

DOCKETED

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Project Title:	Darden Clean Energy - Compliance
TN #:	271171-2
Document Title:	21-26 CEC Responses_12_16_25 to 4_17_26
Description:	DARDEN CLEAN ENERGY PROJECT (23-OPT-02C) REQUEST FOR BUFFER REDUCTION
Filer:	susan fleming
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	7/2/2026 10:25:34 AM
Docketed Date:	7/2/2026



April 23, 2026

Charity Wagner
IPX Power
9450 SW Gemini Drive
Beaverton, Oregon 97008

DARDEN CLEAN ENERGY PROJECT (23-OPT-02C) REQUEST FOR MONITORING REDUCTION

Dear Charity Wagner,

The Compliance Project Manager (CPM) has reviewed a request for a Swainson's hawk nest buffer reduction "23-OPT-02C Darden Clean Energy Project, Buffer Reduction Request for a Swainson's Hawk Nest at the Area 3 Laydown Yard" (Request). The Request is dated April 17, 2026. The condition of certification (COC) that applies to these activities is **BIO-10** Swainson's Hawk Impact Avoidance, Minimization, and Mitigation Measures for Take.

Swainson's Hawk Nest:

The project owner has been actively surveying and monitoring Swainson's hawk presence and behavior at the project site and has identified a nest occupied by a pair of Swainson's hawks. The pair has been observed mating, and the nest is expected to become active imminently. The Swainson's hawk's nest identified within the Request is located at the following location:

- Southwest corner of Area 3 (36.504366°, - 120.205543°)

Buffer Reduction Request for Swainson's Hawk's Nest Buffer per Condition of Certification BIO-10(4) and the Darden Swainson's Hawk Conservation Strategy

Project Owner's Request: The project owner has requested to reduce the preliminary 1000 feet buffer to 150 feet in the southwest corner of Area 3 as described above. The reduced foot traffic buffer will allow for ongoing activities associated with the laydown yard and construction of solar arrays. A Swainson's hawk Designated Biologist (DB) or a Biological Monitor (BM) under supervision of the DB will monitor all activities between the 1,000-feet and 150-feet reduced buffer area. The work activities are scheduled for Monday through Saturday from 6:30 AM to 5:00 PM and will last through the end of the Swainson's hawk nesting season and would entail the use of 40 personnel vehicles, five forklifts, 10 utility vehicles, two skid steers, two loaders, five excavators, 10 pile drivers and approximately 100 personnel.

CPM Response: Maps and imagery (Google Earth Pro) of the project site were reviewed, as well as the Swainson's Hawk Conservation Strategy (COC **BIO-9**), Revision 4 (Strategy) for the project. Staff also performed routine coordination with the California Department of Fish and Wildlife. Staff also considered that the nest became occupied by a pair during ongoing construction activities, indicating these individuals may be habituated to such activities. Therefore, continuing these activities is not expected to cause disturbance to the pair. The request to reduce the Swainson's hawk nest buffer from 1,000 feet to 150 feet in the southwestern corner of Darden Area 3 is approved, pursuant to **BIO-10**, Item 4. Specifically, project activities and protective measures shall be as described in the Request under "Protective Measures". The approval for this buffer reduction shall remain in effect through the end of the nesting season, up to **September 15, 2026**.

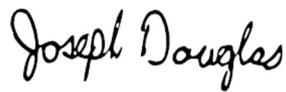
Additional requirements that apply to these approvals are as follows:

The DB(s) and/or BMs shall continue to protect and monitor the nest per COC **BIO-10** and the Strategy. This includes, but is not limited to, compliance with section 6.2.5 of the Strategy, which requires immediate cessation of all work within any reduced buffer if Swainson's hawk are visibly stressed by project activities or workers, as determined by the DB based on behavioral observations of the affected individuals. In addition, the DB shall identify and implement adaptive measures as necessary. Such adaptive measures may include reducing the extent, noise, or hours of activities, reducing speed limits, providing additional sound or visual barriers per Section 6.2.4 of the Strategy, as well as increasing buffers per Section 6.2.4 of the Strategy. Regular reporting is also required by Section 6 of the Strategy. The implementation of the requirements of this buffer reduction approval, along with any additional adaptive measures, shall be reported in the applicable Monthly Compliance Report.

With the implementation of the above measures and applicable COCs, the CPM has determined that the requested buffer modifications would not result in any new or substantially more severe environmental impacts, within the meaning of California Code of Regulations, title 14, section 15162.

Thank you for your continued coordination, and if you have questions or concerns, please contact me at (916) 956-9527 or e-mail at joseph.douglas@energy.ca.gov.

Sincerely,

A handwritten signature in black ink that reads "Joseph Douglas". The signature is written in a cursive, slightly slanted style.

Joseph Douglas, Compliance Project Manager
Compliance Monitoring and Enforcement Unit
Safety and Reliability Branch
Siting, Transmission and Environmental Protection
Division

cc: Brett Fooks, Manager
Compliance Monitoring and Enforcement Unit
Safety and Reliability Branch
Siting Transmission and Environmental
Protection Division



March 4, 2026

Marisa Mitchell
Intersect Power
548 Market Street
San Francisco, California 94104

DARDEN CLEAN ENERGY PROJECT (23-OPT-02C) REQUEST FOR BUFFER MODIFICATION

Dear Marisa Mitchell,

The Compliance Project Manager (CPM) has reviewed a request (Request) for a great horned owl buffer reduction entitled, "Darden Clean Energy Project (23-OPT-02C), Buffer Reduction Request in accordance with Condition of Certification, **BIO-8(5)** and the Darden Nesting Bird Management Plan." The Request is dated February 25, 2026. The controlling Condition of Certification (COC) for these activities is **BIO-8**, Nesting Bird Avoidance and Minimization Measure and Tricolored Blackbird Avoidance and Minimization Measures.

Great Horned Owl Nests:

The CPM-approved Designated Biologist (DB) has observed a pair of great horned owls associated with two existing stick nests located in close proximity to each other. These nests are represented by a single waypoint given their proximity to one another. The two great horned owls identified within the Request are located at the following location:

- Corner of W. Davis Avenue and S. Colusa Avenue, within the wetland at the northeast corner of Darden Area 12 (36.472850, -120.192816).

Project Owner's Request: The project owner has requested to reduce the existing land-based 500-foot buffer of Area 12 to a 250-foot buffer. The buffer protects two great horned owls nesting in the area outside of the project footprint. Reduction of the current buffer would allow the project owner to continue regular use of W. Davis Avenue and S. Colusa Avenue, a public access road, for project activities and will allow for the construction of the medium-voltage (MV) line crossing west of S. Colusa Avenue just south of the intersection

with W. Davis Avenue. The work activities are scheduled for late March through early May, and would entail the use of 1 grader, 1 roller, 1 farm tractor, 1 backhoe, 1 skid steer, 1 water truck, and 20 deliveries during that time frame.

Discussion: Maps and imagery (Google Earth Pro) of the project site were reviewed, as well as the **BIO-8** and the Nesting Bird Management Plan, Rev 1, January 2026 (Plan). Staff were able to confirm the presence of trees and thick (occlusive) canopy at the coordinates provided by the DB, which obscures the presence of the two stick nests. Staff are aware that great horned owls have been documented at the site since 2023 (TN 253038-1); these animals are expected to have habituated to the existing traffic at the intersection of W. Davis Avenue and S. Colusa Avenue. Further, staff also performs routine coordination with the CDFW, they are aware of the Request, and are available to provide additional technical guidance as needed.

Condition of Certification **BIO-8**, Item 4 states, "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."

In addition, **BIO-8**, Item 5 states, "Any nest buffer reduction would require full time monitoring if reduced form [sic] the levels identified in the approved NBMP."

Condition **BIO-8**, Item 6b specifies that the NMBP shall contain "A notification procedure for buffer distance reductions should they become necessary." Section 2.6 of the Plan accordingly directs that buffer reduction requests be submitted to the CPM on a case-by-case basis for approval.

CPM Response: The request to modify the buffer adjacent to Area 12 to 250 feet is approved pursuant to COC BIO-8, Item 4. Specifically, project activities and protective measures shall be as described in the Request under "Buffer Reduction Request Details." However, the duration of the approval for the buffer reduction pertaining to the Request shall extend through fledging, estimated for late April to early May, and may extend for the duration of the 2026 nesting season, as needed.

Additional requirements that apply to this approval is as follows. The DB(s) and/or Biological Monitor(s) (BMs) shall continue to protect and monitor the

nests as per COC **BIO-8** and the Plan. Such compliance includes, but is not limited to, compliance with Section 2.7 of the Plan, which requires immediate cessation of all work within reduced buffers if nesting birds are visibly stressed by Project activities or workers, as determined by the DB based on behavioral observations of the affected great horned owl. In addition, the DB shall identify and implement adaptive measures, which might include reducing the extent, noise, or hours of activities, providing additional sound or visual barriers per Section 2.6.1 of the Plan, as well as increasing buffers per Section 2.6 of the Plan. Regular reporting is also required by Section 3 of the Plan.

With the implementation of the above procedures and COCs, the CPM has determined that the requested buffer modifications would not result in any new or substantially more severe environmental impacts, within the meaning of California Code of Regulations, title 14, section 15162.

If you have questions or concerns, please contact me at (916) 956-9527 or e-mail at joseph.douglas@energy.ca.gov.

Sincerely,

A handwritten signature in cursive script that reads "Joseph Douglas".

Joseph Douglas, Compliance Project Manager
Compliance Monitoring and Enforcement Unit
Safety and Reliability Branch
Siting, Transmission and Environmental
Protection Division

cc: Brett Fooks, Manager
Compliance Monitoring and Enforcement Unit
Safety and Reliability Branch
Siting Transmission and Environmental
Protection Division



April 16, 2026

Marisa Mitchell
Intersect Power
548 Market Street
San Francisco, California 94104

DARDEN CLEAN ENERGY PROJECT (23-OPT-02C) REQUEST FOR BUFFER MODIFICATION

Dear Marisa Mitchell,

The Compliance Project Manager (CPM) has reviewed a request for burrowing owl buffer reduction "Darden Clean Energy Project (23-OPT-02C), Buffer Reduction Request in accordance with Condition of Certification, BIO-12(6) and the Darden Burrowing Owl Mortality Reduction Plan" (Request). The Request is dated March 31, 2026. The controlling Condition of Certification (COC) for these activities is **BIO-12** Burrowing Owl Impact, Avoidance, Minimization, and Take Mitigation.

Burrowing Owl Burrows:

The project owner has been actively surveying and monitoring burrowing owl presence and behavior at the project site and has identified two known burrowing owl burrows occupied by at least one owl on the project site. The two burrowing owl burrows identified within the Request are located at the following location:

- Southwest corner of Area 16 (36.430189°, - 120.237841°)

Buffer Reduction Request for Known Burrowing Owl Burrows Nesting Buffer per Condition of Certification BIO-12(6) and the Darden Burrowing Owl Plan

Project Owner's Request: The project owner has requested to discontinue full-time monitoring of the occupied burrowing owl burrows in the southwest corner of Area 16 as described above (Burrows). The monitoring was initiated due to project traffic traveling along West Mount Whitney Avenue within the preliminary 1,600-foot buffer, due to a previously approved buffer reduction.

This Request would apply solely to the monitoring of traffic along West Mount Whitney Avenue and its impacts to burrowing owl behavior at the Burrows. The Request would not apply to other project activities within the preliminary 1,600-foot buffer of the burrows, including vehicle access outside of West Mount Whitney Avenue, which would require full-time monitoring during project activities pursuant to COC **BIO-12** and the Burrowing Owl Mortality Reduction Plan.

CPM Response: The request to discontinue full-time monitoring of project traffic on West Mount Whitney Avenue and its effects on burrowing owl occupying the burrows in the southwest corner of Area 16, is approved, pursuant to the following conditions:

- Monitoring of the burrows may be reduced to daily spot checks for species presence. Spot checks shall be conducted on days when project-related traffic or construction activities within the area.
- Each spot check shall last for a duration of at least 30 minutes, or until the presence and behavior of burrowing owl(s) at the known occupied burrow(s) is determined.
- Spot checks are not required if project-related traffic or construction activities will not occur in the area on a specific day (i.e. weekends or holidays, if no work occurs).
- Protective measures shall be implemented as described in the Request under "Buffer Reduction Request Details."
- The duration of the approval for the monitoring reduction pertaining to the Request shall not extend beyond the end of the burrowing owl nesting season, **August 31, 2026**.

Additional requirements that apply to these approvals are as follows:

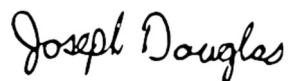
- The Designated Biologists (DBs) and/or Biological Monitor(s) (BMs) shall continue to protect and monitor the burrows as per COC **BIO-12** and the Plan, with the exception of the monitoring reduction detailed above. Such compliance includes, but is not limited to, compliance with section 3.6.3 of the Plan, which requires immediate cessation of all work within reduced buffers if burrowing owl are visibly stressed by project activities or workers, as determined by the DB based on behavioral observations of the affected burrowing owl.

- In addition, the DB shall identify and implement adaptive measures. Such adaptive measures might include reducing the extent, noise, or hours of activities, reducing speed limits, providing additional sound or visual barriers per Section 3.6.4 of the Plan, as well as increasing buffers per Section 3.7 of the Plan.
- Regular reporting is also required by Section 4 of the Plan.
- Implementation of the requirements of this buffer reduction approval, along with any additional adaptive measures, shall be reported in the applicable MCR.

With the implementation of the above procedures and COCs, the CPM has determined that the requested buffer modifications would not result in any new or substantially more severe environmental impacts, within the meaning of California Code of Regulations, title 14, section 15162.

If you have questions or concerns, please contact me at (916) 956-9527 or e-mail at joseph.douglas@energy.ca.gov.

Sincerely,



Joseph Douglas, Compliance Project Manager
Compliance Monitoring and Enforcement Unit
Safety and Reliability Branch
Siting, Transmission and Environmental
Protection Division

cc: Brett Fooks, Manager
Compliance Monitoring and Enforcement Unit
Safety and Reliability Branch
Siting Transmission and Environmental
Protection Division



February 24, 2026

Marisa Mitchell
Intersect Power
548 Market Street
San Francisco, California 94104

DARDEN CLEAN ENERGY PROJECT (23-OPT-02C) REQUEST FOR BUFFER MODIFICATION

Dear Marisa Mitchell,

The Compliance Project Manager (CPM) has reviewed a request for burrowing owl buffer reductions "Darden Clean Energy Project (23-OPT-02C), Buffer Reduction Request in accordance with Condition of Certification, BIO-12(6) and the Darden Burrowing Owl Mortality Reduction Plan" (Request). The Request is dated February 18, 2026. The controlling Condition of Certification (COC) for these activities is **BIO-12** Burrowing Owl Impact, Avoidance, Minimization, and Take Mitigation.

Burrowing Owl Burrows:

The project owner has been actively surveying and monitoring burrowing owl presence and behavior at the project site and has identified two known burrowing owl burrows occupied by one owl on the project site. The two burrowing owl burrows identified within the Request are located at the following location:

- Southwest corner of Area 16 (36.430189°, - 120.237841°), and the section of W. Mount Whitney Avenue

Buffer Reduction Request for Known Burrowing Owl Burrows Nesting Buffer per Condition of Certification BIO-12(6) and the Darden Burrowing Owl Plan

Project Owner's Request: The project owner has requested to reduce the existing land-based 1,600-foot buffer in the southwest corner of Area 16 initiated due to the discovery of two burrowing owl burrows to a 400-

foot buffer in the area outside of the project footprint. Reduction of the current buffer would allow the project owner to continue regular use of W. Mount Whitney Avenue, a public county road, for project activities including ingress and egress from daily work sites, as well as transport and delivery of materials and equipment necessary for work activities. These activities would occur for the duration of project construction and operation.

CPM Response: The request to modify the horizontal buffer adjacent to Area 16 to 400 feet is approved pursuant to the recently modified COC BIO-12 Item 6(e). Specifically, project activities and protective measures shall be as described in the Request under "Buffer Reduction Request Details." However, the duration of the approval for the buffer reduction pertaining to this request shall not extend beyond the end of the burrowing owl nesting season, **August 31, 2026**.

Additional requirements that apply to these approvals are as follows. The Designated Biologists (DBs) and/or Biological Monitor(s) (BMs) shall continue to protect and monitor the burrows as per COC **BIO-12** and the Plan. Such compliance includes, but is not limited to, compliance with section 3.6.3 of the Plan, which requires immediate cessation of all work within reduced buffers if burrowing owl are visibly stressed by Project activities or workers, as determined by the DB based on behavioral observations of the affected burrowing owl. In addition, the DB shall identify and implement adaptive measures. Such adaptive measures might include reducing the extent, noise, or hours of activities, reducing speed limits, providing additional sound or visual barriers per Section 3.6.4 of the Plan, as well as increasing buffers per Section 3.7 of the Plan. Regular reporting is also required by Section 4 of the Plan.

With the implementation of the above procedures and COCs, the CPM has determined that the requested buffer modifications would not result in any new or substantially more severe environmental impacts, within the meaning of California Code of Regulations, title 14, section 15162.

If you have questions or concerns, please contact me at (916) 956-9527 or e-mail at joseph.douglas@energy.ca.gov.

Sincerely,

A handwritten signature in cursive script that reads "Joseph Douglas".

Joseph Douglas, Compliance Project Manager
Compliance Monitoring and Enforcement Unit
Safety and Reliability Branch
Siting, Transmission and Environmental
Protection Division

cc: Brett Fooks, Manager
Compliance Monitoring and Enforcement Unit
Safety and Reliability Branch
Siting Transmission and Environmental
Protection Division



California
ENERGY COMMISSION



February 18, 2026

Marisa Mitchell
Intersect Power
548 Market Street
San Francisco, California 94104

DARDEN CLEAN ENERGY PROJECT (23-OPT-02C) REQUESTS FOR BUFFER REDUCTIONS

Dear Marisa Mitchell,

The Compliance Project Manager (CPM) has reviewed two requests for burrowing owl buffer reductions: (1) "Buffer Reduction Request for Known Burrowing Owl Burrow Nesting Buffer per Condition of Certification BIO-8(6) ¹ and the Darden Burrowing Owl Plan" for land-based work; and (2) "Buffer Reduction Request in accordance with Condition of Certification, BIO-12(6) and the Darden Burrowing Owl Plan" for aerial-based work (drone use). Both are dated February 3, 2026, and discussed here jointly (collectively, the "Requests"). The controlling Condition of Certification (COC) for these activities is **BIO-12** Burrowing Owl Impact, Avoidance, Minimization, and Take Mitigation.

Burrowing Owl Burrows:

The project owner has been actively surveying and monitoring burrowing owl presence and behavior at the project site and has identified known burrowing owl burrows on the project site. The burrowing owl burrows identified within the Requests are located at the following locations:

1

Staff notes that the reference to Condition of Certification BIO-8(6) is incorrect because that condition is not applicable to burrowing owl, a species afforded protections under the California Endangered Species Act. The condition applicable to burrowing owl is BIO-12.

1. Darden Area 3 coordinates: Between El Dorado Ave (36.516453°, -120.206760°) and S Colusa Ave (36.516584°, -120.188466°)
2. Darden Area 15 coordinates: Between W Cerini Ave (36.458487°, -120.157062°) and W Harlan Ave (36.444115°, -120.157115°)

Buffer Reduction Request for Known Burrowing Owl Burrow Nesting Buffer per Condition of Certification BIO-8(6) and the Darden Burrowing Owl Plan (Reduction Request for Construction of PV Blocks within Areas 3 and 15)

The project owner has requested to reduce the existing land-based 1,600-foot buffers within Area 3 for five known burrowing owl burrows to 1,000-foot buffers, and to reduce the existing 1,600-foot buffers within Area 15 for ten known burrowing owl burrows to 1,000-foot buffers. Reduction of the current buffers would allow the project owner full access to construct PV blocks within Areas 3 and 15. The activities planned outside the reduced buffers would entail the use of approximately up to 30 pickup trucks, 4 excavators, 2-4 graders, 4-6 skid steers, 2 pile drivers, 2 water trucks, 4 forklifts, and 10 side-by-side utility vehicles. Construction of the PV blocks is anticipated to take place over 100 days, ending on July 20, 2026.

Buffer Reduction Request in accordance with Condition of Certification, BIO-12(6) and the Darden Burrowing Owl Plan (Reduction Request for Sitewide Drone Use)

Additionally, the project owner has requested reduction of the vertical buffer from 1,600 feet to 295 feet to allow for drone survey flights within the project site. The drone use would deploy a single drone approximately 12 inches long by six inches high for four to five days per week for the duration of the construction phase (or approximately 516 days of flights over the two-year period). Drone flights are expected to routinely take 30 to 40 minutes, with a maximum of one hour, during which imagery would be captured at a resolution appropriate to document project detail. These drone flights are intended to monitor progress during the construction phase.

Discussion: Maps and imagery (Google Earth Pro) of the project site were reviewed, as well as the Burrowing Owl Artificial Burrow Replacement and Mortality Reduction Plan (COC **BIO-12**), Rev 3, November 2025 (Plan) for the project. Staff also performed routine coordination with the California Department of Fish and Wildlife. Based on these reviews, staff independently verified the presence of a berm in Area 3 as well as Area 15, which would naturally provide both visual and sound buffers for burrowing owl in the vicinity of the identified project activities.

Condition of Certification **BIO-12**, Item 6b states, "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, 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)." In addition, **BIO-12**, Item 6d states, "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."

In support of its request, the project owner has pointed to the Burrowing Owl Mortality Reduction Plan (Plan) referenced in **BIO-12**, Item 6d. Section 3.6.2 of the Plan states, "Occupied burrows will not be disturbed during the nesting season (February 1 through August 31) unless the Designated Biologist verifies, through noninvasive methods, that the burrow is not an active nesting burrow. Owls present after February 1 will be assumed to be nesting unless evidence indicates otherwise. A 1,600-foot no-disturbance buffer will be established around nesting burrows and will remain in effect until August 31 or, based upon evidence collected from monitoring, until all juvenile owls are foraging independently or the nest has failed as determined by the Designated Biologist."

Section 3.6.3 of the Plan states, "If after initial monitoring and documentation of observational data, the Designated Biologist determines that specific Project activities (i.e., Covered 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, the Designated Biologist may recommend to the Compliance Project Manager (CPM) replacing preliminary buffers with the Covered Activity buffer distances detailed in Tables 2 and 3. Buffers will not be reduced or otherwise modified from those outlined in Table 1 without prior written CPM approval. If reduced buffers are necessary, the Designated Biologist will email a written Buffer Reduction Request to the CEC Biologists for approval."

CPM Response: The request to modify the horizontal buffers in Areas 3 and 15 to 1,000 feet and the request to modify the vertical buffer to 300 feet sitewide are therefore approved as proposed. Specifically, project activities, dates, and protective

measures shall be as described in the respective requests under "Buffer Reduction Request Details."

Additional requirements that apply to these approvals are as follows. The DBs and/or Biological Monitor(s) (BMs) shall continue to protect and monitor the burrows as per COC **BIO-12** and the Plan. Such compliance includes, but is not limited to, compliance with section 3.6.3 of the Plan, which requires immediate cessation of all work within reduced buffers if burrowing owl are visibly stressed by Project activities or workers, as determined by the DB based on behavioral observations of the affected burrowing owl. In addition, the DB shall identify adaptive measures. Such adaptive measures might include reducing the extent, noise, or hours of activities, reducing speed limits, limiting jackhammering, providing additional sound or visual barriers per Section 3.6.4 of the Plan, as well as increasing buffers per Section 3.7 of the Plan. Regular reporting is also required by Section 4 of the Plan. The presence of berms in Areas 3 and 15 is expected to provide additional natural noise and visual buffering for the affected burrowing owls during land-based activities and may afford limited buffering for drone activities.

With the implementation of the above procedures and COCs, the CPM has determined that the requested buffer modifications would not result in any new or substantially more severe environmental impacts, within the meaning of California Code of Regulations, title 14, section 15162.

If you have questions or concerns, please contact me at (916) 956-9527 or e-mail at joseph.douglas@energy.ca.gov.

Sincerely,

A handwritten signature in black ink that reads "Joseph Douglas". The signature is written in a cursive, flowing style.

Joseph Douglas, Compliance Project Manager
Compliance Monitoring and Enforcement Unit
Safety and Reliability Branch
Siting, Transmission and Environmental Protection
Division



California
ENERGY COMMISSION



cc: Brett Fooks, Manager
Compliance Monitoring and Enforcement Unit
Safety and Reliability Branch
Siting Transmission and Environmental
Protection Division

Carrie Gragg, Senior Environmental Scientist (Supervisor)
California Department of Fish and Wildlife
1234 E. Shaw Ave. Fresno CA 93710



**CALIFORNIA
ENERGY COMMISSION**



January 16, 2026

Marisa Mitchell
Intersect Power
548 Market Street
San Francisco, California 94104

DARDEN CLEAN ENERGY PROJECT (23-OPT-02C) REQUEST FOR BUFFER MODIFICATION

Dear Marisa Mitchell,

The Compliance Project Manager (CPM) has reviewed the document titled "23-OPT-02C Darden Clean Energy Project, Buffer Reduction Request for Road Use" dated December 12, 2025, as well as the refinements provided via email on December 16, 2025 (collectively, the "Request"). The controlling Conditions of Certification (COC) for these activities are **BIO-10**, Item 4, and **BIO-12**, Item 6.

The project owner plans to use these existing county roads to conduct project activities pursuant to a Limited Notice to Proceed (LNTF) issued to the project owner on November 26, 2025, and the Full Notice to Proceed, when issued. These activities (pre-seeding efforts) would encroach upon the tree buffer(s) as prescribed in COC **BIO-10**, Item 4. As proposed in the Request, no tree work or trimming would be performed, and no stopping or standing of vehicles or personnel would occur; only one vehicle is allowed within the buffer at any given time.

Swainson's Hawk Nesting Trees: Pursuant to the Request, the project owner requests site access adjacent to two separate eucalyptus tree rows, in the following locations:

1. Along the southwest side of the intersection of West Davis Avenue and an unmarked north/south road (northern coordinate at 36.47268°, -120.221124°).
2. Along the southwest side of the intersection of S El Dorado Avenue and W Cerini Avenue (northern coordinate at 36.457809°, -120.211989°).



CPM Response #1: The request to modify the buffer is approved, as set forth below. The following revisions apply solely to COC **BIO-10**, Item 4 and are shown in strikeout and underline for clarity. **All other COCs remain in full force and effect.**

COC **BIO-10**, Item 4 (as modified):

Swainson's Hawk Nest Buffers. Except for limited vehicle access as prescribed below, 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.

Limited vehicle access within the no disturbance buffers to carry out project activities authorized under the November 26, 2025, Limited Notice to Proceed and the Full Notice to Proceed, when issued, may occur subject to the following conditions:

1. The vehicle access occurs during the construction phase of the project.
2. Vehicle speeds will be limited to 10 mph within the reduced buffer zones.
3. Vehicles will not be permitted to stop within the buffer area, except under emergency situations.
4. Only one vehicle is allowed within a no disturbance buffer at any given time.
5. Personnel will remain inside vehicles and will not be permitted to stop the vehicle, open vehicle doors or windows, or walk within the buffer zones.
6. No ground disturbance (e.g., road improvements) will occur within the buffer zones.
7. Biological monitoring shall be conducted by a Biological Monitor or the Designated Biologist during vehicle access activities; monitoring results shall be documented in the applicable Monthly Compliance Reports (MCR). Biological Monitors and/or the Designated Biologist have the authority to halt the Project Owner's vehicle activities if such activities disrupt, or have the potential to disrupt, nesting special status Swainson's hawk or nesting behavior.
8. No tree work or trimming shall occur within the Swainson's Hawk nest buffer.



Limited vehicle access may only occur after the effective date of the CPM's written approval and shall not authorize or excuse any activities conducted prior to that date. Except as expressly modified above, all other requirements of this condition remain unchanged and in full force and effect.

Burrowing Owl Burrows:

Pursuant to the Request, the project owner requests site access adjacent to two known burrowing owl burrow currently being monitored. Site access would occur using existing county roads to conduct project activities pursuant to the LNTP issued on November 26, 2025. The burrows are located at the following locations:

- 36.487602°, -120.178670°
- 36.465354°, -120.211940°

Both burrows currently have a buffer in place around them.

CPM Response #2: The request to modify the buffer is approved, as set forth below. The following revisions apply solely to COC **BIO-12**, Item 6 and are shown in strikeout and underline for clarity. **All other COCs remain in full force and effect.**

COC **BIO-12**, Item 6 (as modified):

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. The no disturbance buffer zones apply to all project activities, except for limited vehicle access as prescribed in paragraph (e) below:

a. If a potential burrowing owl burrow (any subterranean hole three 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 project owner shall establish a minimum 50-foot no-disturbance buffer around the burrow.

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, 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. A no-disturbance buffer of at least 1,600 feet shall be established around the nest 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 (February 1 to August 31).

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.

e. Limited vehicle access within the no disturbance buffers to carry out project activities authorized under the November 26, 2025, Limited Notice to Proceed and Full Notice to Proceed, when issued, may occur subject to the following conditions:

1. The vehicle access occurs during the construction phase of the project.
2. Vehicle speeds will be limited to 10 mph within the reduced buffer zones.
3. Vehicles will not be permitted to stop within the buffer area, except under emergency situations.
4. Only one vehicle is allowed within a no disturbance buffer at any given time.
5. Personnel will remain inside vehicles and will not be permitted to stop the vehicle, open vehicle doors or windows, or walk within the buffer zones.
6. No ground disturbance (e.g., road improvements) will occur within the buffer zones.
7. Biological monitoring shall be conducted by a Biological Monitor or the Designated Biologist during vehicle access activities; monitoring



Monitoring results shall be documented in the applicable Monthly Compliance Reports (MCR). Biological Monitors and/or the Designated Biologist have the authority to halt vehicle activities if such activities disrupt, or have the potential to disrupt, nesting special status burrowing owl or nesting behavior.

8. Burrowing owl Designated Biologists will oversee activities to ensure adherence to these reduced buffer restrictions.
9. Burrowing owl Designated Biologists will monitor wildlife (if present) to stop activity if species are disturbed.

Limited vehicle access may only occur after the effective date of the CPM's written approval and shall not authorize or excuse any activities conducted prior to that date. Except as expressly modified above, all other requirements of this condition remain unchanged and in full force and effect. With the implementation of these measures (and those listed above), the CPM has determined that the requested buffer modifications would not result in any new or substantially more severe environmental impacts, within the meaning of 14 Cal. Code Regs. § 15162.

If you have questions or concerns, please contact me at (916) 956-9527 or e-mail at joseph.douglas@energy.ca.gov.

Sincerely,

Joseph Douglas, Compliance Project Manager
Compliance Monitoring and Enforcement Unit
Safety and Reliability Branch
Siting, Transmission and Environmental Protection
Division

cc: Brett Fooks, Manager
Compliance Monitoring and Enforcement Unit
Safety and Reliability Branch
Siting Transmission and Environmental
Protection Division