~~

4. ~~Where avoidance is not feasible, implement measures such as limiting work during peak foraging hours, maintaining floral resources in adjacent habitat, enforcing speed limits, and education workers through WEAP training on species identification and reporting procedures.~~

5. ~~All avoidance and minimization measures, maps, and reports will be included in the Biological Resources Mitigation Implementation and Monitoring Plan (BRMIMP BIO-6) and implemented. Implementation will be reported in the Monthly Compliance Reports.~~

Verification: The project owner shall submit the results of the habitat assessment to the CPM for review and approval within 30 days of completion, and prior to start of both construction and subsequent surveys (if necessary). If surveys are performed, the Designated Biologist shall report monthly in the MCR. The report shall describe survey methods, results, impact avoidance ~~and minimization~~ measures implemented, and the results of those measures. The Designated Biologist or Biological Monitor shall ensure that appropriate CNDDB records are filed. The Designated Biologist shall report all sightings of this species on the project site to the CPM within 24 hours.

Basis: The COC has been revised to include species-specific survey measure and no disturbance buffer, if individuals or a nest are observed during surveys. Part B has been removed because Part A will be implemented regardless of Crotch's bumble bee listing status.

PROPOSED REVISIONS TO BIO-17

BIO-17 REMOVED

Basis: Avian and bat collisions with PV panels are not applicable to the Project.

PROPOSED NEW CONDITION BIO-18

BIO-18 The project owner shall submit a Revegetation Plan to the CPM for review and approval detailing on-site revegetation efforts of areas temporarily affected during construction. The Revegetation Plan shall include a comprehensive list of proposed plant species, including quantities and monitoring plan, and should include flowering plants appropriate for monarch butterfly and Crotch's bumble bee use. The monitoring, success criteria, and reporting shall be detailed in the approved Revegetation Plan and shall demonstrate progress towards successful revegetation efforts. Once the success criteria have been reached, additional revegetation efforts will no longer be required.

Verification: The project owner shall submit a Revegetation Plan to the CPM for review and approval. The revegetation monitoring report will be included in the Annual Compliance Report submitted to the CPM.

Basis: The new COC will include specific revegetation elements and reporting requirements to ensure that the natural habitat post construction has been restored.

We look forward to meeting with Staff to discuss these proposed changes to assist in advancing the project to completion.

Dated: July 3, 2025

Respectfully Submitted,

Scott A. Galati
Counsel to North Bay Interconnect, LLC and
Corby Energy Storage, LLC