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Project Title:	Darden Clean Energy Project
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Document Title:	California Department of Fish and Wildlife Comment Letter Re Notice of Preparation (NOP) of an Environmental Impact Report
Description:	Comment letter posted to State Clearinghouse, dated October 24, 2024 State Clearinghouse No. 2024091023
Filer:	Marichka Haws
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State of California – Natural Resources Agency
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



October 24, 2024

Ann Crisp, Project Manager
California Energy Commission
715 P Street
Sacramento, California 95814
Ann.Crisp@energy.ca.gov

Subject: Notice of Preparation (NOP) of an Environmental Impact Report (EIR) for the Darden Clean Energy Project (Project) State Clearinghouse No. 2024091023

Dear Ann Crisp:

The California Department of Fish and Wildlife (CDFW) received an NOP from the California Energy Commission (CEC) for the above-referenced Project. CDFW appreciates this opportunity to provide comments and recommendations regarding proposed Project activities that may affect California fish and wildlife, 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 (*Id.*, § 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.

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.

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The proposed Project would ordinarily 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 (Fish and G. Code, § 1602); and incidental take of species protected under CESA (Fish and G. Code, § 2081). CDFW would typically submit comments as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) However, because the Project proponent opted 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 including all conditions necessary to ensure compliance with the Fish & G. 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 & G. 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 SUMMARY

Proponent: Intersect Power, LLC

Objective: The Project proposes to construct, operate, and eventually repower or decommission a solar facility located on approximately 9,100 acres in western Fresno County. The Project will operate year-round, with a 35-year anticipated lifespan. The primary Project components are:

- 1,150-megawatt (MW) solar photovoltaic (PV) facility (solar facility)
- Up to 4,600 MW-hour battery energy storage system (BESS)
- 34.5-500 kilovolt (kV) grid step-up substation (step-up substation)
- 10 to 15-mile 500 kV generation intertie (gen-tie) line
- Pacific Gas and Electric Company (PG&E)-owned 500 kV utility switchyard along the Los Banos Midway #2 500 kV transmission line

Location: The Project is located in an agricultural area of unincorporated Fresno County approximately 17 miles southwest of the City of Kerman. The solar facility,

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BESS, and substation will be located on approximately 9,100 acres of land currently owned by Westlands Water District, between South Sonoma Avenue to the west, and South Butte Avenue to the east. The Project's 10 to 15-mile gen-tie line will span west from the intersection of South Sonoma Avenue and West Harlan Avenue to immediately west of Interstate 5, where it will connect to the new utility switchyard along with PG&E's Los Banos-Midway #2 500 kV transmission line.

Timeframe: Construction is expected to begin in late 2025 or early 2026 and will be operational for 35 years.

Consultation with CDFW

CDFW appreciates the opportunity to have engaged with CEC staff and/or the Project proponent in numerous meetings, phone calls, and site visits for the Project. These dates include the following: August 23, 2022, where CDFW met with the Project proponent for an introductory meeting to the Project; February 21, 2023, where CDFW conducted a field site visit with the Project proponent; June 23, 2023, where CDFW and the Project proponent discussed that the Project may consider going through the AB 205 process; September 11, 2023, where CDFW and the Project proponent discussed a Swainson's hawk Conservation Strategy; September 15, 2023, where CDFW and CEC held a pre-application meeting; November 20, 2023, where CDFW and CEC held a meeting during the pre-filing consultation period to discuss the Project's data request deficiencies in the Project proponent's application to the CEC; December 20, 2023, where CDFW held a meeting with the CEC; April 30, 2024, where CDFW, CEC, and the Project proponent held a meeting to discuss the potential candidate listing for burrowing owl; June 17, 2024, June 27, 2024, July 11, 2024, and August 8, 2024, where CDFW held meetings with the CEC; October 16, 2024, where CDFW participated in the Informational and Scoping Meeting; and October 17, 2024, where CDFW participated in a field site visit with the CEC and the Project proponent. CDFW will continue to collaborate with and provide support to the CEC throughout the AB205 certification process.

COMMENTS AND RECOMMENDATIONS

The EIR that will be prepared will determine 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: Several special-status species have been documented within and/or adjacent to the Project site per the California Natural Diversity Database (CNDDDB). CDFW recommends potential Project related impacts to the following species be analyzed in the EIR including, but not limited to: the State fully protected and

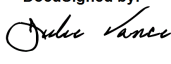
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endangered and federally endangered blunt-nosed leopard lizard (*Gambelia sila*), the State threatened and federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*), the State threatened Swainson's hawk (*Buteo swainsoni*) and tricolored blackbird (*Agelaius tricolor*), and the State candidate burrowing owl (*Athene cunicularia*) and Crotch's bumble bee (*Bombus crotchii*).

Cumulative Impacts: Development often contributes to species habitat loss and/or fragmentation. CDFW recommends that cumulative impacts be addressed in the EIR for all biological resources that will either be significantly or potentially significantly impacted by implementation of the Project, including those whose impacts are determined to be less than significant with mitigation incorporated or for those resources that are rare or in poor or declining health and will be impacted by the project, even if those impacts are relatively small (i.e., less than significant). CDFW recommends cumulative impacts be addressed to evaluate the impacts of past, present, and reasonably foreseeable future projects on resources and be focused specifically on the resource, not the Project.

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) (Incidental Take Permit pursuant to CESA). If you have any questions, please contact Jim Vang, Senior Environmental Scientist Specialist, at the address provided on this letterhead, by telephone at (559) 580-3203, or by electronic mail at Jim.Vang@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Julie A. Vance
Regional Manager

ec: State Clearinghouse
Governor's Office of Planning and Research
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