APPENDIX E

COMMENTS AND RESPONSES TO COMMENTS

Comment Letter No. 1

Rosen, Vicky

From: CalGEMCentralCSWR@DOC <CalGEMCentralCSWR@conservation.ca.gov>
Sent: Monday, June 15, 2026 2:16 PM
To: Rosen, Vicky
Cc: Rueckheim, Julie@DOC; Perez, Jan@DOC; Arrieta, Eva@DOC; state.clearinghouse@opr.ca.gov; OLRA@DOC; Rueckheim, Julie@DOC
Subject: EXTERNAL: RE: CEQA Review: Bakersfield (CSUB)-Ground Mount Solar and Battery Project
Attachments: 2026-06-15__Kern_LetterSigned.pdf

EXTERNAL EMAIL

Good afternoon,

We would like to inform you of an update to our process regarding construction site well reviews.

The Division will no longer be reviewing the abandonment of oil wells as part of this process. Instead a formal letter will be attached to all requests identifying oil wells on the premises and stating that it is our recommendation to not impede access to any wells that have been abandoned and buried. Furthermore, any and all wells that have access impeded or are to be built over should be evaluated by a qualified petroleum professional. If it is deemed that any well(s) requires abandonment or re-abandonment the responsible party must submit a Notice of Intention to the Division through WellSTAR.

Thank you,

Construction Site Well Review Team
California Department of Conservation
CalGEM | Central District
11000 River Run Blvd. Bakersfield, CA 93311
E: CalGEMCentralCSWR@conservation.ca.gov

1-1

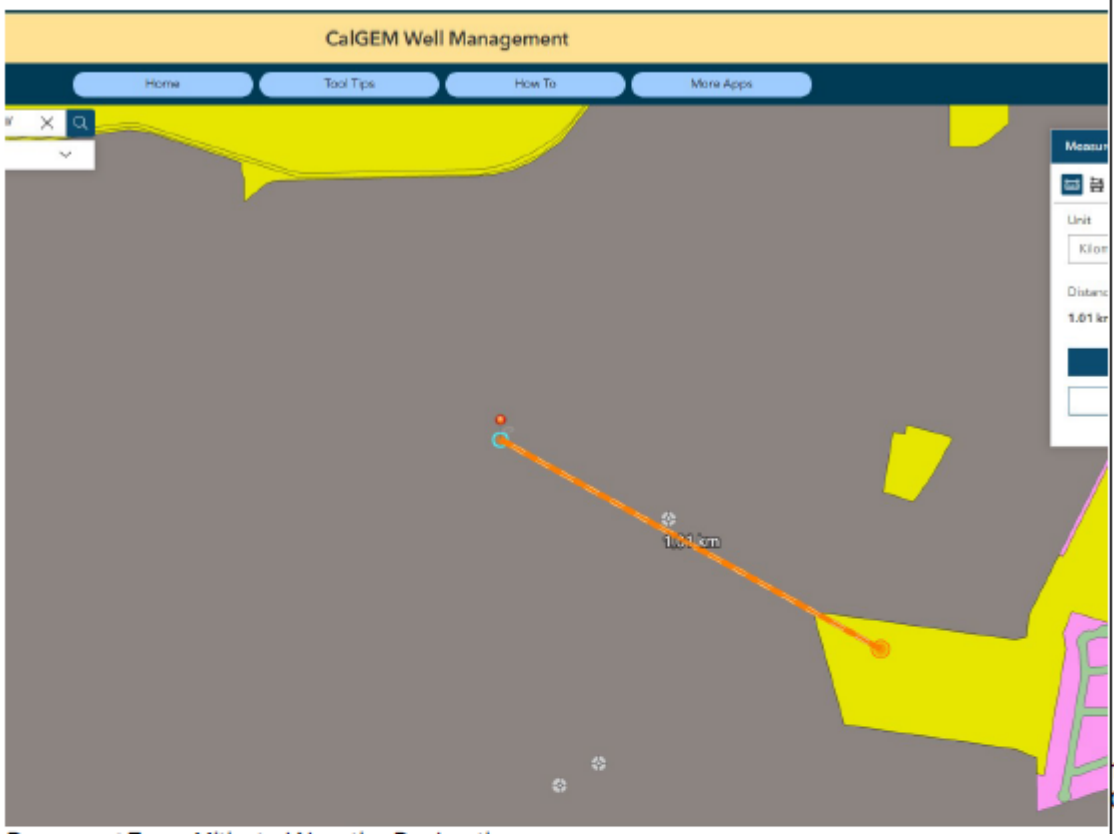
From: Rueckheim, Julie@DOC <Julie.Rueckheim@conservation.ca.gov>
Sent: Monday, June 15, 2026 11:36 AM
To: CalGEMCentralCSWR@DOC <CalGEMCentralCSWR@conservation.ca.gov>
Cc: Perez, Jan@DOC <Jan.Perez@conservation.ca.gov>; Arrieta, Eva@DOC <Eva.Arrieta@conservation.ca.gov>
Subject: CEQA Review: Bakersfield (CSUB)-Ground Mount Solar and Battery Project

Hello,

Please review CEQA project # **2026060645**

1-2

(35°20'58.5"N 119°05'51.8"W)



1-2 Cont'd

Document Type: Mitigated Negative Declaration

Project Lead Agency: Kern County

Project Title: Ground Mount Solar and Battery Project

Project Description:
The project involves the installation of a 4.55 megawatt direct current (MWdc) ground-mounted photovoltaic (PV) solar energy system and associated electrical components on 15 acres on the main campus. A battery energy storage system (BESS) with an energy capacity of 11.7 megawatt-hours (MWh) would also be installed as part of the proposed project. The solar panel modules installed primarily on tracker mount systems with solar panels installed along the western portion of the project site as a south-facing fixed tilt system. Approximately 6,500 solar panels would be installed on approximately 1,275 posts. The project would also install a lithium-ion BESS on the eastern portion of the project site. The BESS would come in a prefabricated enclosure unit and have a fire rating in compliance with industry standards. Electrical components that would be installed as part of the project include inverters, an AC combiner, transformers, and a control panel. Conduit would connect the solar energy system to the electrical components within the project site. The proposed project would also include security features, including perimeter fencing, access gates, and lighting. The solar energy system would connect to the

2

existing substation north of the project site, which would tie into the PG&E grid system via an underground 21-kilovolt, 825 linear foot power line. Construction of the proposed project would occur over an eight-month period between October 2026 and December 2027. Once operational, the solar energy system would be controlled, monitored, managed, and analyzed remotely using a Supervisory Control and Data Acquisition (SCADA) system. Operation of the proposed project would be automated and unstaffed. Occasional vegetation management, periodic washing of the solar PV panels, and maintenance of the electrical components would be required to maintain safe operation and energy production.

Go to https://ceqanet.opr.ca.gov/Search/Advanced and enter in the project number to access project documents.

1-2 Cont'd

If your District identifies a potential impact from this project, and or that the project is any of the following:

- within an oil and gas field;
- has existing active, idle or abandoned oil and gas wells on the site or within one kilometer;
- a residential development is located within 1 kilometer of an oil or gas well; or
- adjacent to the boundary of either an oil and gas field or gas storage facility.

If your Division identifies a potential program impact from this project, please provide your comments to the lead agency by **July 15, 2026**. Send a copy of your comment to the State Clearinghouse at state.clearinghouse@opr.ca.gov and include OLRA@conservation.ca.gov , and Julie.rueckheim@conservation.ca.gov so that we can file your comment in our records. Be sure to include the project number (SCH #) on all correspondence.

Thank you,

Julie Rueckheim
Environmental Scientist |
CalGEM/CEQA Program
California Department of Conservation
715 P Street, MS 1900, Sacramento, CA 95814
T: 279.238.4648
E: julie.rueckheim@conservation.ca.gov

California
Department of Conservation
Geologic Energy Management Division

Gavin Newsom, Governor
Jennifer Lucchesi, Director

June 15, 2026

VIA ELECTRONIC MAIL

Michael Baker International
Vicky Rosen
801 S Grand Avenue Suite 250
Los Angeles, CA 90017

vicky.rosen@mbakerintl.com

Assessor Parcel Number(s): 39001201
Project Location Address: Kroll Way and Residence Way

PROJECT TITLE: Ground Mount Solar and Battery Project

Public Resources Code (PRC) section 3208.1 establishes re-abandonment responsibility when previously plugged and abandoned oil, gas or geothermal wells will be impacted by planned property development or construction activities. Local permitting agencies, property owners, and/or developers should be aware of, and fully understand, that significant and potentially dangerous issues may be associated with development near previously abandoned oil, gas, and geothermal wells.

The California Geologic Energy Management Division (CalGEM) has received the above-referenced project dated 06/15/2026. To assist local permitting agencies, property owners, and developers in making safe and practical land use decisions regarding potential development near oil, gas, or geothermal wells, CalGEM provides a table in the attached enclosure of the wells within the parcel boundary or in its vicinity, based on CalGEM's Well Finder database (https://maps.conservation.ca.gov/doggr/wellfinder/). 1-3

CalGEM categorically advises against building over, or in any way impeding access to, oil, gas, or geothermal wells. Impeding access to a well could result in the need to remove any structure or obstacle that prevents or impedes access including, but not limited to, buildings, housing, fencing, landscaping, trees, pools, patios, sidewalks, roadways, and decking at the landowner's expense if there is a need to access a well. Maintaining sufficient access is considered the ability for a well servicing unit and associated necessary equipment (consisting of well servicing rig, pumping equipment, pipe trailer) to reach a well from a public street or access way, solely over the parcel on which the well is located. A well servicing unit, and any necessary equipment, should be able to pass unimpeded along and over the route, and should be able to access the well without disturbing the integrity of surrounding infrastructure. Impermeable

barriers such as asphalt, concrete, and plastic may trap hazardous gases and liquids underneath and could create a safety hazard if built over a well that later develops a leak.

CalGEM recommends that any well for which access is impeded or built over, against CalGEM's advice, should be evaluated by a qualified petroleum professional for compliance with the statutory objectives of isolating all hydrocarbon-bearing strata; protecting underground and surface waters; prevention of subsequent damage to life, health, property, and other resources; and prevention of loss of oil, gas, or reservoir energy. CalGEM recommends that wells that do not meet these standards are abandoned or re-abandoned prior to construction. The well information can be accessed through CalGEM's Well Finder database mentioned above. PRC section 3208, subdivision (a), provides the primary statutory authority for CalGEM to oversee adequate abandonment of wells. Additionally, CalGEM has developed the regulatory guidance for operators to be followed during well abandonment, which are listed within California Code of Regulation, title 14 (CCR) section 1723 and associated sub-sections (for onshore wells), and section 1745 and associated sub-sections (for offshore wells).

There is no guarantee that a well abandoned in compliance with current Division requirements as prescribed by law will not start leaking in the future. Due to the inability to predict all subsurface conditions or changes, it always remains a possibility that any well may start to leak oil, gas, and/or water after abandonment, no matter how thoroughly the well was plugged and abandoned. CalGEM acknowledges wells plugged and abandoned to the most current Division requirements as prescribed by law have a lower probability of leaking in the future, however there is no guarantee that such abandoned wells will not leak.

1-3 Cont'd

CalGEM advises that all wells identified on the development parcel prior to, or during, development activities be tested for liquid and gas leakage. Surveyed locations in Latitude and Longitude, NAD 83 decimal format, and leak testing results should be provided to CalGEM. CalGEM expects any wells found leaking to be reported to CalGEM immediately.

PRC section 3208.1 gives CalGEM the authority to order or permit the re-abandonment of any well where it has reason to question the integrity of the previous abandonment. Responsibility for re-abandonment costs may be affected by the choices made by the local permitting agency, property owner, and/or developer in considering the general advice set forth in this letter. The PRC continues to define the person or entity responsible for re-abandonment as:

1. The property owner - If the well was plugged and abandoned in conformance with Division requirements at the time of abandonment, and in its current condition does not pose an immediate danger to life, health, and property, but requires additional work solely because the owner of the property on which the well is located proposes construction on the property that would prevent or impede access to the well for purposes of remedying a currently perceived future

problem, then the owner of the property on which the well is located shall obtain all rights necessary to re-abandon the well and be responsible for the re-abandonment.

2. The person or entity causing construction over or near the well - If the well was plugged and abandoned in conformance with Division requirements at the time of plugging and abandonment, and the property owner, developer, or local agency permitting the construction failed either to obtain an opinion from the supervisor or district deputy as to whether the previously abandoned well is required to be re-abandoned, or to follow the advice of the supervisor or district deputy not to undertake construction that impedes access, then the person or entity causing the construction over or near the well shall obtain all rights necessary to re-abandon the well and be responsible for the re-abandonment.

3. The party or parties responsible for disturbing the integrity of the abandonment - If the well was plugged and abandoned in conformance with Division requirements at the time of plugging and abandonment, and after that time someone other than the operator or an affiliate of the operator disturbed the integrity of the abandonment in the course of developing the property, then the party or parties responsible for disturbing the integrity of the abandonment shall be responsible for the re-abandonment.

Should any wells require abandonment or re-abandonment, the responsible party must submit a Notice of Intention (NOI) to CalGEM through WellSTAR. The NOI form can be accessed in the 'Plugging and Abandonment' section of the following link: https://www.conservation.ca.gov/calgem/for_operators.

1-3 Cont'd

No well work may be performed on any oil, gas, or geothermal well without written approval from CalGEM. Well work requiring approval includes, but is not limited to, mitigating leaking gas or other fluids from abandoned wells, modifications to well casings, and/or any other re-abandonment work. CalGEM also regulates the top of a plugged and abandoned well's minimum and maximum depth below final grade. CCR section 1723.5 states well casings shall be cut off at least 5 feet but no more than 10 feet below the surface of the ground. If any well needs to be lowered or raised (i.e. casing cut down or casing riser added) to meet this regulation, a permit from CalGEM is required before work can start.

CalGEM makes the following additional recommendations to the local permitting agency, property owner, and developer:

1. To ensure that present and future property owners are aware of (a) the existence of all wells located on the property, and (b) potentially significant issues associated with any improvements near oil or gas wells, CalGEM recommends that information regarding the below identified well(s), and any other pertinent information obtained after the issuance of this letter, be communicated to the appropriate county recorder for inclusion in the title information of the subject real property.

2. CalGEM recommends that any soil containing hydrocarbons be disposed of in accordance with local, state, and federal laws. Please notify the appropriate authorities if soil containing significant amounts of hydrocarbons is discovered during development.

As indicated in PRC section 3106, CalGEM has statutory authority over the drilling, operation, maintenance, and abandonment of oil, gas, and geothermal wells, and attendant facilities, to prevent, as far as possible, damage to life, health, property, and natural resources; damage to underground oil, gas, and geothermal deposits; and damage to underground and surface waters suitable for irrigation or domestic purposes. In addition to CalGEM's authority to order work on wells pursuant to PRC sections 3208.1 and 3224, it has authority to issue civil and criminal penalties under PRC sections 3236, 3236.5, and 3359 for violations within CalGEM's jurisdictional authority. CalGEM does not regulate grading, excavations, or other land use issues. 1-3 Cont'd

Should you have any questions, or if any wells are encountered that were not part of this letter, contact CalGEM at (661) 322-4031 or via email at CalGEMCentralCSWR@conservation.ca.gov.

Sincerely,

Emilio Flores

Emilio Flores
Office Technician

Enclosure

State of California Natural Resources Agency | Department of Conservation
Central District, 11000 River Run Boulevard, Bakersfield, CA 93311
conservation.ca.gov | T: (661) 322-4031

Michael Baker International
06/15/2026
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Enclosure: The wells listed below are reported to be located within and nearby the parcel boundary and may have future access impeded.

APN No.	API No.	Well Name
39001201	No wells found	

1-4

State of California Natural Resources Agency | Department of Conservation
Central District, 11000 River Run Boulevard, Bakersfield, CA 93311
conservation.ca.gov | T: (661) 322-4031

Comment Letter 1: California Department of Conservation Geologic Energy Management (CalGEM) Central District: Construction Site Well Review Team

Response 1-1

The comment includes introductory remarks and describes an update to the California Department of Conservation's Geologic Energy Management Division (CalGEM) Construction Site Well Review process. CalGEM states that it no longer reviews the abandonment of wells as part of project review. Instead, they recommend a qualified petroleum professional evaluate any abandoned and buried wells to be overbuilt by a project or for which a project may impede access, and require well abandonment or re-abandonment via notification through the Division's Statewide Tracking and Reporting System (WellSTAR). The comment is acknowledged for the record, and no further response to this comment is required.

Response 1-2

The comment represents interagency correspondence from the California Department of Conservation to CalGEM summarizing the project description and requesting review of the project and identification of any potential impacts by CalGEM. The comment is acknowledged for the record, and no further response to this comment is required.

Response 1-3

The comment represents email correspondence from CalGEM in response to a request from Michael Baker International, the environmental consultant that prepared the Draft IS/MND, asking for information from CalGEM regarding the project site. The comment provides a summary of the statutory authority of CalGEM and its recommendations and procedures for property owners regarding oil, gas, or geothermal wells that could be impacted by development. The comment does not state a specific concern regarding the environmental analysis presented in the IS/MND. The comment is acknowledged for the record, and no further response to this comment is required.

Response 1-4

The comment is an enclosure (in its entirety, page 5 of the correspondence cited in Response 1-3) that states that no wells were identified within or nearby the parcel boundary of the project site. The comment is acknowledged for the record, and no further response to this comment is required.

Docusign Envelope ID: 80C73493-C47B-8805-8232-441E81E3F61D

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

GAVIN NEWSOM, Governor
MEGHAN HERTEL, Director

1234 East Shaw Avenue
Fresno, California 93710
(559) 243-4005
wildlife.ca.gov

Comment Letter No. 2

July 6, 2026

Aditi Arya, Energy and Sustainability Manager
California State University, Bakersfield
9001 Stockdale Hwy, Mail Stop: 5CORP
Bakersfield, California 93311
(661) 654-2211
ORG-CEQA@csub.edu

Subject: Ground Mount Solar and Battery Project (Project)
Initial Study/Mitigated Negative Declaration (MND)
State Clearinghouse No. 2026060645

Dear Aditi Arya:

The California Department of Fish and Wildlife (CDFW) received an MND from California State University, Bakersfield (CSUB) for the above-referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.[1]

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife, Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under Fish and Game Code. 2-1

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statue 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

[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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projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code may be required. 2-1 Cont'd

Nesting Birds: CDFW has jurisdiction over actions with the potential to result in the disturbance or destruction of active nest sites or unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs, or nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird). 2-2

Unlisted Species: Species of plants and animals need not be officially listed as Endangered, Rare, or Threatened (E, R, or T) on any State or federal list to be considered E, R, or T under CEQA. If a species can be shown to meet the criteria for E, R, or T, as specified in the CEQA Guidelines section 15380, CDFW recommends it be fully considered in the environmental analysis for the Project. 2-3

PROJECT DESCRIPTION SUMMARY

Proponent: CSUB

Objective: The Project proposes to construct a ground-mounted photovoltaic (PV) solar energy system with associated electrical components necessary to generate 4.55 megawatts (MW) of renewable energy for use on the CSUB campus. The proposed Project also includes installation of a lithium-ion battery energy storage system (BESS) with an 11.7 megawatt-hour storage capacity. 2-4

Location: The proposed Project site is located on 15 acres within the main CSUB campus in the City of Bakersfield, Kern County. The site is bounded on the north by Kroll Way, on the east by the Arvin-Edison Canal, and on the west and south by undeveloped campus land.

Timeframe: Construction is anticipated to occur during an approximate 8-month period between October 2026 and December 2027.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist CSUB in adequately identifying and/or mitigating the Project's significant, or potentially

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significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the MND.

As stated in the MND, the Project site is currently undeveloped, consists primarily of non-native grasslands, and undergoes occasional maintenance activities (e.g., vegetation trimming, tilling). The CSUB campus is generally set in an urban landscape but contains a comparatively large amount of undeveloped land, including CSUB's 20-acre Environmental Studies Area (ESA) directly to the south of the Project site (used for teaching and research about the environment), and is surrounded by the Kern River and associated riparian habitat to the north.

A Biological Resources Assessment (BRA), including a field survey conducted on February 12, 2026, was prepared in support of the MND and identified four special-status species that are either expected or have moderate potential to occur on the Project site: the State threatened and federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*); the State candidate western burrowing owl (*Athene cunicularia hypugaea*); and the State species of special concern (SSC) Bakersfield legless lizard (*Anniella grinnelli*) and San Joaquin coachwhip (*Masticophis flagellum ruddocki*). The MND evaluates the Project's potential impacts on these species and concludes impacts would be less than significant with mitigation incorporated. Accordingly, the MND proposes mitigation measures to reduce the Project's impact on special-status species to a less-than-significant level. 2-4 Cont'd

CDFW has concerns about the ability of the MND's proposed mitigation measures to reduce impacts to less than significant and avoid unauthorized take for the species above as well as the State threatened Swainson's hawk (*Buteo swainsonii*); the State candidate Crotch's bumble bee (*Bombus crotchii*); the State SSC western spadefoot (*Spea hammondii*); and special-status plant species.

San Joaquin Kit Fox

The MND states that San Joaquin kit fox (SJKF) is considered present within the CSUB campus and is expected to occur on the Project site. The MND provides Mitigation Measure (MM) BIO-4 to mitigate impacts to SJKF, which discloses that CSUB is currently in the process of acquiring a State Incidental Take Permit (ITP) for SJKF and requires the Project to adhere to several avoidance and mitigation measures listed in the ITP. CDFW would like to clarify that the measures outlined in MM BIO-4 are those proposed by CSUB in its ITP application. The ITP has not been issued and, therefore, the avoidance, minimization, and mitigation measures in the issued ITP may be different than the measures listed in MM BIO-4. 2-5

Nonetheless, for purposes of CEQA, CDFW concurs with several portions of MM BIO-4, including SJKF preconstruction surveys no less than 14 days and no more than 30 days prior to ground disturbance; implementation of an employee education program; monitoring during construction; immediate reporting of any SJKF incident to CDFW; and

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implementation of the listed best management practices during construction. However, for purposes of CEQA, CDFW does not concur with the remainder of MM BIO-4. Absent an ITP issued prior to the start of Project construction, CDFW does not recommend excavating, sealing, or otherwise preventing or discouraging use of any known dens (i.e., any dens that are currently used or have been used at any time in the past) during the pupping season, even if they are determined to be inactive at any given time. Additionally, CDFW asserts that avoidance of an active natal den by 100 feet is likely insufficient to reduce impacts to less than significant and recommends an appropriate buffer distance be determined in consultation with CDFW and the U.S. Fish and Wildlife Service (USFWS) in accordance with the USFWS "Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance" (2011; USFWS Protocol). Lastly, CDFW stresses that if a SJKF individual were to move into the Project site during construction (or operation), all work should stop while a biologist assesses the situation, but harassment of the fox under any circumstances would likely be considered take under the federal Endangered Species Act and may be considered take under CESA. It is recommended to contact CDFW immediately if a SJKF enters the Project site, especially during construction, to determine the best course of action. Proceeding with this Project without an ITP has the potential to result in unauthorized take of SJKF, which would be a violation of CESA, and unauthorized take could result in an enforcement action. 2-5 Cont'd

If CSUB's ITP is issued prior to the start of Project construction, CSUB would be required to adhere to the Conditions of Approval within the ITP. However, to ensure impacts to SJKF are reduced to less than significant for purposes of CEQA, and in the event an ITP is not issued prior to the start of construction, CDFW recommends the MND include the following measures:

Recommended Mitigation Measure 1: SJKF Den Protection

CDFW recommends prohibiting excavation, sealing, or otherwise preventing or discouraging use of any known SJKF den, whether it is determined to be active or inactive, without an issued ITP for SJKF and extensive coordination with CDFW.

Recommended Mitigation Measure 2: SJKF Avoidance Buffer

CDFW recommends implementing no-disturbance buffers, as described in the USFWS Protocol, around potentially suitable or known SJKF den sites during Project implementation.

Swainson's Hawk

The Project's BRA determined that suitable Swainson's hawk (SWHA) foraging habitat is present within the Project site, but that suitable nesting habitat is not present and thus 2-6

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the species is not expected to occur. As a result, no specific mitigation measures are provided in the MND for SWHA, CDFW does not concur that SWHA can be expected to be absent from the Project site, SWHA are known to breed within the Central Valley of California and prefer to nest and forage in alfalfa, fallow fields, field crops, and grassland habitats with a sufficient source of small mammals (CDFG 1994). Upon review of aerial imagery, numerous tall trees that may be suitable for SWHA nesting appear to be located throughout the CSUB campus and immediately adjacent to the site, including on the ESA and open fields to the south, While it is accurate that no recent SWHA occurrences have been documented in the Project vicinity, CDFW notes that the California Natural Diversity Database (CNDDB) is populated by records through voluntary submissions of species detections and, as a result, the lack of an occurrence record in the CNDDB does not mean a species is not present. Species may be present in locations not depicted in the CNDDB, but where there are suitable habitat features capable of supporting species,

As suitable foraging habitat is present within the Project site, SWHA have been known to nest in the Project vicinity in areas such as the Kern River, and many suitable nest trees are located in the Project vicinity, the MND should be revised to note that SWHA has the potential to occur on the Project site, Additionally, in order to reduce impacts to less than significant and avoid unauthorized take, CDFW recommends the MND include the following measures:

2-6
Cont'd

Recommended Mitigation Measure 3: SWHA Surveys Prior to Construction

CDFW recommends that a qualified biologist conduct surveys for nesting SWHA following the entire survey methodology developed by the SWHA Technical Advisory Committee (SWHA TAC 2000) the survey season immediately prior to construction. Please be advised that CDFW considers a nest active if it was used one or more times within the last 5 years,

Recommended Mitigation Measure 4: SWHA Avoidance Buffer

If Project-specific activities will take place during the SWHA nesting season (i.e., March 1 through September 15), and active SWHA nests are present, CDFW recommends a minimum 0.5-mile no-disturbance buffer be delineated and maintained around each nest, regardless of whether it was detected by surveys or observed incidentally. These buffers would remain in place until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival, to prevent nest abandonment and other take of SWHA as a result of Project activities.

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Recommended Mitigation Measure 5: SWHA Take Authorization

In the event an active SWHA nest is detected, and a 0.5-mile no-disturbance buffer is not feasible, consultation with CDFW is warranted to discuss how to implement the Project and avoid take. If take cannot be avoided, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b), is necessary to comply with CESA.

2-6 Cont'd

Western Burrowing Owl

According to the MND, western burrowing owl (BUOW) has moderate potential to occur within the Project site due to the suitable grassland habitat and numerous ground squirrel burrows present onsite. Additionally, a BUOW individual was observed nearby on the CSUB campus in 2025. The MND provides MM BIO-3 to mitigate impacts to BUOW, which requires that a qualified biologist conduct a preconstruction survey for BUOW 14 days before ground disturbance and, if BUOW is detected, that coordination with CDFW occur regarding the need for an ITP. CDFW concurs that preconstruction surveys and consultation with CDFW are needed but does not concur that MM BIO-3 is sufficient to reduce impacts to BUOW to less than significant. CDFW recommends the measure be revised to include the following:

Recommended Mitigation Measure 6: BUOW Preconstruction Surveys

CDFW recommends that focused surveys, specifically following the 2012 Staff Report on Burrowing Owl Mitigation (2012 Staff Report; CDFG 2012), be conducted the survey season immediately prior to construction. Please note that the 2012 Staff Report necessitates multiple surveys prior to the initiation of construction.

2-7

Recommended Mitigation Measure 7: BUOW Avoidance Buffer

Should a BUOW or known BUOW den (active or inactive) be detected, either during preconstruction surveys or construction activities, CDFW recommends that no-disturbance buffers, as outlined in the 2012 Staff Report, be implemented prior to and during any ground-disturbing activities. CDFW recommends that these buffers be implemented for both wintering and breeding BUOW.

Recommended Mitigation Measure 8: BUOW Take Authorization

If a BUOW or known BUOW den (active or inactive) is detected, and the no disturbance buffers outlined in the 2012 Staff Report on Burrowing Mitigation are not feasible, consultation with CDFW is warranted to discuss how to implement the Project and avoid take. If take cannot be avoided, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b), is necessary to comply with CESA.

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Crotch's Bumble Bee

The Project's BRA concluded that Crotch's bumble bee (CBB) is not expected to occur on the Project site because the nonnative grassland present onsite is not suitable habitat for CBB, As a result, no specific mitigation measures are provided in the MND for CBB. CDFW does not concur that CBB can be assumed to be absent from the Project site. CBB are generalist foragers and have been documented visiting a wide variety of flowering plants, including those from plant families present on the Project site (i.e., Apocynaceae, Asteraceae, and Fabaceae; Xerces Society et al. 2018). Further, numerous small mammal burrows, which CBB may use for nesting, were observed on the site. The MND also mentions a recent CBB occurrence record located approximately 2.5 miles from the site; in fact, there are several recent occurrences within 2 to 7 miles (CDFW 2026).

Given the presence of potentially suitable CBB nesting and foraging habitat on the Project site and recent nearby occurrence records, CDFW recommends the MND include the following measures to avoid potentially significant impacts to CBB and unauthorized take: 2-8

Recommended Mitigation Measure 9: CBB Preconstruction Surveys

CDFW recommends a qualified biologist conduct focused surveys for CBB and their requisite habitat features within and adjacent to the Project site following the methodology outlined in the Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species (CDFW 2023), during the blooming period immediately prior to Project initiation.

Recommended Mitigation Measure 10: CBB Avoidance and Consultation

If CBB is detected, CDFW recommends that all small mammal burrows and thatched/bunch grasses be initially avoided by a minimum of 50 feet to avoid take and potentially significant impacts until CDFW can be consulted regarding an appropriate avoidance area, Any detection of CBB prior to or during construction warrants consultation with CDFW to discuss how to avoid take, regardless of time of year.

Recommended Mitigation Measure 11: CBB Take Authorization

If take of CBB cannot be avoided, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b), is necessary to comply with CESA.

State Species of Special Concern

The MND identifies the State SSC Bakersfield legless lizard (BLL) and San Joaquin coachwhip (SJC) as species with moderate potential to occur within the Project site. 2-9

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However, the only mitigation measure pertaining to these species is MM BIO-2, which requires general biological monitoring during construction activities and, alone, is insufficient to reduce potential impacts to less than significant for BLL, SJC, and other State SSCs that may be present on the Project site. CDFW recommends the MND also include the following measures:

Recommended Mitigation Measure 12: SSC Preconstruction Survey

Prior to the start of work, CDFW recommends that a qualified biologist conduct focused surveys for BLL and SJC and their requisite habitat features.

Recommended Mitigation Measure 13: SSC Avoidance

Avoidance whenever possible is encouraged via delineation and observance of a 50-foot no-disturbance buffer around these species and their associated burrows and habitat areas. CDFW also recommends that, if these species are found, Project activities in their immediate vicinity cease, allowing individuals to leave the Project site on their own accord.

2-9 Cont'd

Western Spadefoot

The Project site is within the known geographic range of western spadefoot (WESP), and several occurrences have been documented in the vicinity of the site (CDFW 2026). While WESP occurs primarily in grasslands, seasonal wetlands, and vernal features, WESP is also known to utilize agricultural ponds, ditches, canals, flooded areas of orchards, flooded areas on construction sites, inlet and outlet of culverts with standing water, and sumps for breeding. The Project's BRA states that suitable WESP upland habitat (i.e., grassland habitat) is present within the Project site, but concludes the species is not expected to occur as no vernal pools are present on the site. While the site may not have vernal pools, CDFW recommends that a further evaluation occur to assess whether other aquatic features, such as agricultural ditches or other agriculturally inundated areas which may support WESP breeding or dispersal, may be present within the Project site or vicinity.

2-10

CDFW recommends that a qualified biologist conduct a habitat assessment for WESP to determine if suitable breeding and refugia habitat is present. All the potential areas stated above, including but not limited to seasonal wetlands, vernal features, agricultural ponds, ditches, canals, and sumps should be identified as part of this assessment. If suitable habitat is detected, CDFW recommends that a qualified biologist conduct focused surveys for WESP, using appropriate survey methodologies and during the appropriate time of year, within these areas. If it is determined that WESP is present or has the potential to be present within the Project site, consultation with CDFW is recommended for guidance on avoidance, minimization, and mitigation measures.

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On September 24, 2025, the California Fish and Game Commission (FGC) received a petition to list the northern population of WESP as a threatened species and the southern population of WESP as an endangered species under CESA, At the FGC meeting on April 18, 2026, CDFW presented its determination that the petition provided sufficient scientific information that the petitioned action to list WESP under CESA may be warranted; however, the FGC has deferred its decision on WESP candidacy until the August 2026 meeting. If WESP becomes a candidate for listing or ultimately becomes listed as threatened or endangered pursuant to CESA, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081, subdivision (b), will be necessary to comply with CESA if full avoidance of WESP cannot be achieved. Please note that implementation of the recommended measures above would help minimize impacts to WESP as required by CEQA but may not fully avoid impacts and thus take, Additional measures may need to be implemented to avoid take of WESP, In the event that WESP becomes protected under CESA, CDFW recommends early consultation to help identify if avoidance is feasible or, if not, to initiate discussions regarding the need for ITP acquisition. 2-10 Cont'd

Editorial Comments and/or Suggestions

Wildlife Friendly Fencing: CDFW recommends that all fencing installed on the perimeter of the Project be designed to allow for passage of small and medium-sized wildlife, while impeding the passage of larger predators such as coyotes and similar species, Perimeter fencing should be installed with a continuous 4- to 6-inch gap from the ground to the bottom of the fencing material and knuckled back to form a smooth edge and allow permeability for wildlife. 2-11

CNDDB: Please note that the CNDDB is populated by records through voluntary submissions of species detections. As a result, species may be present in locations not depicted in the CNDDB, but where there are suitable habitat features capable of supporting species, A lack of an occurrence record in the CNDDB does not mean a species is not present. To adequately assess any potential Project-related impacts to biological resources, surveys conducted by a qualified biologist during the appropriate survey period(s) using the appropriate protocol survey methodology are warranted to determine whether any special-status species are present at or near the Project site. 2-12

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database, which may be used to make subsequent or supplemental environmental determinations (Pub, Resources Code, § 21003, subd, (e)). Accordingly, please report any special-status species and natural communities detected during Project surveys to the CNDDB. The CNDDB field survey form can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Submitting-Data. The completed form can be mailed electronically to the CNDDB at the following email 2-13

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address: CNDDB@wildlife.ca.gov. The types of information reported to the CNDDB can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Plants-and-Animals. 2-13 Cont'd

FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089). 2-14

CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist CSUB in identifying and mitigating Project impacts on biological resources. Please see the enclosed Mitigation Monitoring and Reporting Program (MMRP) table (Attachment 1) which corresponds with the recommended mitigation measures in this comment letter. If you have any questions, please contact Amanda Canepa, Senior Environmental Scientist (Specialist), at the address provided on this letterhead, by telephone at (805) 746-0721, or by electronic mail at Amanda.Canepa@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Krista Tomlinson
1295DB85267A4F5...

2-15

For Julie A. Vance
Regional Manager

Attachment 1 (MMRP)

ec: State Clearinghouse
Land Use and Climate Innovation
state.clearinghouse@lci.ca.gov

Amanda Canepa
California Department of Fish and Wildlife

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REFERENCES

California Department of Fish and Game, 1994, Staff report regarding mitigation for impacts to Swainson's hawks (*Buteo Swainsoni*) in the Central Valley of California. Sacramento, California, USA.

California Department of Fish and Game. 2012. Staff report on burrowing owl mitigation. Sacramento, California, USA.

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

California Department of Fish and Wildlife. 2026. Biogeographic information and observation system (BIOS). https://www.wildlife.ca.gov/Data/BIOS. Accessed 29 June 2026.

Swainson's Hawk Technical Advisory Committee. 2000. Recommended timing and methodology for Swainson's hawk nesting surveys in California's Central Valley. Swainson's Hawk Technical Advisory Committee.

U. S. Fish and Wildlife Service. 2011. Standard Recommendations for the Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance. U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, Sacramento, California, USA,

Xerces Society for Invertebrate Conservation (Xerces Society), Defenders of Wildlife, and Center for Food Safety. 2018. A petition to the state of California fish and game commission to list the Crotch's bumble bee (Bombus crotchii), Franklin's bumble bee (Bombus franklini), Suckley cuckoo bumble bee (Bombus suckleyi), and western bumble bee (Bombus occidentalis occidentalis) as Endangered under the California Endangered Species Act. October 2018.

2-16

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Attachment 1

2-17

Docusign Envelope ID: 80C73493-C47B-8805-8232-441E81E3F61D

Attachment 1
CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

PROJECT: Ground Mount Solar and Battery Project by California State University, Bakersfield

SCH No.: 2026060645

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
Before Disturbing Soil or Vegetation	
SWHA	
Recommended Mitigation Measure 3: SWHA Surveys Prior to Construction	
Recommended Mitigation Measure 5: SWHA Take Authorization	
BUOW	
Recommended Mitigation Measure 6: BUOW Preconstruction Surveys	
Recommended Mitigation Measure 8: BUOW Take Authorization	
CBB	
Recommended Mitigation Measure 9: CBB Preconstruction Surveys	
Recommended Mitigation Measure 11: CBB Take Authorization	
State SSC	
Recommended Mitigation Measure 12: SSC Preconstruction Survey	
During Construction	
SJKF	
Recommended Mitigation Measure 1: SJKF Den Protection	
Recommended Mitigation Measure 2: SJKF Avoidance Buffer	
SWHA	
Recommended Mitigation Measure 4: SWHA Avoidance Buffer	
BUOW	
Recommended Mitigation Measure 7: BUOW Avoidance Buffer	
CBB	

2-17 Cont'd

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Recommended Mitigation Measure 10: CBB Avoidance and Consultation	
State SSC	
Recommended Mitigation Measure 13: SSC Avoidance	

2-17 Cont'd

Rev. 2013.1.1

Comment Letter 2: California Department of Fish and Wildlife

Response 2-1

The comment includes introductory remarks and describes CDFW's role as a Trustee Agency under CEQA. This comment also states that CDFW is submitting comments as a Responsible Agency under CEQA as the agency expects it may need to exercise regulatory authority as provided by the Fish and Game Code. CSUB appreciates the opportunity to continue coordination with CDFW regarding this project and other wildlife issues for the campus. This comment is acknowledged for the record and no further response to this comment is required.

Response 2-2

The comment states that CDFW has jurisdiction over actions with the potential to result in the disturbance or destruction of active nest sites or unauthorized take of birds, and cites the Fish and Game Code sections that protect birds, eggs, and nests. As discussed in Section 3.4, Biological Resources, Threshold (a), disturbing or destroying active nests is a violation of the Migratory Bird Treaty Act, and nests and eggs are protected under Section 3503 of the Fish and Game Code. Mitigation Measure BIO-1, Nesting Birds, would be implemented and requires two nesting bird surveys to be conducted by a qualified biologist. If an active nest is identified, project activities near the nest must be postponed and additional evaluation by the biologist would be required. With implementation of Mitigation Measure BIO-1 impacts to special-status wildlife species, including nesting birds, would be less than significant.

Response 2-3

The comment states that species of plants and animals do not have to be listed as Endangered, Rare or Threatened to be considered under CEQA, and recommends that species that meet the criteria to be listed be fully considered in the environmental analysis. Attachment D of the Biological Resources Assessment prepared for the proposed project lists the special-status plant and wildlife species with the potential to occur in the study area, including those that are not listed as Endangered, Rare or Threatened, but are candidate species for listing. For example, Crotch's bumble bee (CBB), a candidate species, is discussed as a special-status wildlife species and was determined not to be expected to occur on-site based on a general biological resources survey and habitat assessment of the project site and 300-foot buffer conducted on February 12, 2026. However, as detailed in Response to Comment No. 2-8, preconstruction surveys for nesting Crotch's bumble bee will occur prior to the start of ground-disturbing activities to reaffirm that CBB is not expected to occur within the project site. If CBB is detected, CDFW will be notified and consulted.

The project would also implement Mitigation Measure BIO-2, Biological Monitoring, which would require a qualified biological monitor be present on-site daily during site preparation activities involving ground disturbance and vegetation removal, gravel road installation, and installation of solar components, at the discretion of the biological monitor who will consider time of year, construction activity occurring, and observations of any special-status species to date. Additionally, as detailed in Response to Comment No. 2-9, Mitigation Measure BIO-2 in the IS/MND has been revised to specifically include the Bakersfield legless lizard and San Joaquin coachwhip, both State Species of Special Concern (SSC). The revised Mitigation Measure BIO-2 requires the biological monitor to conduct pre-activity clearance surveys of the project site to confirm the status of any active nests, that no new nests are present, and that no anticipated special-status species are present, including Bakersfield legless lizard and San Joaquin

coachwhip. If any wildlife is found, the biological monitor shall flush or relocate the animal(s) to appropriate habitat offsite, or stop work in the vicinity of the species and allow individual species to leave on their own accord. The biological monitor would be given the authority to stop work to protect resources and would coordinate with CSUB and other responsible agencies (California Department of Fish and Wildlife or U.S. Fish and Wildlife Service), as appropriate.

Response 2-4

The comment summarizes the project description, location, and construction timeframe from Chapter 1, Project Description, of the IS/MND, and the findings of the Biological Resources Assessment and Section 3.4, Biological Resources, of the IS/MND. The commenter states their concerns about the project's mitigation measures to reduce impacts to less than significant and avoid unauthorized take of San Joaquin kit fox (SJKF), western burrowing owl, Bakersfield legless lizard, and San Joaquin coachwhip. The commenter is also concerned about Swainson's hawk, CBB, western spadefoot (WESP), and special-status plant species. The commenter is referred to Response to Comment Nos. 2-5 through 2-10 below.

Response 2-5

The comment states that SJKF are present within the campus and is expected to occur on the project site, and acknowledges that the IS/MND includes mitigation measures for SJKF. The commenter emphasizes that the Incidental Take Permit that CSUB is pursuing has not yet been issued, and thus the avoidance, minimization, and mitigation measures from the Incidental Take Permit may be different than those listed in Mitigation Measure BIO-4 in the IS/MND. The commenter concurs with portions of Mitigation Measure BIO-4, but provides recommendations regarding den protection, avoidance buffers, and actions to take in case a SJKF were to move into the project site during construction or operation. The commenter also states that CSUB's Incidental Take Permit would be applicable to the proposed project, if it is issued prior to the start of construction.

As discussed in Section 3.4, Biological Resources, SJKF is considered present within the CSUB campus. An earthen kit fox den was identified within the project site based on data provided by McCormick Biological Inc. in January 2026 and a CNNDB record indicates that the species is known and expected on-site. However, based on additional information provided by McCormick Biological Inc., it has been determined that the earthen kit fox den within the project site was based on a data point from 2017, when the den was recorded. The point was included in the dataset in the event a SJKF individual returned. However, McCormick Biological Inc. conducted a campus-wide survey to confirm known den data in February 2025 and did not find any sign of SJKF or sign of a den. Additionally, the field survey conducted on February 12, 2026 for the proposed project did not identify any signs of a SJKF den. A follow-up survey attempting to identify SJKF sign and known dens at the location of, and in the area of the previously identified den within the project site occurred on July 27, 2026, and no SJKF known dens or SJKF sign were observed. Thus, the IS/MND incorrectly stated that there was an earthen kit fox den identified in the project site in January 2026 and the den is no longer present. The IS/MND has been revised to reflect this correction.

The first recommended mitigation measure states that excavation, sealing, or otherwise preventing or discouraging the use of any known SJKF den shall be prohibited without extensive coordination with CDFW. As discussed above, there is no sign of a den at the project site. Thus, no known den would be excavated or sealed prior to construction. Nonetheless, as required by Mitigation Measure BIO-4, a pre-construction survey of the construction site for potential SJKF

dens would be conducted no less than 14 days and no more than 30 days prior to ground disturbance. Additionally, in response to this comment, Mitigation Measure BIO-4 has been revised to require coordination with and approval from CDFW and USFWS if a den is identified during the pre-construction survey and all language in the measure pertaining to evacuation and sealing of a SJKF den have been removed. In the event this project is undertaken prior to Incidental Take Permit issuance or project implementation is not a covered activity under the Incidental Take Permit, implementation of this mitigation measure will remain applicable and a requirement.

The second recommended mitigation measure suggests implementing no disturbance buffers around potentially suitable or known SJKF dens during project implementation. As discussed above, there is no sign of a den at the project site. Mitigation Measure BIO-4 would require a pre-construction survey of the construction site to be conducted to confirm that no potential or known SJKF dens are located within the project site. The no-disturbance buffer in Mitigation Measure BIO-4 has been revised to state that, if a potentially suitable or known SJKF den is found during the pre-construction survey, a buffer distance shall be determined in consultation with CDFW and USFWS. Moreover, Mitigation Measure BIO-4 has been revised to remove the 100-foot buffer distance references throughout and require coordination with CDFW and USFWS regarding measures to protect any identified SJKF dens within the project site.

Response 2-6

The comment states that the project's Biological Resources Assessment determined that suitable foraging habitat for Swainson's hawk (SWHA) exists within the project site but concluded that as no suitable nesting habitat is present, the species is not expected to occur. The commenter disagrees with the determination that SWHA can be expected to be absent from the project site because SWHA is known to nest and forage in areas of the Central Valley such as field crops and grassland habitats with a source of small mammals, there are numerous tall trees throughout the campus and adjacent to the project site, and the species may be present even though it is not documented in the California Natural Diversity Database. The commenter suggests the IS/MND be revised to note that SWHA has the potential to occur on the project site and implement mitigation measures, including SWHA surveys, avoidance buffers, and take authorization, to reduce impacts to and avoid unauthorized take of SWHA.

As discussed in the Biological Resources Assessment and summarized in Section 3.4, Biological Resources, of the IS/MND, two qualified biologists conducted a general biological resources survey and habitat assessment on February 12, 2026, between 9:15 A.M. and 11:15 A.M. The purpose of the field survey was to document existing conditions, conduct a habitat assessment for special-status plant and wildlife species and sensitive natural communities, and determine the presence of aquatic resources within the biological study area (project site plus 300-foot buffer surrounding the site). A total of 47.72 acres were covered during the survey. No SWHA or nests were observed during the field survey conducted for the proposed project. Additionally, McCormick Biological Inc. has conducted surveys of the campus since 2017, and has not incidentally observed any SWHA. Moreover, all the recent extant occurrence records for SWHA are over five miles from the project site.

Regarding the commenter's recommendation to conduct SWHA surveys prior to construction, protocol-level surveys are considered infeasible due to the extensive effort needed to survey the area within 0.5 miles of the project site. The project site is located within the CSUB campus, which is immediately surrounded by urban development on all sides. (The Kern River is north of the campus but is separated by commercial uses.) The area to the east of the project site

across Arvin-Edison Canal is densely built-up with residential development, and the areas to the north, west, and south are all part of the campus. Based on an aerial review, there are at least 1,000 trees within 0.5 miles of the project site. As noted in the SWHA survey protocol, "surveying even the smallest project area will take hours." However, as required by Mitigation Measure BIO-1 for the project, qualified biologists with experience in conducting breeding bird surveys shall conduct two (2) nesting bird surveys within one week prior to the initiation of project activities to detect protected native birds occurring on-site and, as access to adjacent areas allows, other suitable habitats within 500 feet of the project site. The second survey shall be conducted no more than three days prior to the initiation of project activities. Further, nesting bird surveys shall be conducted within three (3) days prior to project activities occurring within a new area of the project site, based on the qualified biologist's evaluation of the need for further surveys as work shifts into a new area. If a lapse in project-related work of five days or longer occurs, another nesting bird survey shall occur prior to work resuming. Should SWHA be detected during these nesting bird surveys, the biologist shall use flagging, stakes, and/or construction fencing to demarcate the appropriate buffer boundary as determined by the qualified biological monitor, consistent with the commenter's recommendation to implement a SWHA avoidance buffer.

Moreover, as required by Mitigation Measure BIO-2 for the project, a qualified biological monitor would be present on-site daily during site preparation activities involving ground disturbance and vegetation removal, gravel road installation, and installation of solar components, at the discretion of the biological monitor who will consider time of year, construction activity occurring, and observations of any special-status species to date. The biological monitor would conduct pre-activity clearance surveys of the project site to confirm the status of any active nests, that no new nests are present, and that no anticipated special-status species are present. If a SWHA nest is identified during biological monitoring, the biologist will stop work, set up an avoidance buffer, and immediately notify CSUB and support CSUB's coordination with CDFW, including consultation regarding an acquisition of an Incidental Take Permit, as suggested by the commenter's recommended Mitigation Measure 5.

Response 2-7

The comment states that the western burrowing owl (BUOW) was found to have moderate potential to occur in the IS/MND and concurs with the implementation of Mitigation Measure BIO-3 for preconstruction surveys and consultation with CDFW. The commenter recommends additional mitigation measures, including protocol surveys, avoidance buffers, and take authorization, to reduce impacts to BUOW to a less than significant level.

The first recommended mitigation measure states that a qualified biologist should conduct focused surveys following the 2012 Staff Report on Burrowing Owl Mitigation prior to construction. As required by Mitigation Measure BIO-3 for the project, a qualified biologist shall conduct a preconstruction survey for burrowing owl 14 days prior to initiation of ground-disturbing activities. Additional preconstruction surveys may be necessary within three days prior to construction to verify the species has not recolonized. In response to this comment, CSUB shall also retain a qualified biologist to conduct non-breeding season surveys for BUOW, which will occur prior to the start of ground-disturbing activities for the project to reaffirm BUOW are not expected to occur within the project site. Mitigation Measure BIO-3 has been modified to require four non-breeding season surveys.

The second and third recommended mitigation measures state that if a BUOW or known BUOW den is detected, a no-disturbance buffer shall be implemented. If the no-disturbance buffer is not

feasible, consultation with CDFW is required to avoid take, or an Incidental Take Permit may be required. As required by Mitigation Measure BIO-3 for the project, if BUOW is present, coordination with CDFW regarding the need for an Incidental Take Permit pursuant to CFGC Section 2080 et seq. will be required. In response to this comment, Mitigation Measure BIO-3 has been modified to require an avoidance buffer be implemented. Mitigation Measure BIO-3 has also been modified to clarify that coordination with CDFW will occur if implementation of the avoidance buffer is not feasible.

Response 2-8

The comment states that the Biological Resources Assessment for the project concludes CBB is not expected to occur on the project site due to the lack of suitable habitat, and therefore, does not include species-specific mitigation measures. The commenter does not concur with this determination, stating that CBB are generalist foragers that have been documented visiting a wide variety of flowering plants, and recommends mitigation measures based on the presence of potentially suitable habitat and a documented nearby occurrence of the species 2.5 miles from the project site. The commenter recommends CBB preconstruction surveys, CBB avoidance and CDFW consultation if the species is detected, and acquisition of an Incidental Take Permit if CBB cannot be avoided. In response to this comment, the IS/MND has been modified to include a discussion of Crotch's bumble bee in Section 3.4, Biological Resources, and require implementation of Mitigation Measure BIO-5 to address potential impacts to CBB. Mitigation Measure BIO-5 shall require a qualified biologist to conduct two preconstruction surveys for nesting CBB prior to initiation of ground-disturbing activities. The preconstruction survey would also include a habitat assessment. If the species is detected, a 50-feet avoidance buffer of small mammal burrows shall be implemented until coordination with CDFW can occur. If avoidance is not feasible, coordination with CDFW regarding the need for an Incidental Take Permit will be required. The determination for Threshold (a) of Section 3.4, Biological Resources, would remain less than significant. Consistent with CEQA Guidelines Section 15073.5(c)(2), these revisions and addition of Mitigation Measure BIO-5 do not constitute substantial revisions that would require recirculation of the document.

Response 2-9

The comment states that impacts to Bakersfield legless lizard and San Joaquin coachwhip, both State Species of Special Concern (SSC), would require additional mitigation measures to ensure less than significant impacts. The commenter acknowledges that Mitigation Measure BIO-2 from the IS/MND, would require biological monitoring. The commenter recommends additional mitigation measures to be incorporated in the IS/MND to reduce impacts in the form of focused pre-construction surveys for SCC and avoidance.

The first recommended mitigation measure states that a qualified biologist should conduct focused surveys of Bakersfield legless lizard and San Joaquin coachwhip prior to the start of work. As required by Mitigation Measure BIO-2 for the project, a qualified biological monitor would be present on-site daily during site preparation activities involving ground disturbance and vegetation removal, gravel road installation, and installation of solar components, at the discretion of the biological monitor who will consider time of year, construction activity occurring, and observations of any special-status species to date. The biological monitor would conduct pre-activity clearance surveys of the project site to confirm the status of any active nests, that no new nests are present, and that no anticipated special-status species are present. In response to this comment, Mitigation Measure BIO-2 has been modified to specify that the pre-construction surveys shall include confirming the absence of Bakersfield legless lizard and San

Joaquin coachwhip.

The second recommended mitigation measure states that avoidance and establishing a buffer is encouraged, and recommends allowing the species to leave on their own accord if found. As required by Mitigation Measure BIO-2 for the project, if any wildlife is found during monitoring, the biological monitor shall relocate the animal(s) to appropriate habitat offsite. In the event the biological monitor determines additional protection measures are needed or an unanticipated special-status species is detected on-site, the biological monitor shall stop all work within an avoidance buffer determined appropriate to protect the resource. In response to this comment, Mitigation Measure BIO-2 has been modified to specify that the biological monitor may also stop work in the vicinity of the species and allow individual species to leave on their own accord.

Response 2-10

The comment states that the project site is within the geographic range of the western spadefoot (WESP) and is nearby documented occurrences of the species. The comment further states that suitable upland habitat exists and recommends further evaluation by a qualified biologist to determine whether other aquatic features could support WESP. If suitable habitat is identified, the commenter recommends focused surveys and consultation with CDFW regarding appropriate avoidance and minimization measures, if the species is present. The comment also notes that the species is under consideration as a candidate species under the California Endangered Species Act; if listed and avoidance is not feasible, an Incidental Take Permit would be required. On August 14, 2026, WESP was listed as a candidate species.

As discussed in the Biological Resources Assessment and summarized in Section 3.4, Biological Resources, of the IS/MND, two qualified biologists conducted a general biological resources survey and habitat assessment on February 12, 2026, between 9:15 A.M. and 11:15 A.M. The purpose of the field survey was to document existing conditions, conduct a habitat assessment for special-status plant and wildlife species and sensitive natural communities, and determine the presence of aquatic resources within the biological study area (project site plus 300-foot buffer surrounding the site). A total of 47.72 acres were covered during the survey. The project site consists primarily of non-native grassland and disturbed or developed land cover. No agricultural ditches or agriculturally inundated areas exist within the project site. Additionally, no aquatic features or drainage features were identified within the project site. The only drainage feature in the immediate vicinity of the project site is the Arvin-Edison Canal, located to the east of the project site. The Arvin-Edison Canal is a concrete-lined channel that is not expected to support WESP. The Kern River may contain habitat to support WESP but is located approximately 0.3-miles north of the project site and is separated by intervening structures and Stockdale Highway. Therefore, as determined by a qualified biologist, the WESP has no potential to be present at the project site.

Response 2-11

The commenter recommends that perimeter fencing be designed to allow passage of small- and medium-sized wildlife by installing fencing with a continuous 4- to 6-inch gap at the bottom. The perimeter fence for the project would be designed in accordance with the recommendations in *The San Joaquin Kit Fox: Biology, Ecology, and Conservation of an Endangered Species*,[1]

[1] Cypher, B. L. (2024). *The San Joaquin Kit Fox: Biology, Ecology, and Conservation of an Endangered Species*. Cornell University Press.

highlighted in Issue 4, Volume 110 of CDFW's Scientific Journal[2], and include a continuous opening underneath. In response to this comment, the Access, Security, and Lighting subsection under Section 1.8, Description of the Project, and Threshold (d) under Section 3.4, Biological Resources, of the IS/MND have been updated.

Response 2-12

The commenter notes that the California Natural Diversity Database (CNDDB) is populated through voluntary species occurrence submissions and may not capture all species present in areas containing suitable habitat. The commenter recommends surveys be conducted by a qualified biologist to determine whether any special-status species are present at or near the project site. As discussed in the Biological Resources Assessment and summarized in Section 3.4, Biological Resources, of the IS/MND, two qualified biologists conducted a general biological resources survey and habitat assessment on February 12, 2026, between 9:15 A.M. and 11:15 A.M. The purpose of the field survey was to document existing conditions, conduct a habitat assessment for special-status plant and wildlife species and sensitive natural communities, and determine the presence of aquatic resources within the biological study area (project site plus 300-foot buffer surrounding the site). A total of 47.72 acres were covered during the survey. The project site consists primarily of non-native grassland and disturbed or developed land cover. Attachment D of the Biological Resources Assessment lists the special-status plant species identified during the literature review, their regulatory status, preferred habitats, and potential to occur on the project site based on the suitability of the habitat to support those species. Additionally, as detailed in Response to Comment Nos. 2-7 and 2-9, preconstruction surveys will occur prior to the start of ground-disturbing activities to reaffirm BUOW and CBB are not expected to occur within the project site.

Response 2-13

The commenter states that, under California Public Resources Code Section 21003(e), CEQA requires that information developed in environmental documents be incorporated into a database which may be used to make supplemental environmental determinations and, as such, requests that CSUB ensure that any data for special-status species detected during project surveys be properly submitted. The specific database to which information from environmental documents is incorporated is not stipulated in the Public Resources Code. The NOI, MND, and the technical appendices are recorded and available on the State Clearinghouse CEQAnet database at: https://ceqanet.lci.ca.gov/2026060645. As such, the information developed in the IS/MND has been incorporated into a database and made publicly available so that they may be used to make subsequent or supplemental environmental determinations, as appropriate.

As discussed in Section 3.4, Biological Resources, of the IS/MND, no special-status plant species were observed during the field survey conducted on February 12, 2026. After a review of specific habitat preferences, known distributions, and elevation ranges, it was determined that no special-status plant species are expected to occur within the project site. Additionally, no special-status wildlife species were observed during the field survey. SJKF is considered present within the CSUB campus. As discussed in Response to Comment No. 2-5, the SJKF den that was identified at the project site no longer exists and CSUB's database of active dens

[2] California Fish and Wildlife Scientific Journal. 2024. The San Joaquin Kit Fox: Biology, Ecology, and Conservation of an Endangered Species Book Review. Available at: https://journal.wildlife.ca.gov/2024/12/27/the-san-joaquin-kit-fox-biology-ecology-and-conservation-of-an-endangered-species/.

on campus has been updated to reflect this change. Moreover, CSUB is actively coordinating with CDFW regarding obtaining an Incidental Take Permit for impacts to SJKF.

As discussed in Section 3.4, Biological Resources, of the IS/MND, the project site is dominated by non-native grassland habitat. A small area in the southwest portion of the biological study area buffer contains Fremont cottonwood forest and woodland within the Environmental Studies Area (an official CSU research center established in 1975 used for teaching and research). The vegetation community is not associated with any aquatic features and appears to be planted for educational purposes. Should any special-status species be detected during any future project surveys implemented as part of the mitigation measures for the proposed project, CSUB will report the data to the CNDDB database.

Response 2-14

The commenter states that payment of environmental document filing fees will be required. CSUB will pay all applicable fees and file the Notice of Determination within five days of approval of the project by the California State University Board of Trustees pursuant to CEQA Guidelines Section 15075. No further response to this comment is required.

Response 2-15

This comment includes closing remarks. The comment is acknowledged for the record, and no further response to this comment is required.

Response 2-16

The commenter lists references for their comments. The comment is acknowledged for the record, and no further response to this comment is required.

Response 2-17

The commenter provides an attachment with a list of recommended mitigation measures. The commenter is referred to Response to Comments No. 2-5 through 2-10 above regarding these recommendations. The comment is acknowledged for the record, and no further response to this comment is required.

San Joaquin Valley AIR POLLUTION CONTROL DISTRICT

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Comment Letter No. 3

July 8, 2026

Aditi Arya
California State University, Bakersfield
9001 Stockdale Hwy, Mail Stop: 5CORP
Bakersfield, CA 93311

Project: Initial Study and Mitigated Negative Deceleration for the Ground Mount Solar and Battery Project at California State University, Bakersfield

District CEQA Reference No: 20260700

Dear Ms. Arya:

The San Joaquin Valley Air Pollution Control District (District) has reviewed the Initial Study and Mitigated Negative Deceleration (IS/MND) from the California State University Board of Trustees (BOT) for the project mentioned above. Per the IS/MND, the project consists of the installation of a 4.55 megawatt direct current ground mounted photovoltaic solar energy system and associated electrical components on 15 acres on the main campus, and a battery energy storage system with an energy capacity of 11.7 megawatt hours (Project). The Project is located on the California State University Bakersfield campus in Bakersfield, along the eastern boundary, and is bounded on the north by Kroll Way and student housing; on the east by the Arvin-Edison canal and a power transmission line easement; and on the west and south by undeveloped campus land, in Bakersfield, CA 93311. 3-1

The District offers the following comments at this time regarding the Project:

1) Construction Emissions

The District recommends, to further reduce impacts from construction-related diesel exhaust emissions, the Project should utilize the cleanest available off-road construction equipment. 3-2

2) District Rules and Regulations

The District issues permits for many types of air pollution sources, and regulates some activities that do not require permits. A project subject to District rules and regulations would reduce its impacts on air quality through compliance with the 3-3

Samir Sheikh
Executive Director/Air Pollution Control Officer

Northern Region
4800 Enterprise Way
Modesto, CA 95356-8718
Tel: (209) 557-6400 FAX: (209) 557-6475

Central Region (Main Office)
1990 E. Gettysburg Avenue
Fresno, CA 93726-0244
Tel: (559) 230-6000 FAX: (559) 230-6061

Southern Region
34946 Flyover Court
Bakersfield, CA 93308-9725
Tel: (661) 392-5500 FAX: (661) 392-5585

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District's regulatory framework. In general, a regulation is a collection of individual rules, each of which deals with a specific topic. As an example, Regulation II (Permits) includes District Rule 2010 (Permits Required), Rule 2201 (New and Modified Stationary Source Review), Rule 2520 (Federally Mandated Operating Permits), and several other rules pertaining to District permitting requirements and processes.

The list of rules below is neither exhaustive nor exclusive. Current District rules can be found online at: https://ww2.valleyair.org/rules-and-planning/current-district-rules-and-regulations. To identify other District rules or regulations that apply to future projects, or to obtain information about District permit requirements, the project proponents are strongly encouraged to contact the District's Small Business Assistance (SBA) Office at (661) 392-5665. 3-3 Cont'd

2a) District Rules 2010 and 2201 - Air Quality Permitting for Stationary Sources

Stationary Source emissions include any building, structure, facility, or installation which emits or may emit any affected pollutant directly or as a fugitive emission. District Rule 2010 (Permits Required) requires operators of emission sources to obtain an Authority to Construct (ATC) and Permit to Operate (PTO) from the District. District Rule 2201 (New and Modified Stationary Source Review) requires that new and modified stationary sources of emissions mitigate their emissions using Best Available Control Technology (BACT). 3-4

This Project may be subject to District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review) and may require District permits. Prior to construction, the Project proponent should submit to the District an application for an ATC. For further information or assistance, the project proponent may contact the District's SBA Office at (661) 392-5665.

2b) District Rule 9510 - Indirect Source Review (ISR)

The Project is subject to District Rule 9510 because it will receive a project-level discretionary approval from a public agency and will equal or exceed 9,000 square feet of space.

The purpose of District Rule 9510 is to reduce the growth in both NOx and PM emissions associated with development and transportation projects from mobile and area sources; specifically, the emissions associated with the construction and subsequent operation of development projects. The ISR Rule requires developers to mitigate their NOx and PM emissions by incorporating clean air design elements into their projects. Should the proposed development project clean air design elements be insufficient to meet the required emission 3-5

reductions, developers must pay a fee that ultimately funds incentive projects to achieve off-site emissions reductions.

Per Section 5.0 of the ISR Rule, an Air Impact Assessment (AIA) application is required to be submitted no later than applying for project-level approval from a public agency. As of the date of this letter, the District has not received an AIA application for this Project. Please immediately submit an AIA application to the District to comply with District Rule 9510 so that proper mitigation and clean air design under ISR can be incorporated into the Project's design. 3-5 Cont'd

Information about how to comply with District Rule 9510 can be found online at: https://ww2.valleyair.org/permitting/indirect-source-review-rule-overview

The AIA application form can be found online at: https://ww2.valleyair.org/permitting/indirect-source-review-rule-overview/forms-and-applications/

District staff is available to provide assistance and can be reached by phone at (559) 230-5900 or by email at ISR@valleyair.org.

2c) District Regulation VIII (Fugitive PM10 Prohibitions)

The project proponent may be required to submit a Construction Notification Form or submit and receive approval of a Dust Control Plan prior to commencing any earthmoving activities as described in Regulation VIII, specifically Rule 8021 – *Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities*.

Should the project result in at least 1-acre in size, the project proponent shall provide written notification to the District at least 48 hours prior to the project proponents intent to commence any earthmoving activities pursuant to District Rule 8021 (Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities). Also, should the project result in the disturbance of 5-acres or more, or will include moving, depositing, or relocating more than 2,500 cubic yards per day of bulk materials, the project proponent shall submit to the District a Dust Control Plan pursuant to District Rule 8021 (Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities). For additional information regarding the written notification or Dust Control Plan requirements, please contact District Compliance staff at (559) 230-5950. 3-6

The application for both the Construction Notification and Dust Control Plan can be found online at: https://ww2.valleyair.org/media/fm3jrbsq/dcp-form.docx

Information about District Regulation VIII can be found online at: https://ww2.valleyair.org/dustcontrol

2d) Other District Rules and Regulations

The Project may also be subject to the following District rules: Rule 4102 (Nuisance) and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations). 3-7

If you have any questions or require further information, please contact Harout Sagherian by e-mail at Harout.Sagherian@valleyair.org or by phone at (559) 230-5860.

Sincerely,

Mark Montelongo
Director of Policy and Government Affairs



For: Daniel Martinez
Program Manager

Comment Letter 3: San Joaquin Valley Air Pollution Control District

Response 3-1

The comment includes introductory remarks and provides a summary of the project and project site. The comment is acknowledged for the record, and no further response to this comment is required.

Response 3-2

The commenter recommends the use of the cleanest available off-road construction equipment to further reduce construction-related diesel emissions. The proposed project's air quality impacts are evaluated in Section 3.3, Air Quality, of the IS/MND, which include quantification of the project's construction-related emissions from off-road equipment. As discussed in Section 3.3, Air Quality, construction emissions were calculated using the California Emissions Estimator Model (CalEEMod), which was programmed with regionally-specific outputs from the Off-Road Emissions Inventory Program model (OFFROAD) and the EMission FACtor (EMFAC) on-road mobile source emissions inventory developed by the California Air Resources Board. The total emissions that would be generated during the eight-month construction period for the proposed project would not exceed San Joaquin Valley Air Pollution Control District's (District) thresholds, with the total amount of emissions remaining well below all threshold values. Therefore, impacts would be less than significant even without the use of the cleanest available off-road construction equipment. Nonetheless, the comment is acknowledged for the record and will be forwarded to the decision-makers for their review and consideration.

Response 3-3

The comment provides an overview of the District's regulatory authority, including issuance of permits for air pollution sources and providing rules and regulations for activities that do not require permits. The comment includes a weblink to the District's rules and regulations and provides a phone number to contact the District's Small Business Assistance Office. The comment is acknowledged for the record, and no further response to this comment is required.

Response 3-4

The comment states that stationary source emissions are regulated through District Rule 2010 and 2201, and the project may be subject to these rules. District Rule 2010 (Permits Required) requires operators of emission sources to obtain an Authority to Construct (ATC) and Permit to Operate (PTO) from the District. District Rule 2201 (New and Modified Stationary Source Review) requires that new and modified stationary sources of emissions mitigate their emissions using Best Available Control Technology (BACT). Section 3.3, Air Quality, of the IS/MND identifies District regulations applicable to the proposed project. District Rules 2010 and 2201 are not identified because the project would not modify any existing stationary sources or generate new stationary source emissions. Therefore, the project is not subject to the requirements of Rules 2010 or 2201.

Response 3-5

The comment states that the project is subject to District Rule 9510 (Indirect Source Review) because it requires discretionary approval and would utilize 9,000 square feet or more of building space. Under District Rule 9510, nitrogen oxides (NOx) and particulate matter (PM)

emissions must be mitigated through the implementation of clean-air design measures, with fees potentially required if these measures do not fully offset emissions. The commenter further states that an Air Impact Assessment (AIA) application must be submitted to the District to comply with District Rule 9510 to ensure that appropriate mitigation measures and clean-air design elements are incorporated into the project.

The proposed project consists of the installation of a 4.55- megawatt (MW) direct current (dc) ground-mounted photovoltaic (PV) solar energy system and associated electrical components on 15 acres on the main campus. A battery energy storage system (BESS) with an energy capacity of 11.7 megawatt-hours (MWh) would also be installed as part of the proposed project. While the project site would exceed 9,000 square feet, the proposed project is not a development project that would include any developable space or uses and is not a transportation or transit project. Thus, the proposed project is not subject to District Rule 9510 as it would not include 9,000 square feet of build-out space. Moreover, as discussed in Section 3.3, Air Quality, of the IS/MND, once operational, the proposed project would not introduce a new substantial source of air pollutant emissions to the area. Operation of the proposed project would be automated and unstaffed. Maintenance of the proposed project would be infrequent and would not have the potential to substantially increase the existing traffic conditions on surrounding roadways. It is not anticipated that any new personnel would be required to operate the proposed project. There is no potential for the proposed project to generate emissions that would exceed the SJVAPCD operational significance thresholds. Furthermore, the project is not subject to any discretionary approvals by the District. Nonetheless, CSUB will coordinate with the District and submit an Indirect Source Review (ISR) - Air Impact Assessment (AIA) Application.

Response 3-6

The comment states that the project may be subject to District Regulation VIII requirements for dust control during earthmoving activities. As stated in the comment, depending on the extent of ground disturbance, the project proponent may be required to submit a Construction Notification Form, provide advance notification to the District, and/or prepare a Dust Control Plan to minimize fugitive dust emissions during construction. The proposed project would encompass an approximately 15-acre area. As discussed in Section 3.3, Air Quality, of the IS/MND, the proposed project would comply with District Regulation VIII through implementation of standard best management practices (BMP), including applying water before and during earthwork activities in unpaved traffic areas, phasing construction to minimize dust generation, setting up wind fences to reduce windblown dust, applying dust suppressants as needed, establishing vegetative cover, removing mud and dirt from paved surfaces and shoulders, and limiting vehicle speeds on unpaved roads to 15 miles per hour. A Dust Control Plan will be submitted to the District prior to the start of construction for review and approval, and the District will be notified at least 48 hours prior to the start of earthmoving activities.

Response 3-7

The comment states the project may be subject to District Rule 4102 and 4641 and provides concluding remarks. As discussed in Section 3.3, Air Quality, of the IS/MND, the proposed project would comply with the required District Rule 4102 (Nuisance) to prevent the generation of visible dust plumes. District Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations) is not discussed in IS/MND because the proposed project would not require the use of asphalt. Instead, the proposed project would install a gravel access road. Therefore, the proposed project would not include activities subject to the requirements of District Rule 4641.

Comment Letter No. 4

California Program Office
P.O. Box 401, Folsom, California 95763
www.defenders.org

July 15, 2026

Aditi Arya
California State University, Bakersfield
9001 Stockdale Highway Mail Stop: 5CORP
Bakersfield, CA 93311

Delivered via email to aarya1@csub.edu

Re: Mitigated Negative Declaration for the Ground Mount Solar and Battery Project at California State University, Bakersfield; SCH No. 2026060645

Dear Ms. Arya,

Thank you for the opportunity to provide comments in response to the Initial Study/Mitigated Negative Declaration (IS/MND) the proposed California State University Bakersfield (CSUB) Ground Mount Solar and Battery Project (Project). Defenders of Wildlife (Defenders) protects and restores America's wildlife at risk of extinction, advancing a vision of a future in which wildlife thrives, sustained by broad public support and a resilient network of healthy lands and waters and has nearly 2.1 million members and supporters in the United States, with more than 311,000 residing in California.

Defenders strongly supports renewable energy generation. A low-carbon energy future is critical for California's economy, communities and environment. As we transition toward a clean energy future, it is imperative that we consider the near-term impacts of renewable energy development on our biodiversity, fish and wildlife habitat and natural landscapes while addressing the long-term impacts of climate change. Therefore, renewable energy projects must be planned, sited, developed and operated to avoid, minimize and mitigate adverse impacts on wildlife and lands with known high-resource values. 4-1

The Ground Mount Solar and Battery Project would install a 4.55 MW photovoltaic solar energy system paired with an 11.7 MWh battery energy storage system, proposed on an approximately 15-acre site on the main CSUB campus in the City of Bakersfield, central Kern County. The Project site is centrally located along the eastern boundary of the 375-acre

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campus, bounded on the north by Kroll Way and student housing, on the east by the Arvin-Edison Canal and a power transmission line easement, and on the west and south by undeveloped campus land. The site consists primarily of non-native grassland and supports a documented, occupied San Joaquin kit fox (SJKF) den. 4-1 Cont'd

Comments

We offer the following comments on the IS/MND for the proposed Project.

Reliance on Future Incidental Take (ITP) Permit Does Not Satisfy the California Environmental Quality Act (CEQA)

Mitigation Measure (MM) BIO-4 states that "CSUB is currently in the process of obtaining an Incidental Take Permit for impacts to SJKF" and that the measures "outlined in the Incidental Take Permit shall be adhered to." The IS/MND thereby ties its less-than-significant determination for SJKF to a permit that has not yet been issued. The California Endangered Species Act (CESA) and CEQA are independent regulatory regimes that serve different purposes. CESA regulates the take of state-listed species. An incidental take permit (ITP) issued under Fish and Game Code §2081 authorizes incidental take and requires the permittee to minimize and fully mitigate the impacts of that take on the listed species. CESA does not address impacts to non-listed species, wildlife connectivity, cumulative effects or the other biological resource impacts that a CEQA lead agency must analyze and mitigate. 4-2

CEQA requires the lead agency to identify all significant environmental effects and to impose feasible mitigation measures. Public Resources Code §21002 states that public agencies should not approve projects as proposed if there are feasible mitigation measures available that would substantially lessen the significant environmental effects of those projects. Public Resources Code §21002.1(b) requires the lead public agency to mitigate or avoid the significant effects on the environment. Before approving the Project, CSUB must find that changes or alterations have been required or incorporated into the Project to mitigate or avoid its significant environmental effects.[1] CSUB, not CDFW, is the lead agency and must exercise its own independent judgment in identifying and adopting feasible mitigation.[2]

CEQA Guidelines §15126.4(a)(1)(B) provides that formulation of mitigation measures shall not be deferred until some future time. A lead agency may defer the specifics of mitigation only where it commits itself to the mitigation and adopts specific performance standards

[1] Pub. Resources Code § 21081(a)(1); CEQA Guidelines § 15091(a)(1).
[2] CEQA Guidelines § 15025; Pub. Resources Code § 21082.1(c) (lead agency must exercise its own independent judgment). See Endangered Habitats League v. County of Orange (2005) 131 Cal.App.4th 777, 793–94.

the mitigation. Mitigation that simply requires the applicant to adhere to the measures "outlined in the Incidental Take Permit" adopts no performance standards and identifies no specific actions independent of that future permit. It is deferred mitigation, which CEQA forbids.[3]

This concern is heightened because a known, occupied SJKF den has been documented within the Project footprint and the species is determined present. The record therefore establishes that the Project may have a significant effect on SJKF, and the adequacy of mitigation cannot be made contingent on the discretionary act of a separate agency that may never occur. Defenders requests the identification and adoption of specific and enforceable avoidance, minimization and mitigation measures, including compensatory mitigation, for the Project's significant impacts to SJKF, independent of the issuance of a possible future CDFW ITP. 4-2 Cont'd

Species-Specific Protocol-Level Surveys

The biological analysis rests on a single general habitat assessment and field survey conducted on February 12, 2026, of the project site plus a 300-foot buffer. A reconnaissance-level survey is not an adequate substitute for protocol-level survey effort where listed and candidate species are present or have moderate potential to occur. The IS/MND determines SJKF present and assigns burrowing owl a moderate potential to occur, yet no protocol-level survey was completed for either species.

For burrowing owl, the IS/MND relies on the absence of detections to support its conclusions. This is premature as the IS/MND cannot rely on non-detection to discount a species absent protocol-level survey effort consistent with CDFW methodology. Either presence should be assumed for purposes of impact analysis and mitigation, or protocol-level surveys should be conducted. A burrowing owl individual was observed in 2025 immediately northeast of the facilities yard, and abundant ground squirrel burrows suitable for the species occur on-site. 4-3

Defenders requests protocol-level surveys for SJKF[4] and for burrowing owl[5], conducted in accordance with current CDFW and U.S. Fish and Wildlife Service (USFWS) methodology and seasonal timing, prior to the development of avoidance, minimization and/or mitigation

[3] Sundstrom v. County of Mendocino (1988) 202 Cal.App.3d 296, 306–08; Communities for a Better Environment v. City of Richmond (2010) 184 Cal.App.4th 70, 92–95.
[4] U.S. Fish and Wildlife Service. 2011. *Standardized Recommendations for Protection of the Endangered San Joaquin Kit Fox Prior to or During Ground Disturbance.*
[5] California Department of Fish and Wildlife. 2012. *Staff Report on Burrowing Owl Mitigation.*

measures. Where surveys are deferred to the preconstruction period, the IS/MND must assume presence for purposes of the impact analysis and adopt mitigation accordingly. 4-3 Cont'd

Natal-Den Buffers Must Be Set with USFWS

MM BIO-4 establishes a 100-foot buffer around an active natal den. The Standardized Recommendations provide that the Service must be contacted to establish the appropriate buffer for a natal or pupping den. BIO-4 should require that USFWS be contacted to establish the natal-den buffer rather than applying a fixed 100-foot distance by default. 4-4

Agency Approval, Not Coordination

MM BIO-2 and BIO-4 direct the biologist to act "in coordination with" CDFW or USFWS for actions including stopping work, setting avoidance buffers, excavating dens and identifying methods to discourage den use. The measures should require prior written concurrence or approval from the responsible agency, not unilateral determinations by a project-affiliated biologist. 4-5

Speed Limit

MM BIO-4 sets a 25-mph paved-road speed limit. The Standardized Recommendations specify a 20-mph daytime limit and a 10-mph nighttime limit. Defenders' requests conforming the measure to the 20-mph and 10-mph standard.[6] 4-6

Missing Best Management Practices

MM BIO-4 omits several standard measures including prohibition of firearms on the site; inspection of all pipes, culverts and similar structures 4 inches or greater in diameter before they are buried, capped, moved or otherwise used; and restriction of rodenticides and herbicides to prevent primary and secondary poisoning of kit foxes and depletion of prey. Defenders requests the addition of the missing best practices as outlined in USFWS guidance.[7] 4-7

Trench Covering and Trash

Defenders supports the requirement that all holes and trenches be covered at the end of each workday and asks that it be strictly enforced; where a trench cannot be closed, escape ramps must be installed and the trench inspected before backfilling. 4-8

[6] U.S. Fish and Wildlife Service. 2011. *Standardized Recommendations for Protection of the Endangered San Joaquin Kit Fox Prior to or During Ground Disturbance.*
[7] Ibid.

Trash Abatement

The trash provision within MM BIO-4 should define "regularly" as removal at the end of each workday so to not attract SJKF to the work area.[8] 4-9

Wildlife-Friendly Fencing

The Project proposes seven-foot perimeter fencing with barbed wire, described in the biological analysis as "designed to allow wildlife to pass through, either with culverts or by being raised off the ground by approximately 5 inches." The fencing description should be corrected and made consistent with published SJKF fencing guidance.[9] 4-10

Furthermore, passage should be provided by continuously raised fencing, not culverts. A continuous ground clearance is more reliable than discrete culverts, which foxes may not locate or use, particularly when pursued by a predator. The fence should also include a buried apron to deter larger predators from digging beneath it, and it should not be electrified.

Long-Term Conversion to an Industrial Use

The IS/MND describes an operational lifetime of 30 to 40 years, after which decommissioning would be subject to "further discretionary review," with the need for supplemental environmental review assessed under then-current regulations. Defenders notes that any future discretionary review would be measured against the environmental baseline existing at that time, which would be an operating industrial-scale solar and battery facility rather than the present non-native grassland supporting an SJKF den. Given the high likelihood of repowering as California pursues its carbon-free goals, the IS/MND should acknowledge that the Project represents a likely permanent conversion of occupied SJKF habitat to an industrial use, and should account for that conversion in its significance analysis.[10] Defenders requests the IS/MND disclose that the Project constitutes a long-term conversion of occupied habitat to an industrial use, and ensure the loss of SJKF habitat is evaluated and mitigated as a long-term impact rather than treated as temporary. 4-11

[8] Ibid.
[9] Cypher, B.L. and C.L. Van Horn Job. 2009. *Permeable Fence and Wall Designs that Facilitate Passage by the Endangered San Joaquin Kit Fox.*
[10] CEQA Guidelines § 15125(a) (environmental setting normally constitutes the baseline); Communities for a Better Environment v. South Coast Air Quality Management District (2010) 48 Cal.4th 310.

Conclusion

Thank you once again for the opportunity to provide comments on the Mitigated Negative Declaration for the proposed CSUB Ground Mount Solar and Battery Project and for considering our comments. Please feel free to contact me with any questions. 4-12

Respectfully submitted,

Sophia Markowska

Sophia Markowska
Senior California Representative
SMarkowska@defenders.org

Comment Letter 4: Defenders of Wildlife

Response 4-1

The comment includes introductory remarks, describes the mission of the Defenders of Wildlife, and states the commenter's support for renewable energy projects that are planned, sited, developed and operated to avoid, minimize and mitigate adverse impacts on wildlife and lands with known high-resource values. The comment also summarizes the project description and project site from the IS/MND. The comment is acknowledged for the record, and no further response to this comment is required.

Response 4-2

The commenter expresses concern regarding impacts to the San Joaquin kit fox. Specifically, the commenter states that mitigation for impacts to the SJKF relies on compliance with an Incidental Take Permit that has not been issued yet, and another agency's approvals (i.e., CDFW) to avoid significant environmental effects. The commenter asserts that that Mitigation Measure BIO-4 improperly defers mitigation because it does not adopt any no performance standards nor identify specific actions independent of that future permit. The commenter's concern is based on the documentation of a known occupied SJKF den within the project site, which establishes that the project may have a significant effect on SJKF. The commenter requests the identification and adoption of specific and enforceable avoidance, minimization and mitigation measures, including compensatory mitigation, for the Project's significant impacts to SJKF, independent of the issuance of a possible future Incidental Take Permit by CDFW.

Regarding the documented SJKF den, the commenter is referred to Response to Comment No. 2-5, which acknowledges that the IS/MND incorrectly stated that there was an earthen kit fox den identified in the project site in January 2026. Based on additional information from McCormick Biological Inc., it has been determined that the earthen kit fox den within the project site was based on a data point from 2017, when the den was recorded. The point was included in the dataset in case a SJKF individual returned. However, McCormick Biological Inc. conducted a campus-wide survey to known den data in February 2025 and did not find any sign of SJKF or sign of a den. Additionally, the field survey conducted on February 12, 2026, for the proposed project did not identify any signs of a SJKF den. A follow-up survey attempting to identify SJKF sign and known dens at the location of, and in the area of the previously identified den within the project site occurred on July 27, 2026, and no SJKF known dens or SJKF sign were observed. Thus, the den is no longer present and the IS/MND has been revised to reflect this correction.

Additionally, as stated by the commenter, the IS/MND includes mitigation measures for SJKF. The commenter's assertion that Mitigation Measure BIO-4 relies on compliance with an Incidental Take Permit that has not been issued yet is incorrect. Implementation of Mitigation Measure BIO-4 would be required for the proposed project, in the event the project is undertaken prior to Incidental Take Permit issuance or if project implementation is not a covered activity under the Incidental Take Permit. For example, Mitigation Measure requires a pre-construction survey be conducted for SJKF, includes measures to take in case a SJKF moves into the construction site during project activities, and provides best management practices for the contractor to implement throughout construction. Nonetheless, Mitigation Measure BIO-4 has been revised to clarify that the mitigation measure would apply in the absence of an approved Incidental Take Permit. Moreover, Mitigation Measure BIO-4 has been revised in response to CDFW's comments and clarifies that CSUB would consult with and request

approvals from CDFW and USFWS in the event a SJKF den is identified.

Response 4-3

The commenter states that a reconnaissance-level survey is not an adequate substitute for protocol-level survey efforts for SJKF and burrowing owl, and requests protocol-level surveys for both species. Additionally, the commenter states that the IS/MND must assume presence of the species for the purposes of the impact analysis and adopt mitigation measures accordingly.

Regarding the need for a protocol-level survey for SJKF, protocol-level surveys help determine whether or not the project site represents SJKF habitat, the quality of the habitat, and the value of that habitat to the recovery of SJKF. As stated in the IS/MND, SJKF is considered present within the CSUB campus. CSUB has continued coordination with CDFW and USFWS regarding this project and other wildlife issues for the campus and is currently in the process of obtaining an Incidental Take Permit for impacts to SJKF. Specifically for the project site, there is no sign of SJKF or sign of a den as of the latest survey, July 2026. Moreover, Mitigation Measure BIO-4 requires that a pre-construction survey for SJKF dens be conducted no less than 14 days and no more than 30 days prior to ground disturbance. If a potential den is found during the pre-construction den survey, CSUB shall consult with and obtain approvals from CDFW and USFW regarding measures to protect SJKF. The commenter is referred to Response to Comment Nos. 2-5 and 4-2 above regarding revisions to Mitigation Measure BIO-4 in response to CDFW's comments.

Regarding burrowing owl, the commenter is referred to Section 3.4, Biological Resources, Threshold A, of the IS/MND. No burrowing owls or known burrowing owl burrows have been observed at the project site or within a 200-foot buffer from 2024 to present. Although non-native grassland habitat suitable for burrowing owl and numerous ground squirrel burrows potentially suitable for burrowing owl were found on-site, on-site habitat quality for burrowing owl is limited within the project site when a cover of thick and tall non-native grasses is present, which was evident during the February field survey. In addition, although no known burrowing owl burrows have been identified within the CSUB campus areas surveyed by McCormick Biological Inc., a burrowing owl individual was observed just northeast of the facilities yard in 2025. However, no burrowing owl individuals were observed after that single sighting and no evidence of occupied burrows were observed during the two subsequent surveys conducted in the immediate area within the two weeks following the individual sighting. Thus, this species was determined to have moderate potential to occur within the project site, and Mitigation Measure BIO-3, requiring pre-construction burrowing owl surveys, would be implemented. The commenter is also referred to Response to Comment No. 2-7 regarding Mitigation Measure BIO-3, which has been modified to require four non-breeding season surveys in response to CDFW's comment.

Response 4-4

The commenter suggests that a 100-foot buffer for a pre-construction survey area for SJKF is inconsistent with USFWS guidance, and that the appropriate buffer distance should be determined in consultation with the USFWS. The commenter recommends revising the measure to involve coordination with the USFWS to establish a natal den buffer rather than applying a fixed 100-foot buffer. USFWS was notified of the proposed project pursuant to CEQA Guidelines Section 15073 but did not provide a comment. The commenter is referred to Response to Comment Response to Comment Nos. 2-5 and 4-2, which explain that the previously identified SJKF den on-site was based on an outdated data point, and the most recent survey conducted

in July 2026 did not identify any sign of SJKF or sign of a den within the project site. Nonetheless, based on CDFW comments, Mitigation Measure BIO-4 has been revised to address the buffer distance in the event a SJKF den is found during pre-construction surveys to require an avoidance buffer that is determined in consultation with CDFW and USFWS.

Response 4-5

The commenter recommends that Mitigation Measures BIO-2 and BIO-4 be revised to require prior written concurrence or approval from CDFW or USFWS for actions rather than determinations by a project-affiliated biologist. Mitigation Measure BIO-2 requires biological monitoring to ensure that impacts to special-status species remain less than significant. As stated in Mitigation Measure BIO-2, in the event the biological monitor determines additional protection measures are needed or an unanticipated special-status species is detected on-site, the biological monitor shall stop all work within an avoidance buffer determined appropriate to protect the resource and immediately inform CSUB and support further coordination with responsible agencies (CDFW or USFWS), as appropriate. This mitigation measure would give the biological monitor the authority to stop work to protect resources, such that coordination and approvals between CSUB and CDFW and USFWS could occur. Additionally, the commenter is referred to Response to Comment No. 2-5 regarding revisions to Mitigation Measure BIO-4, in response to CDFW's comments. CSUB has continued coordination with CDFW and USFWS regarding this project and other wildlife issues for the campus and is currently in the process of obtaining an Incidental Take Permit for impacts to SJKF. Nonetheless, Mitigation Measure BIO-4 has been revised to explicitly state that approvals from CDFW and USFWS are required in the event that SJKF or dens are found on-site.

Response 4-6

The commenter recommends that Mitigation Measure BIO-4 be revised to restrict vehicle travel on paved roads to 20 miles per hour speed limit during the daytime and 10 miles per hour speed limit during the nighttime. In response to this comment, Mitigation Measure BIO-4 has been modified to restrict vehicle travel on paved limit to 20 miles per hour during daytime construction. No nighttime construction is anticipated.

Response 4-7

The commenter states that Mitigation Measure BIO-4 does not include several standard USFWS best practices, including prohibitions on firearms, inspections of pipes, culverts, and similar structures before they are buried, capped, or moved, and restrictions on rodenticides and herbicides. The commenter suggests the addition of these best management practices. In response to this comment, Mitigation Measure BIO-4 has been revised to include inspection of pipes before capping and covering, prohibition of firearms, and restrictions on rodenticides and herbicides.

Response 4-8

The commenter suggests that holes and trenches are covered at the end of each workday and that escape ramps are installed where a trench cannot be closed. The commenter is referred to Mitigation Measure BIO-4, in Section 3.4, Biological Resources, of the IS/MND, which states that holes and trenches shall be covered at the end of each workday. Mitigation Measure BIO-4 has also been revised to require inspection before covering and the provision of an escape

ramp if a trench cannot be closed.

Response 4-9

The commenter suggests that Mitigation Measure BIO-4 is revised to define "regularly" as removal at the end of each day. In response to this comment, Mitigation Measure BIO-4 has been revised to clarify that trash and debris shall be removed at least once a week from the project site, as recommended by USFWS's *Standardized Recommendations for Protection of the Endangered San Joaquin Kit Fox Prior to or During Ground Disturbance*.

Response 4-10

The comment suggests that the fencing proposed for the project is consistent with published SJKF fencing guidance. The commenter further recommends continuous ground clearance for the fence, a buried apron to deter large predators, and that the fence is not electrified. The perimeter fencing would be designed in accordance with the recommendations in *The San Joaquin Kit Fox: Biology, Ecology, and Conservation of an Endangered Species* (Cypher 2024), and would not be electrified. As discussed in Response to Comment No. 2-11, the Access, Security, and Lighting Subsection under Section 1.8, Description of the Project, and Threshold (d) under Section 3.4, Biological Resources, of the IS/MND has been updated to reflect this change.

Response 4-11

The comment states that the IS/MND assumes an operational lifespan of 30 to 40 years, after which decommissioning of the project would be subject to additional environmental review. The comment notes that any future discretionary review would use the operating industrial-scale solar and battery facility developed on the project site as the environmental baseline rather than the current non-native grassland conditions. The comment requests that the IS/MND acknowledges and evaluates conversion of the project site to an industrial use, which would result in a long-term impact due to the loss of SJKF habitat.

The project would be designed in accordance with the recommendations in *The San Joaquin Kit Fox: Biology, Ecology, and Conservation of an Endangered Species*.[3] As discussed in Chapter 3 of the book and summarized in Issue 4, Volume 110 of CDFW's Scientific Journal,[4] SJKF seem to persevere within oil fields and solar farms, if there are patches of habitat and a prey base. In some instances, features like solar farms, may benefit SJKF more so than other natural lands. Solar farms are surrounded with fencing designed to exclude coyotes and allow foxes to travel through based on the size of the lower wire dimensions. The solar fields support kangaroo rats and other rodents and reduce coyote predation, which allows SJKF to co-occur with solar development. Additionally, the project would not result in the conversion of the project site to industrial land use. As stated in Section 1.7, Project Location and Setting, of the IS/MND, the project site has existing irrigation infrastructure and undergoes occasional maintenance activities such as vegetation trimming and tilling. Once operational, as discussed in Section 1.10, Project Operation, of the IS/MND, these grasses are expected to regrow following the

[3] Cypher, B. L. (2024). *The San Joaquin Kit Fox: Biology, Ecology, and Conservation of an Endangered Species*. Cornell University Press.

[4] California Fish and Wildlife Scientific Journal. 2024. The San Joaquin Kit Fox: Biology, Ecology, and Conservation of an Endangered Species Book Review. Available at: https://journal.wildlife.ca.gov/2024/12/27/the-san-joaquin-kit-fox-biology-ecology-and-conservation-of-an-endangered-species/.

installation of the solar panels. Occasional vegetation management would be required to maintain safe operation of the project. Additionally, the project site would remain a part of the CSUB campus. Therefore, the project would continue to provide habitat for SJKF and would not alter the site's existing land use such that a long-term operational impact would occur due to the loss of SJKF habitat.

Response 4-12

This comment includes closing remarks. The comment is acknowledged for the record, and no further response to this comment is required.