DOCKETED	
Docket Number:	24-OPT-05
Project Title:	Corby Battery Energy Storage System Project
TN #:	268010
Document Title:	CDFW NOP Comment Response
Description:	N/A
Filer:	Christina Adkins
Organization:	California Department of Fish and Wildlife
Submitter Role:	Public
Submission Date:	12/19/2025 4:56:16 PM
Docketed Date:	12/19/2025

CDFW Comment Letter Response

Corby Battery Energy Storage System Project (24-OPT-05)

December 2025

Prepared for

NEXTera ENERGY RESOURCES

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Prepared by

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1.0 INTRODUCTION

The following text includes responses to comments that the California Energy Commission (CEC) received from the California Department of Fish and Wildlife (CDFW) in response to the Notice of Preparation of the draft Environmental Impact Report for the Corby Battery Energy Storage System Project (Project). The numbering of the individual comments is identified in the attached marked up version of the CDFW comment letter included as Attachment 1.

Comment 1 – Special-Status Species and Habitats

Response:

Acknowledged. The Opt-in Application for the Project to CEC provides baseline habitat assessments for special-stats plant, fish, and wildlife species that may occur in the vicinity of the Project. The species identified in Appendix A of the CDFW comment letter are included and assessed in the Opt-in Application and relevant appendices.

Comment 2 – Western Burrowing Owl Habitat Assessment and Surveys

Response:

Acknowledged. The Opt-in Application provides a thorough evaluation of the potential for burrowing owl to be present in the vicinity of the Project site including results of the breeding and non-breeding surveys following the guidance in Appendix D of the CFW 2012 Staff Report on Burrowing Owl Mitigation (Staff Report) (CDFW 2012[1]).

Comment 3 - Western Burrowing Owl Non-Nesting Season Surveys

Response:

Coordination with the CEC and CDFW has been ongoing since 2024. The surveys and survey schedule for burrowing owl (BUOW) were included in the Opt-in Application filing, Data Request Response #1 (DR BIO-1), and Data Request Response #3 (DR BIO-3), including specific dates for non-breeding season surveys. Because no comments were received from CEC or CDFW regarding the non-breeding season survey dates, no additional surveys were initiated at that time.

The CDFW comment letter was received on November 10, 2025, and recommended that non-breeding season surveys be spread between September 1 and January 31. Because of the timing of receipt of that comment letter, conducting all recommended surveys prior to November 10, 2025, was not feasible. To address CDFW's recommendation, an additional non-breeding season survey following the Appendix D guidance in CDFW (2012) was conducted on November 18, 2025. The survey report is provided as Attachment 2.

Results of this additional survey were consistent with prior breeding and non-breeding season surveys; there were no observations of BUOW or their sign, and no suitably sized burrows or burrow surrogates for BUOW were observed within the study area. Based on the absence of suitable burrows

[1] California Department of Fish and Wildlife. 2012. Staff Report on Burrowing Owl Mitigation. Available online at: https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline=true

or burrow surrogates, the study area should not be considered suitable breeding or non-breeding season habitat for BUOW, a condition that will not change based on survey seasonality.

Comment 4 - Western Burrowing Owl Pre-Construction Surveys and Avoidance Buffers

Response:

The measures included in the Opt-in Application (PD BIO-5), in Data Request Response #1 (DR BIO-1), and in the proposed revisions to the Conditions of Certification (COC) (Opt-in measure BIO-12(1)) describe the pre-construction surveys that would be conducted for BUOW. Those measures require a minimum of two pre-construction surveys: one no less than 14 days prior to ground disturbance and one within 48 hours prior to ground disturbance. They also require submission of pre-construction survey results and a burrow map showing all BUOW burrows (if any) found during the surveys. While the CDFW comment letter recommends that the second pre-construction survey is completed within 24 hours prior to ground disturbance, given the site conditions and absence of BUOW despite numerous surveys to date, a second pre-construction survey within 48 hours is anticipated to be adequate to identify the species should they be present.

As documented in the breeding and non-breeding guidance-level surveys for BUOW, no suitable burrows or burrow surrogates are present within the study area. In addition, COC Measure BIO-12(6)(c) states that, in the unlikely event BUOW are present within the Project vicinity, an initial no-disturbance buffer following CDFW (2012) guidance will be established around the burrow while a Project-specific mitigation plan is prepared for CEC and CDFW review.

Comment 5 – Western Burrowing Owl Compensatory Mitigation

Response:

Due to the absence of BUOW observations within the study area despite numerous BUOW-specific surveys (including guidance-level breeding and non-breeding surveys) and other biological surveys, and because no suitable burrows or burrow surrogates are present, BUOW are not anticipated to occur in the study area.

The most recent non-breeding season survey report included as Attachment 2 also documents that, in addition to the absence of suitable burrows or burrow surrogates for BUOW, there were very few small fossorial mammal burrows indicative of a small-mammal prey base. No burrows, regardless of opening size, were observed within the proposed BESS footprint, and only very sparse small fossorial mammal burrows (mice and vole) were located in the vicinity of the gen-tie alignment north of Kilkenny Road. Insects, another primary prey source, were also scarce during surveys. Therefore, the prey base within the Project area is anticipated to be minimal, particularly where the BESS would be located.

Taken together, the lack of suitable burrows or burrow surrogates, the minimal prey base, and the absence of BUOW observations, indicate that the likelihood of BUOW presence or foraging in the Project or study area is very low. Accordingly, Project development is not expected to substantially decrease the amount of foraging habitat for BUOW or otherwise adversely impact the species.

With implementation of the proposed COCs, no take of BUOW is anticipated as defined under the California Fish and Game Code[2], and there would be no significant or otherwise adverse impacts to BUOW. Given the lack of significant impacts (or any adverse impacts) to BUOW, lack of anticipated take, and lack of anticipated substantial decrease of BUOW foraging habitat, compensatory mitigation is not indicated or appropriate.

Comment 6 – Western Burrowing Owl Incidental Take Avoidance/Permitting

Response:

Acknowledged. Given the lack of observations during breeding and non-breeding season surveys conducted per CDFW (2012) guidance, the absence of suitable burrows or burrow surrogates within the study area, and implementation of the proposed COCs, take of BUOW as defined by the California Fish and Game Code will be avoided.

Comment 7 – Swainson's Hawk Incidental Take Avoidance/Compensatory Mitigation

Response:

Acknowledged. Given the relative absence of suitable Swainson's hawk nesting trees within a 0.5-mile buffer of the Project, that the trees that are suitable for nesting are readily viewable from publicly accessible locations, and the nesting-tree fidelity demonstrated by Swainson's hawks in the immediate vicinity, the pre-construction survey approach for Swainson's hawk identified in proposed COC BIO-10 is adequate to identify active nests.

As described in proposed COC BIO-10, a 0.25-mile no-disturbance buffer will be established around any active Swainson's hawk nest(s) during the nesting season (February 15 through September 15). This buffer will not be reduced or modified without prior written approval from the CEC Compliance Project Manager.

As described in Data Request Responses #1 and #3, the Project will result in permanent loss of approximately 15.9 acres and temporary loss of approximately 24.4 acres of Swainson's hawk foraging habitat within the 40.3-acre Project site, plus an additional temporary loss of approximately 3.8 acres near the PG&E Vaca-Dixon Substation.

CDFW guidance [3]and the Vacaville Municipal Code Agricultural and Avian Foraging Habitat Impact Mitigation Program (Chapter 14.28.001)[4] indicate that mitigation for loss of foraging habitat should not be required at a ratio greater than 1:1 (habitat lost to habitat protected). Because the Project would result in 15.9 acres of permanent foraging habitat loss, 15.9 acres of mitigation would be required; compensatory mitigation for temporary impacts to foraging habitat would not be required

[2] Under California Fish and Game Code, "take" means to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.
[3] CDFW (California Department of Fish and Wildlife). 2016. Status Review: Swainson's Hawk (*Buteo swainsoni*) in California. Available online at: https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=133622&inline
[4] City of Vacaville Municipal Code. 2025. Chapter 14.28.001 Agricultural and Avian Foraging Habitat Impact Mitigation Program. Available online at: https://www.codepublishing.com/CA/Vacaville/#!/Vacaville14/Vacaville1428001.html#14.28.001.050 (accessed August 2025).

because areas with temporary impacts will be restored after construction and remain available for use by foraging individuals.

Nevertheless, the Applicant will provide mitigation through the Solano Land Trust (SLT) In-Lieu Fee Program at a larger acreage (up to 40 acres), as determined necessary by the CEC to mitigate for impacts to Swainson's hawk foraging habitat. The mitigation lands will be protected in perpetuity through conservation easements held and managed by SLT. The acreage designated for Swainson's hawk mitigation will not be combined or stacked with required agricultural mitigation for cropland conversion because acreage requirements and management restrictions differ; SLT prefers an In-Lieu Fee approach to enable creation of larger, more impactful avian mitigation projects funded by multiple local needs.

Comment 8 - Swainson's Hawk Incidental Take Permitting

Response:

Acknowledged. With implementation of proposed COCs, take of Swainson's hawk as defined by California Fish and Game Code will be avoided.

Comment 9 – Crotch's Bumble Bee Habitat Assessment

Response:

Acknowledged. The Opt-in Application, Data Request Response #1 (DR BIO #12) provide a thorough evaluation of the potential for Crotch's bumble bee to be present.

Comment 10 - Crotch's Bumble Bee Take Permitting and Compensatory Mitigation

Response:

As discussed in the Opt-in Application and Data Request Response #1 (DR BIO-12), non-native floral resources are scattered throughout the Project site; however, there are no native floral resources preferred by Crotch's bumble bee within the Project disturbance area. The lack of habitat diversity surrounding the disturbance area decreases the likelihood of nesting and overwintering of bumble bee colonies. Near-surface disturbances associated with surrounding land covers, such as mowing, tilling, planting, and grazing also negatively affect bumble bee colonies. These agricultural disturbances and the lack of floral resources in the Project vicinity likely preclude this species from the Project area; therefore, habitat suitability within the disturbance area is considered low.

As proposed in PD BIO-4 and proposed COC BIO-16, an additional pre-construction habitat assessment for Crotch's bumble bee will be conducted in the immediate vicinity of the Project site. If potentially suitable habitat is identified, a pre-construction survey will be conducted in all suitable habitat within the disturbance area and a 50-foot buffer within two weeks prior to construction. That survey will include a minimum of two survey efforts on non-sequential days and will follow the methodology in the Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species (CDFW 2023[5]). If Crotch's bumble bee is detected during construction or operation, no-

[5] California Department of Fish and Wildlife. 2023. Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species. Available online at: https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150&inline

disturbance buffers will be implemented around individuals and active nests to avoid take as defined under the California Fish and Game Code. As take will be avoided through implementation of the proposed COCs, and development would not substantially decrease available habitat in the vicinity or otherwise result in an adverse impact, there would be no significant impact to Crotch's bumble bee. As such, compensatory mitigation for the species is not indicated or appropriate.

However, the Project is anticipated to result in a net increase in potentially suitable habitat for the species. This is because the Project will result in the permanent removal of 21.6 acres of orchards associated with construction within the gen-tie corridor and the gen-tie laydown area. Subsequent revegetation of these areas will convert unsuitable orchard habitat to potentially suitable habitat for Crotch's bumble bee. Construction on the Project site will result in the removal of 15.9 acres of low quality habitat, yielding a net benefit of 5.7 acres of habitat that may be used by Crotch's bumble bee in the future. Data Request Response #1 (DR BIO-18) includes a draft revegetation plan with a proposed seed mix and application quantities that include plants appropriate for Crotch's bumble bee.

Comment 11 – Aquatic Resources

Response:

Acknowledged. The Opt-in Application includes an analysis of potential impacts to streams, drainages, and canals associated with the Project. In addition, a Lake or Streambed Alteration Agreement application has been submitted to the CEC associated with the potential horizontal directional drill crossing of the Solano Irrigation District canal that is located on the north side of Kilkenny Road.

Comment 12 – Cumulative Impacts

Response:

Acknowledged. The Opt-in Application addresses potential cumulative impacts to biological resources; no cumulative impacts are anticipated.

ATTACHMENT 1: CDFW COMMENT LETTER

DOCKETED	
Docket Number:	24-OPT-05
Project Title:	Corby Battery Energy Storage System Project
TN #:	267196
Document Title:	California Department of Fish and Wildlife (CDFW) NOP Comments
Description:	California Department of Fish and Wildlife (CDFW) NOP Comments
Filer:	Renee Longman
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	11/13/2025 9:34:30 AM
Docketed Date:	11/13/2025

State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
2825 Cordelia Road, Suite 100
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(707) 428-2002
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director

November 10, 2025

Renee Longman, Project Manager
California Energy Commission
715 P Street, MS 40
Sacramento, CA 95814
Renee.Longman@energy.ca.gov

Subject: Corby Battery Energy Storage System Project, Notice of Preparation of a Draft Environmental Impact Report, SCH No. 2025101073, Solano County

Dear Renee Longman:

The California Department of Fish and Wildlife (CDFW) received a Notice of Preparation (NOP) of a draft Environmental Impact Report (EIR) from the California Energy Commission (CEC) for the Corby Battery Energy Storage System Project (Project). CDFW is taking this opportunity to provide comments and recommendations regarding proposed Project activities that may affect fish and wildlife resources of the State, pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.[1]

CDFW ROLE

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

The proposed Project would ordinarily have the potential to require one or more discretionary approvals by CDFW because it may result in substantial adverse impacts to fish and wildlife resources such as Lake and Streambed Alteration(LSA) (Fish & G. Code, § 1602); and incidental take of species protected under the California Endangered Species Act (CESA). (*Id*., § 2081, subds. (b)-(c).) CDFW would typically submit comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) However, because the Project proponent opted

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

into the Assembly Bill (AB) 205 certification process, the CEC has exclusive jurisdiction over the proposed Project and is responsible for ensuring any certification of the proposed Project includes all conditions necessary to ensure compliance with the Fish and Game Code and its implementing regulations found in Title 14 of the California Code of Regulations. (Pub. Resources Code, §§ 25545.1, subd. (b), & 25545.5, subd. (a).) Thus, CDFW does not have a direct permitting role in the process that would ordinarily trigger a Responsible Agency role. CDFW instead submits these comments as a Trustee Agency under CEQA.

Pursuant to AB 205, the CEC and CDFW developed a coordination plan through a Memorandum of Understanding (MOU) to ensure that all potential impacts to fish, wildlife, and plant resources, and the habitats upon which they depend, including, but not limited to incidental take of species protected under CESA, are consistent with the Fish and Game Code and its implementing regulations found in Title 14 of the California Code of Regulations. (Pub. Resources Code, § 25545.5, subd. (a).) The MOU also ensures timely and effective consultation between the CEC and CDFW with respect to any proposed CEC findings and actions regarding potential impacts to fish, wildlife, and plant resources. (*Ibid*.) CDFW is thus, also submitting these comments in its **consultation role** under AB 205 and the MOU.

PROJECT DESCRIPTION AND LOCATION SUMMARY

Proponent: North Bay Interconnect, LLC, and Corby Energy Storage, LLC

Objective: The Project proposes to construct a 300-megawatt (MW)/1,200-megawatt-hour battery energy storage system (BESS) facility on an approximately 40.3-acre parcel. In addition to the BESS, the Project will include an associated substation, inverters and other ancillary facilities, such as fencing, a sound barrier, roads, an optional groundwater well, a water tank, stormwater retention basins, storage containers, and a supervisory control and data acquisition system. The Project will connect to the Pacific Gas and Electric Vaca-Dixon Substation via a 1.1-mile-long 230-kilovolt generation tie (gen-tie) line.

Location: The proposed Project is located southwest of the intersection of Kilkenny Road and Byrnes Road and southeast of the City of Vacaville in Solano County, California; Assessor's Parcel Number 0141-030-090. The Project site is located approximately 250 feet southeast of the City of Vacaville jurisdictional boundary and approximately 0.6 mile southeast of Interstate 80.

Timeframe: The Project is anticipated to be built over an approximately 14-month period.

Consultation with CDFW: CDFW appreciates the opportunity to have engaged with CEC staff and the Project proponent in meetings, phone calls and other

communications, and a site visit on February 21, 2025 for the Project. Consistent with the AB 205 interagency coordination plan required by Public Resources Code section 25545.5, CDFW and CEC met frequently to discuss the Project's data requests until the application was deemed complete by the CEC. CDFW will continue to collaborate with, and provide support to, the CEC throughout the AB 205 certification process.

COMMENTS AND RECOMMENDATIONS

The EIR that will be prepared will disclose the potential environmental impacts associated with the Project. CDFW offers the following comments and recommendations to assist the CEC in adequately identifying the Project's significant, or potentially significant, direct, indirect, and cumulative impacts on fish and wildlife (biological) resources.

Special-Status Species and Habitats: CDFW recommends that the draft EIR provide baseline habitat assessments for special-status plant, fish and wildlife species known to be located or potentially located within the Project area and surrounding accessible lands, including all species considered to be rare, threatened, or endangered species. (CEQA Guidelines, § 15380.) State fully protected species, species listed as threatened or endangered under state or federal law, candidate species for listing under state or federal law, and other special-status species that are known to occur, or have the potential to occur in or near the Project site, include, but are not limited to, the species listed in **Attachment A**. The draft EIR should describe and analyze impacts to aquatic habitats, such as wetlands or habitats within waters of the United States or waters of the State, and any sensitive natural communities or riparian habitat occurring on or adjacent to the Project site (for more information about sensitive natural communities, see: https://wildlife.ca.gov/Data/VegCAMP/NaturalCommunities#sensitive%20natural%20communities). 1

Western Burrowing Owl: The Project area supports potential western burrowing owl (*Athene cunicularia hypugaea*), burrowing owl) nesting and/or foraging habitat. Based on previous communications between CDFW and the Project proponent, Project-related surveys detected a burrowing owl in the vicinity of the Project area. Burrowing owl is currently a candidate for listing as endangered under CESA. While it is a candidate, it is afforded the same protection under CESA as state-listed threatened or endangered species. 2

CDFW recommends the draft EIR include a thorough evaluation of the potential for burrowing owl to inhabit the Project site and adjacent lands, and include a habitat assessment as well as results of recent breeding and non-breeding season surveys conducted in accordance with the methodology in Appendix D of the *CDFW 2012 Staff Report on Burrowing Owl Mitigation* (Staff Report) (CDFW 2012).

Based on previous communications between CDFW, the CEC and the Project proponent, CDFW understands that non-breeding season surveys were conducted on December 23, 2024, and January 7, 17 and 31, 2025. According to the Staff Report, non-breeding season surveys should include at least four visits, spread evenly throughout the non-breeding season (September 1 through January 31). To accurately reflect burrowing owl use of the Project area, CDFW recommends the draft EIR include results of both nesting and non-nesting season surveys that closely adhere to the survey periods outlined in the Staff Report, including non-nesting surveys from the September to November time period that were missed during the initial surveys. 3

CDFW also recommends that the draft EIR include measures sufficient to fully avoid take[2] of burrowing owl, as described in the Staff Report, including, but not limited to the following: 1) a minimum of two pre-construction surveys, one no less than 14 days prior to initiating ground disturbance activities and one within 24 hours prior to ground disturbance; 2) establishment of no-disturbance buffers around occupied burrows during both the nesting and overwintering seasons; and 3) ongoing monitoring during Project construction by a qualified biologist with expertise in burrowing owl monitoring. In previous discussions with the CEC and CDFW, the Project proponent proposed no-disturbance buffers for burrowing owls ranging from 20 feet (6.1 meters) during the non-nesting season to 300 feet (91.4 meters) during the nesting season around occupied burrows depending on the level of disturbance based on Project activity type. CDFW is concerned that these proposed buffers are significantly lower than the recommended buffers described in the Staff Report which range from 164 feet (50 meters) to 1,640 feet (500 meters). CDFW recommends that the draft EIR include measures that require buffers that more closely adhere to those recommended in the Staff Report. 4

In addition to the draft EIR including biologically effective and feasible take avoidance measures, CDFW recommends the draft EIR include compensatory mitigation for any permanent impacts (i.e., impacted areas that are not restored to pre-impact condition within one year after the impact occurs) and temporary impacts to burrowing owl nesting and/or foraging habitat in the form of habitat conservation. Compensatory mitigation lands should be conserved in perpetuity under a conservation easement, and long-term maintenance and management of conservation lands should be funded through the establishment of a funding mechanism such as an endowment. 5

If full take avoidance of burrowing owl is not possible, CDFW recommends the Project proponent obtain take authorization by submitting an Incidental Take Permit (ITP) application through the AB 205 certification process. 6

[2] Section 86 of the California Fish and Game Code defines ‘take’ as “hunt, pursue, catch, capture or kill, or attempt to hunt, pursue, catch, capture or kill”.

Swainson's Hawk: Based on previous communications between CDFW and the Project proponent, Swainson's hawk (*Buteo swainsoni*), a state-listed threatened species under CESA, has been observed nesting in the vicinity of the Project site. To avoid impacts to Swainson's hawk, CDFW recommends timing Project activities that may disturb nesting Swainson's hawks to outside of the nesting season (approximately March 1 through September 15). If Project activities are expected to take place during the nesting season, CDFW recommends that both protocol-level and pre-construction surveys be conducted following the methodology in the *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley,* and, if an active nest is observed, a no-disturbance buffer of a minimum of 0.25 mile be established around the nest. The draft EIR should also include compensatory mitigation for permanent and temporary impacts to Swainson's hawk foraging habitat in the form of habitat conservation. Compensatory mitigation lands should be conserved in perpetuity under a conservation easement, and long-term maintenance and management of conservation lands should be funded through the establishment of a funding mechanism such as an endowment. 7

If full take avoidance of Swainson's hawk is not possible, CDFW recommends the Project proponent obtain take authorization by submitting an ITP application through the AB 205 certification process. 8

Crotch's Bumble Bee: According to the NOP and previous communications between CDFW and the Project proponent, Project activities may have an adverse impact to Crotch's bumble bee (*Bombus crotchii*) which is currently a candidate species for listing as endangered under CESA. CDFW recommends that the draft EIR include a thorough evaluation of the potential for Crotch's bumble bee to inhabit the Project area, including a habitat assessment as well as the results of protocol-level surveys following methods described in the *Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species* document (CDFW 2023). 9

If suitable habitat for Crotch's bumble bee is present within the Project area, or if the species has been observed during surveys, due to the difficulty of fully avoiding take, CDFW recommends that the Project proponent obtain take authorization by submitting an ITP application through the AB 205 certification process. Furthermore, if suitable habitat for Crotch's bumble bee is present within the Project area, the draft EIR should include compensatory mitigation for permanent and temporary impacts to Crotch's bumble bee nesting and/or foraging habitat in the form of habitat protected in perpetuity under a conservation easement and long-term maintenance and management of conservation lands funded through the establishment of a funding mechanism such as an endowment. 10

Aquatic Resources: The Project site includes Gibson Canyon Creek, several drainages that flow into Gibson Canyon Creek and a Solano Irrigation District canal. CDFW recommends that the draft EIR include a full analysis of all potential 11

impacts of the Project to streams, drainages and canals, including any potential long-term impacts from changes to the site and stream hydrology (e.g., stream incision due to increases to volume and frequency of stormwater runoff). Based on the NOP, the Project may also involve an underground crossing of the Solano Irrigation District canal by the east-west portion of the gen-tie. If the Project will use a method of crossing, such as horizontal directional drilling, such an activity may result in impacts to the canal. CDFW therefore recommends that the Project proponent submit a notification for a Lake or Streambed Alteration Agreement to the CEC through the AB 205 certification process for any activity that may impact the bed, bank or channel of a stream or adversely affect aquatic resources. CDFW also recommends including measures in the draft EIR necessary to address applicable Fish and Game Code section 1602 requirements for impacts to Gibson Canyon Creek and any streams, drainages and canals. 11

Cumulative Impacts: CDFW recommends that the draft EIR address cumulative impacts for all biological resources that will either be significantly or potentially significantly impacted by implementation of the Project. CDFW recommends that the EIR identify past, present, and reasonably foreseeable projects producing related impacts in the Project vicinity and fully analyze any cumulative impacts for which the combined impact of the Project and related projects is significant and the Project's incremental contribution to the impact is cumulatively considerable. (CEQA Guidelines, §§ 15130, subds. (a)-(a)(2) & 15355.) 12

CONCLUSION

CDFW appreciates the opportunity to comment on the NOP in order to assist the CEC in identifying, analyzing, and mitigating Project impacts on biological resources. CDFW will continue to meet with CEC staff ahead of, and during, draft EIR preparation to discuss potential Project-related impacts and possible avoidance, minimization, and/or mitigation measures for the biological resources that may be analyzed in the EIR, as well as helping to develop measures necessary to address the requirements of Fish and Game Code Section 2081(b)-(c) (ITP pursuant to CESA) and Section 1602 (LSA).

If you have any questions regarding this letter, please contact Gabriele Quillman, Senior Environmental Scientist (Specialist), at (707) 815-9867 or Gabriele.Quillman@wildlife.ca.gov; or Brenda Blinn, Senior Environmental Scientist (Supervisory), at (707) 339-0334 or Brenda.Blinn@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Erin Chappell
B77E9A6211EF486...

Erin Chappell
Regional Manager
Bay Delta Region

ec: Office of Land Use and Climate Innovation (SCH No. 2025101073)
Melissa Farinha, CDFW Bay Delta Region – Melissa.Farinha@wildlife.ca.gov

CITATIONS

California Department of Fish and Game (CDFG). 2012. Staff Report on Burrowing Owl Mitigation. Dated March 7, 2012.

California Department of Fish and Wildlife. 2023. Survey considerations for California Endangered Species Act candidate bumble bee species. California Department of Fish and Wildlife, Sacramento, California, USA.

Swainson's Hawk Technical Advisory Committee. "Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley." *Sacramento, CA* (2000).

ATTACHMENT A

Common name	Scientific name	Status
Invertebrates		
Crotch's bumble bee	*Bombus crotchiii*	SCE
Monarch butterfly	*Danaus plexippus*	FPT
Amphibians & reptiles		
Northwestern pond turtle	*Actinemys marmorata*	FPT, SSC
Birds		
Tricolored blackbird	*Agelaius tricolor*	ST; SSC
Grasshopper sparrow	*Ammodramus savannarum*	SSC
Western burrowing owl	*Athene cunicularia*	SCE, SSC
Swainson's hawk	*Buteo swainsoni*	ST
Northern harrier	*Circus hudsonius*	SSC
White-tailed kite	*Elanus leucurus*	SFP
Loggerhead shrike	*Lanius ludovicianus*	SSC
Mammals		
Western red bat	*Lasiurus blossevillii*	SSC
American badger	*Taxidea taxus*	SSC
Plants		
Delta mudwort	*Limosella australis*	2B.1

Notes:

FPT = proposed to be listed as threatened under the federal Endangered Species Act; FPE = proposed to be listed as endangered under the federal Endangered Species Act; ST = listed as threatened under CESA; SCE = candidate for listing as endangered under CESA; SSC = state species of special concern; SFP = state listed as fully protected; 1B.1 = rare, threatened, or endangered in California and elsewhere and seriously threatened in California; 1B.2 = rare, threatened, or endangered in California and elsewhere and moderately threatened in California; 2B.1 = rare, threatened, or endangered in California but more common elsewhere and seriously threatened in California

ATTACHMENT 2: BURROWING OWL NON-BREEDING SEASON SURVEY REPORT

BURROWING OWL SURVEY REPORT

Corby Battery Energy Storage System Project

Solano County, California

November 2025

Prepared for

Corby Energy Storage, LLC
One California Street, Suite 16
San Francisco, CA 94111

Prepared by

TETRA TECH
17885 Von Karman Avenue, Suite 500
Irvine, CA 92614

Table of Contents

Figures

Appendices

Acronyms/Abbreviations

BESS	battery energy storage system
BUOW	burrowing owl
gen-tie	generation-tie
Project	Corby Battery Energy Storage System Project
Tetra Tech	Tetra Tech, Inc.

1.0 INTRODUCTION

Tetra Tech, Inc. (Tetra Tech) has prepared this Burrowing Owl Survey Report for the proposed Corby Battery Energy Storage System Project (Project) in Solano County, California. This report describes the western burrowing owl (BUOW; *Athene cunicularia*) survey methodology and results.

The Corby Battery Energy Storage System (BESS) Project (Project) is located in Solano County, California. Tetra Tech conducted one non-breeding season protocol-level for BUOW on behalf of Corby Energy Storage, LLC (Corby).

Corby proposes to construct and operate a 300-megawatt BESS facility with associated on-site substation, inverters, and other ancillary facilities such as fencing, roads, supervisory control and data acquisition system, storage containers, and trailers. The Project also includes a 230-kilovolt overhead generation tie line (gen-tie), which would extend approximately 1 mile to interconnect with the Pacific Gas & Electric (PG&E) Vaca-Dixon Substation.

BUOW prefer open grasslands and shrublands with perches and burrows. The species usually lives and nests in the old burrows of California ground squirrels (*Otospermophilus beecheyi*) or other small mammals (Zeiner et al. 1990) but also can nest in piles of wood or other debris. Burrows can be found on the sides of hills, along roadside embankments, on levees, along irrigation canals, near fence lines, and on or near other raised areas of land.

2.0 METHODOLOGY

Tetra Tech wildlife biologists, David Rasmussen and Jack Gordon, conducted the survey in accordance with the recommendations in Appendix D of the California Department of Fish and Game's (now California Department of Fish and Wildlife's) (2012) Staff Report on Burrowing Owl Mitigation. This protocol level survey was completed on November 18, 2025.

The study area consisted of a 500-foot buffer, per CDFG 2012 guidance, of all Project components, as identified in Figure 1. The biologists conducted the survey on foot with transects spaced approximately 23 to 65 feet (7 to 20 meters) apart and adjusted as needed depending on vegetation height and density. The biologists used binoculars (10x42 and 8x42 power) throughout the surveys as needed to maximize visual coverage of inaccessible portions of the study area and to aid in wildlife identification. Access to select parcels within the 500-foot buffer along Kilkenny Road and Byrnes Road were restricted due to private property, so these portions of the study area were assessed from the road and adjacent parcels where access was provided. Where suitable habitat for BUOW is present, these areas were viewable from publicly accessible areas, resulting in unobstructed views within the study area.

The biologists assessed any changes in the suitability of habitat within the study area to support BUOW use. In addition, observations of BUOW, burrows of sufficient size for BUOW use, and any burrow surrogates (e.g., culverts or pipes large enough to allow owl use but small enough to exclude predators, rubble piles) were documented, if present. Any sign of BUOW presence (e.g., feathers, whitewash, cast pellets, prey remains, egg and shell fragments, and nest burrow decoration materials) at or near the burrow(s) and/or burrow surrogates were also recorded.

Surveys were conducted during optimal weather conditions (i.e., no heavy rain or fog) to allow for the greatest visibility possible. If observed, all burrows and burrow surrogates observed during the habitat assessment and burrow survey were checked for sign of BUOW. All observations of burrows, burrow surrogates, and photo points were mapped using Esri ArcGIS Field Maps on a tablet or phone paired with a sub-meter accuracy Global Positioning System device, when observed.

3.0 RESULTS

No BUOW or sign of BUOW was observed during the survey. In addition, no suitable or occupied burrows or burrow surrogates of sufficient size or burrowing owls were observed within the study area (Figure 1) during the survey. Photos of this area are show in Appendix A, Photos 1 and 2. The inaccessible parcels on the northwest corner of the intersection of Kilkenny Road and Byrnes Road was surveyed from adjacent publicly accessible areas and full visual coverage within the study area was obtained (Appendix A, Photos 3 and 4). The property on the south side of Kilkenny Road has dense tree and shrub cover which obscured views of portions of the study area, however this area is not suitable for BUOW due to the vegetation present and developed areas (Appendix A, Photos 5 and 6).

In addition to the absence of suitable burrows or burrow surrogates for BUOW, there were also no or very few smaller fossorial mammal burrows that would indicate a prey base for BUOW within the study area. No burrows regardless of opening size were observed within the proposed footprint of the BESS, and only a very few sparse small fossorial mammal burrows (mice and vole) were located in the vicinity of the gen-tie alignment north of Kilkenny Road (Appendix A, Photo 7). There were also few insects observed that BUOW would prey on.

4.0 CONCLUSION

The majority of the study area is in active agricultural production, either as wheat fields or orchards, with other portions of the study area either developed with roads and residences or disturbed such as areas along Kilkenny Road and the cleared areas under the existing PG&E transmission lines.

The findings of this survey were consistent with the prior breeding and non-breeding protocol level surveys that were completed for the Project in 2024 and 2025 in that there were no observations of BUOW or their sign, and no suitably sized burrows or burrow surrogates for BUOW within the study area. Furthermore, there was a notable absence of small fossorial mammal burrows (mouse, vole, mole, gopher, and similar), and insects that could be used as a prey base for BUOW. This could be potentially due to historical and ongoing disturbance associated with agricultural practices within the study area, or it could be indicative of soils that are not suitable for fossorial mammals potentially due to soil composition or water retention within the soils.

Given that no BUOW have been observed within the study area despite numerous surveys, the general absence of a suitable prey base, and absence of suitable burrows or burrow surrogates for the species, the study area is not suitable breeding or non-breeding season habitat for BUOW. While there may be very marginal foraging habitat present, given the absence of observations of BUOW or their sign and the surrounding land use practices, the potential for BUOW to be present is very low. As such,

development of the Project is not anticipated to substantially decrease the amount of foraging habitat for the species or otherwise adversely impact the species.

5.0 REFERENCES

California Department of Fish and Game (CDFG). 2012. Staff Report on Burrowing Owl Mitigation. March.

Zeiner, D.C., W.F. Laudenslayer, Jr., and K.E. Mayer (eds.). 1990. California's Wildlife. Volume II: Birds. California Statewide Wildlife Habitat Relationships System. Sacramento, CA: California Department of Fish and Game.

FIGURES

NextEra Energy Corby Battery Energy Storage System Project

Figure 1 Burrowing Owl Survey Area and Survey Results

Solano County, CA

Meridian Road North
Weber Road
Interstate 80 Eastbound
Quinn Road
Ellsworth Road
Interstate 80 Westbound
Willow Road
Kilkenny Road
Byrnes Road

- Inaccessible Areas
- Burrowing Owl Survey Area (500-Foot Buffer)

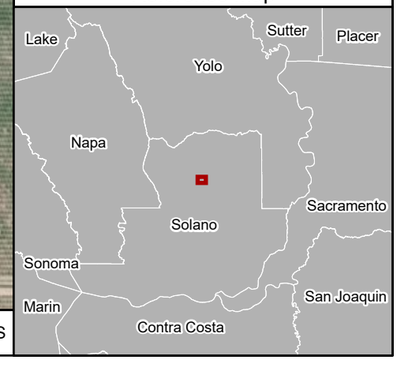
Proposed Components

- Gen-tie (Overhead)
- Gen-tie (Underground; Option 1)
- Gen-tie (Underground; Option 2)
- Sound Barrier
- Access Road
- Construction Laydown Area
- Gen-tie Corridor (Option 1)
- Gen-tie Corridor (Option 2)
- Gen-tie Laydown Area
- BESS Array
- Project Site
- Stormwater Pond
- Project Substation
- New Corby Bay

TETRA TECH

NOT FOR CONSTRUCTION

Reference Map



1:7,500 NAD 1983 StatePlane California II FIPS 0402 Feet

0 0.25 0.5 Miles

Source: ESRI, USDA NAIP, US CENSUS, BTS

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APPENDIX A: REPRESENTATIVE PHOTOGRAPHS

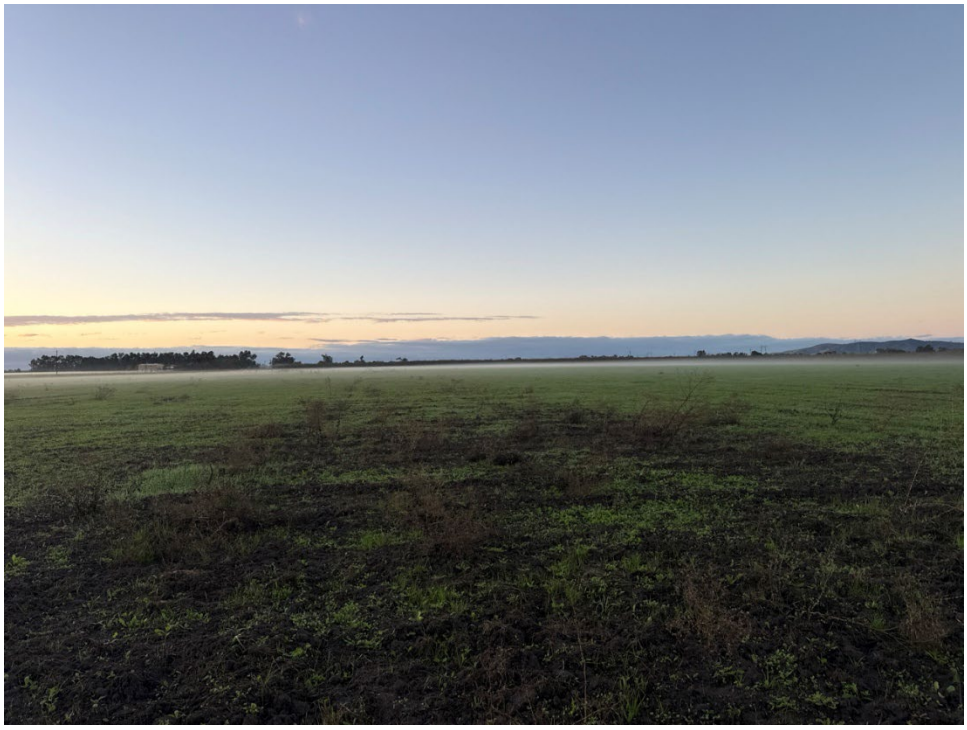

Photo 1: BESS Project site looking south from the northern portion of the site. No sign of BUOW was observed, nor were any suitably sized burrow or burrow surrogates observed. Similarly, no smaller fossorial mammal burrows were observed.

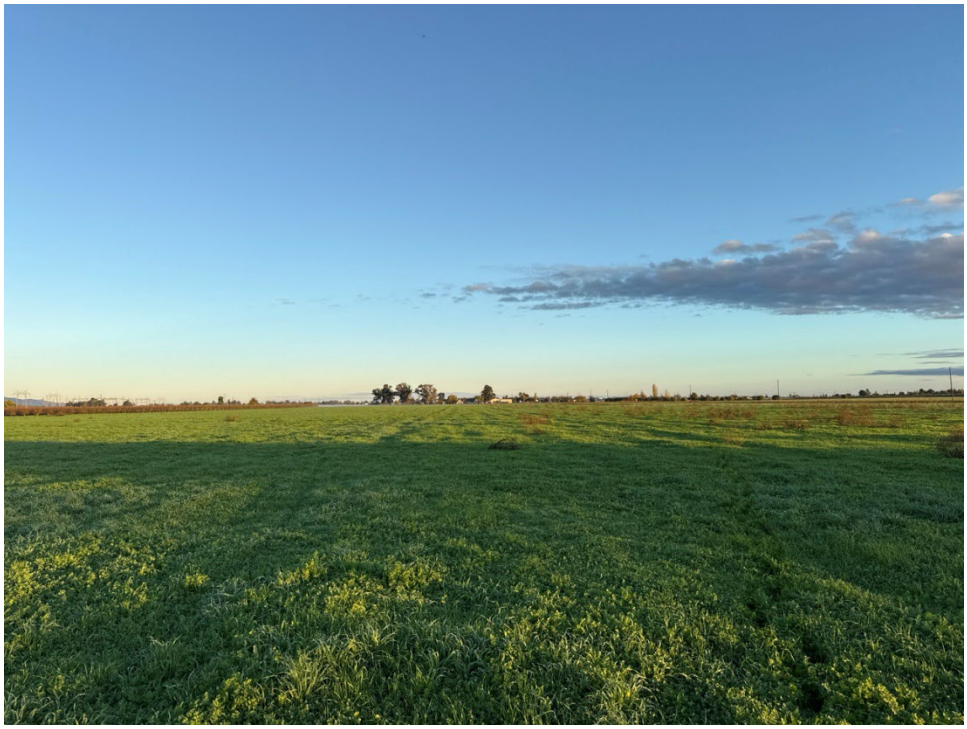

Photo 2: BESS Project site looking north from the southern portion of the site. No sign of BUOW was observed, nor were any suitably sized burrow or burrow surrogates observed. Similarly, no smaller fossorial mammal burrows were observed.

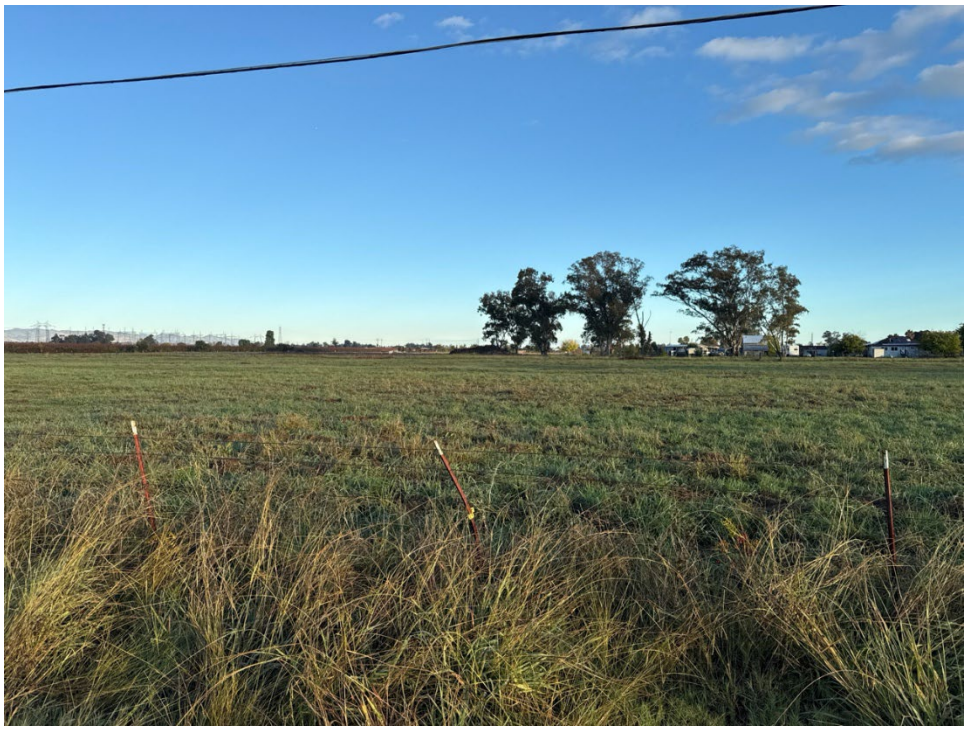

Photo 3: Property on the north side of Kilkenny Road. Photo taken from Kilkenny Road looking north into the property. No sign of BUOW was observed, nor were any suitably sized burrow or burrow surrogates observed.

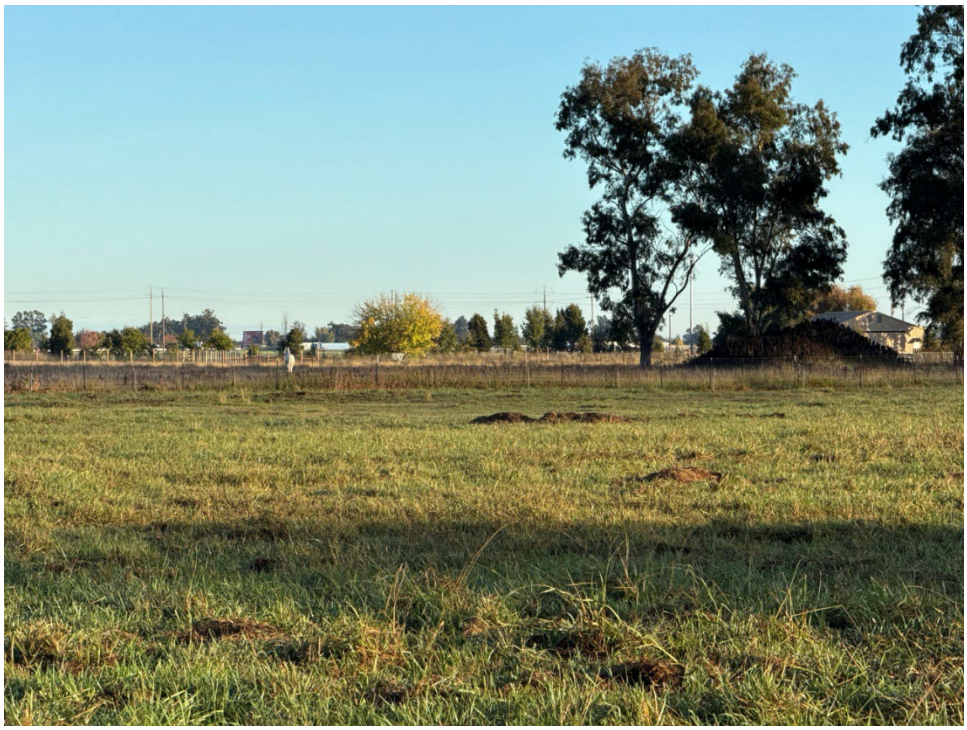

Photo 4: Property on the north side of Kilkenny Road. Photo taken from Kilkenny Road looking north into the property. Note that the mounds in this photo are not small mammal burrows, they are instead old hay bales that are rotting.

Photo 5: Property on the south side of Kilkenny Road looking south from Kilkenny Road. Habitat is not suitable for burrowing owl due to tree cover and development.

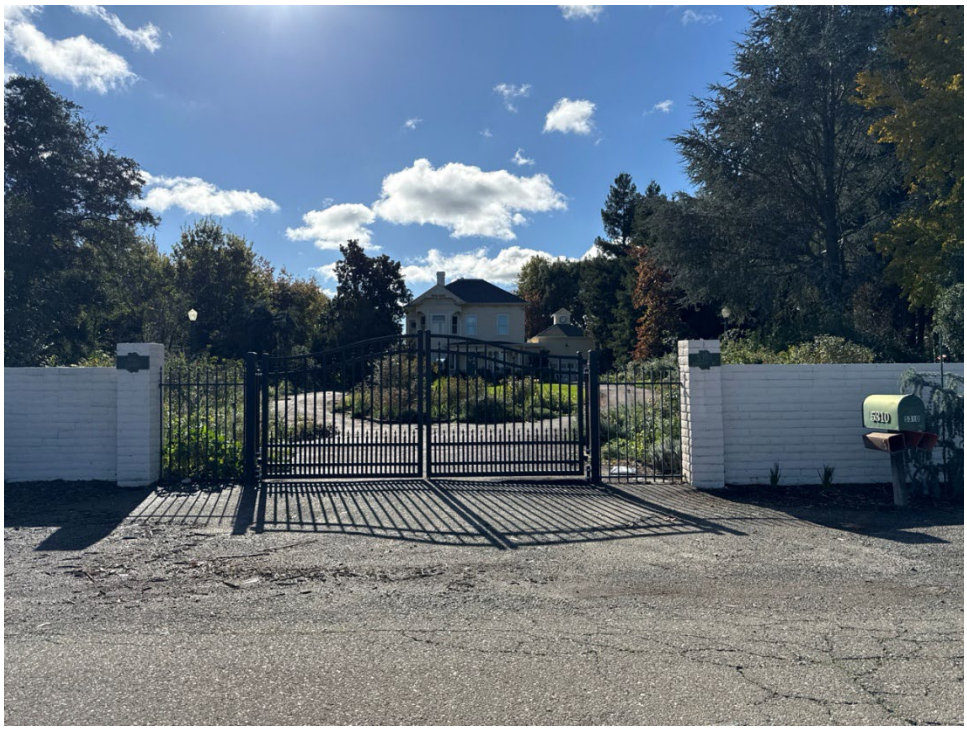

Photo 6: Property on south side of Kilkenny Road looking south from Kilkenny Road. Habitat is not suitable for burrowing owl due to tree cover and developed and disturbed areas.

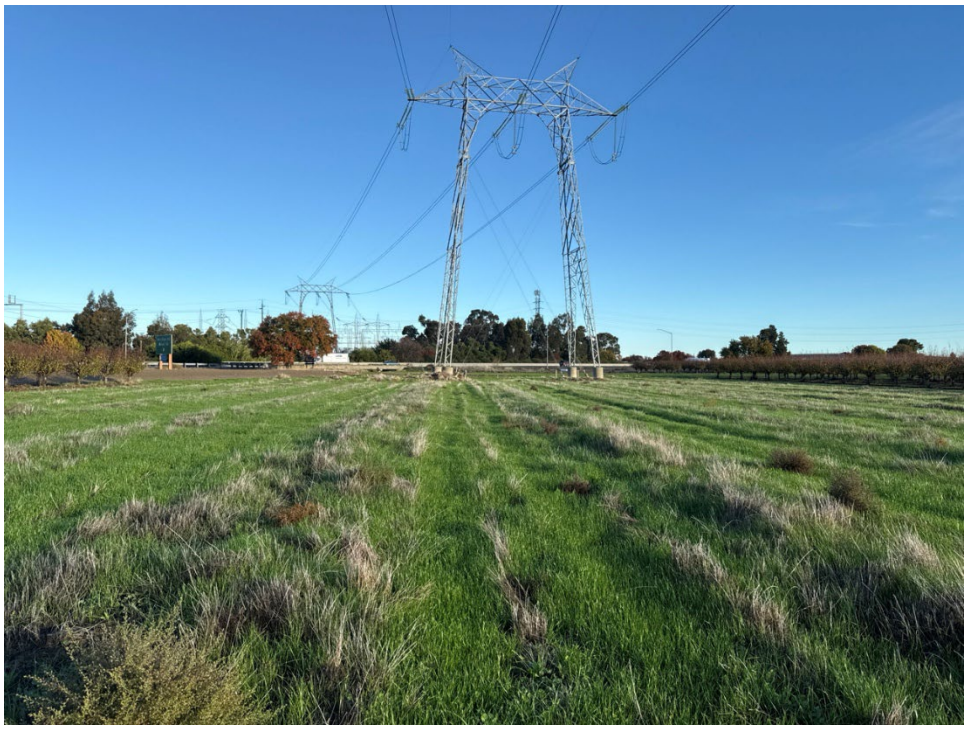

Photo 7: Representative photo of habitat along the gen-tie alignment. No sign of BUOW was observed, nor were any suitably sized burrow or burrow surrogates observed. Only a few sparse smaller fossorial mammal burrows were observed.