



July 31, 2024

Greg Plucker, Community Development Director
Colusa County Community Development Department
1213 Market Street
Colusa CA, 95932
Delivered via email to: gplucker@countyofcolusa.com

RE: Notice of Preparation of a Draft Environmental Impact Report – Janus Solar and Battery Storage Project
(SCH 2024061043)

Dear Mr. Plucker:

Thank you for the opportunity to provide comments in response to the Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR) for the proposed Janus Solar and Battery Storage Project (Project). These comments are submitted on behalf of the California Native Plant Society (CNPS) and Defenders of Wildlife (Defenders).

CNPS is a non-profit environmental organization with more than 12,500 members in 36 Chapters across California and Baja California, Mexico. CNPS's mission is to protect California's native plant heritage and to preserve it for future generations through the application of science, research, education, and conservation. We work closely with decision-makers, scientists, and local planners to advocate for well-informed policies, regulations, and land management practices. CNPS supports science-based, rational policies and actions, on the local, state, national, and international levels, that lead to the continued study and enjoyment of the state's botanical resources.

Defenders has 2.1 million members and supporters in the United States, 316,000 of which reside in California. Defenders is dedicated to protecting all wild animals and plants in their natural communities. To that end, Defenders employs science, public education and participation, media, legislative advocacy, litigation, and proactive on-the-ground solutions to prevent the extinction of species, associated loss of biological diversity, and habitat alteration and destruction.

The proposed Project is a solar photovoltaic facility that would generate and store up to 80 MW. The proposed project site is 886.2 acres of private land within Colusa County. It is located in the transitional area between the farmed valley floor and the eastern foothills of the California Coast Ranges. It is approximately 6.5 miles southwest of the City of Williams and 1.5 miles south and east of Highway 20. The site is under Williamson Act contract and has historically been used for domestic livestock grazing activities, which will continue on approximately 56 acres on the northwest portion of the Project site.

Comments

We offer the following comments on the scope of the DEIR for the proposed Project:

1. Project Location

The proposed Project site contains sensitive, high-value biological resources and provides important habitat to numerous special-status wildlife species, including but not limited to the following:¹

Table 1: Special-Status Species' Habitat Within the Project Site

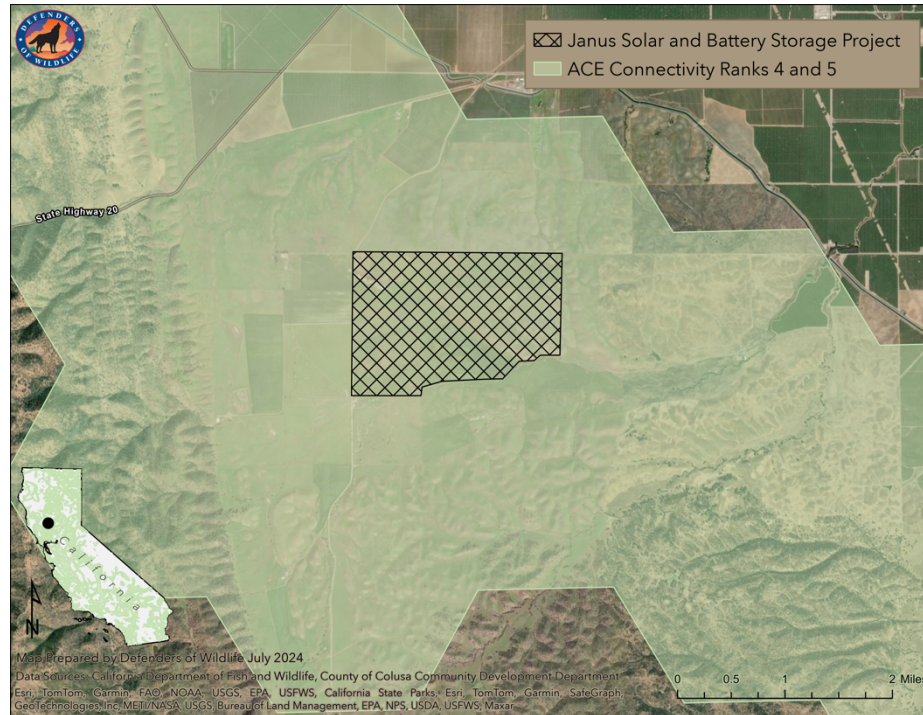
Common Name	Scientific Name	Status
American badger	<i>Taxidea taxus</i>	State Species of Special Concern
Burrowing owl	<i>Athene cunicularia</i>	State Species of Special Concern
Foothill yellow-legged frog - north coast DPS	<i>Rana boylei pop. 1</i>	State Species of Special Concern
Swainson's hawk	<i>Buteo swainsoni</i>	State Threatened
Bent-flowered fiddleneck	<i>Amsinckia lunaris</i>	CRPR 1B.2
Ferris' milk-vetch	<i>Astragalus tener var. farrisiae</i>	CRPR 1B.1
Keck's checkerbloom	<i>Sidalcea keckii</i>	Federally Endangered CRPR 1B.1

The Project site also provides habitat corridors and linkages for species, as designated by the California Department of Fish and Wildlife's (CDFW) Areas of Conservation Emphasis (ACE) project. Connectivity is one of the main outputs of ACE that examines how an area contributes to animal movement and general ecological flow. A 4 or 5 ACE Connectivity ranking is the highest level of score and is comprised of essential corridors and linkages. The California Energy Commission (CEC) utilizes the ACE Connectivity data as one of the biological planning priorities in the 2023 Land-Use Screens for Electric System Planning, a process to revise the land-use screens utilized in state electricity planning processes.² Specifically, Ranks 4 and 5 are used as an exclusion for statewide solar and onshore wind resource potential estimates to avoid lands with high conservation or connectivity value. The Project is located in an area with a 4 or 5 ACE Connectivity Ranking, as depicted below, and therefore should be avoided for solar development. The DEIR must analyze all connectivity and linkage impacts, and include appropriate avoidance, minimization and mitigation measures. Furthermore, we encourage any compensatory mitigation to prioritize any connectivity or linkages identified to ensure permanent protection.

¹ California Natural Diversity Database. Accessed 07/18/2024. <https://wildlife.ca.gov/Data/CNDDDB/Maps-and-Data>.

² See <https://experience.arcgis.com/experience/de6ab11146bf47068ff294d87780ce00>

Figure 1: Approximate Vicinity of the Project with ACE Connectivity Ranks 4 & 5



Development projects should avoid areas with high biological resource conservation values, areas of high biodiversity, or connectivity corridors. While mitigation is an essential tool for conservation, it is difficult and expensive to mitigate for connectivity when a project is located in a high ACE ranking area such as the Project site. We encourage the project proponent to avoid developing projects within areas identified for exclusion within the CEC's Land-Use Screens. We request the alternatives analysis within the DEIR examine an alternative location situated on suitable land as identified by the CEC.

2. Protocol Surveys

Considering the potential for sensitive species and habitats to be located on the Project site, the biological resources surveys must adhere to wildlife agency-approved species-specific protocols and must identify the appropriate avoidance, minimization and mitigation measures based on survey results. We recommend consultation with the responsible trustee wildlife agencies to determine the scope and appropriate protocols for the biological surveys. Species-specific surveys should cover 100 percent of the Project area and adjacent habitat within wildlife agency-recommended survey buffers. If special-status species are observed, we recommend consultation with CDFW and the US Fish and Wildlife Service (USFWS) to establish the recommended impact avoidance, minimization, and mitigation measures, including compensatory mitigation and the need to obtain an Incidental Take Permit (ITP).

If habitat management (HM) lands are deemed necessary due to survey results, they must contain suitable habitat for the species and be managed in perpetuity by a qualified conservation organization as defined by CA Civil Code Section 815.3. Alternatively, credits could be purchased in a CDFW-approved mitigation bank.

a. Burrowing Owl (BUOW)

BUOWs are listed as a Species of Special Concern by CDFW. It is estimated that there are fewer than 10,000 breeding pairs in the state, with most existing on privately owned land.³ A review of the California Natural Diversity Database (CNDDB) indicated multiple occurrences of BUOW near the Project site. Thus, the Project may have significant impacts with the potential for take, necessitating the need to perform protocol-level surveys for BUOW. Protocol-level surveys for BUOW must be performed across the entirety of the site and must conform to the current survey standards established in *Burrowing Owl Survey Protocol and Mitigation Guidelines*⁴ and the *Staff Report on Burrowing Owl Mitigation*.⁵

If occupied burrows are observed, we request artificial replacement burrows at a ratio of 1:1.⁶ Furthermore, we recommend consultation with CDFW to establish an appropriate ratio for BUOW HM lands. If adhering to the recommended buffers and avoidance is impossible, we emphasize that burrow exclusion is not considered a take avoidance, minimization or mitigation method.⁷ However, if burrow exclusion is necessary, we recommend consultation with CDFW for the creation of an exclusion plan.

b. Crotch's Bumble Bee (CBB)

CBB is a candidate species for listing under the California Endangered Species Act, and such must be accorded protection as if they were listed. The Project is located within the historical range⁸ of the species and, therefore, has the potential to occur. We request CBB surveys be conducted in accordance with CDFW's methods as outlined in *Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species*.⁹

c. Swainson's Hawk (SWHA)

SWHA is listed as threatened under the California Endangered Species Act. The nearest CNDDB occurrence for SWHA is approximately 6.5 miles east of the Project site. SWHA may travel up

³ California Department of Fish and Game. 2012. *Staff Report on Burrowing Owl Mitigation*.

⁴ California Burrowing Owl Consortium. 1993. *Burrowing Owl Survey Protocol and Mitigation Guidelines*.

⁵ California Department of Fish and Game. 2012. *Staff Report on Burrowing Owl Mitigation*.

⁶ California Burrowing Owl Consortium. 1993. *Burrowing Owl Survey Protocol and Mitigation Guidelines*.

⁷ California Department of Fish and Game. 2012. *Staff Report on Burrowing Owl Mitigation*.

⁸ California Department of Fish and Wildlife. 2023. *Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species*.

⁹ Ibid.

to 18 miles in search of suitable foraging habitat, which is well above the nearest documented SWHA occurrence. We recommend that a protocol-level survey be conducted that, at a minimum, conforms to CDFW and the CEC's survey guidelines.¹⁰

d. Special Status Plants

There are several special status plant species and sensitive habitats with the potential to occur on the project site. CNDDDB show records of Valley Needlegrass Grassland habitat, bent-flowered fiddleneck (*Amsinckia lunaris*) California Rare Plant Rank (CRPR) 1B.2, and Ferris' milk-vetch (*Astragalus tener* var. *ferrisiae*) CRPR 1B.1 within close proximity of the Project site. A nine-quad query of the CNPS Rare Plant Inventory shows 67 rare species with the potential to occur given the suitable habitat. Botanical surveys should follow the 2018 CDFW Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities¹¹ (Protocols). These Protocols make several recommendations regarding the use of reference sites to ensure that target species would be identifiable during surveys, timing and number of surveys needed, and the potential need for surveys over multiple years in grasslands or other plant communities "that have annual and short-lived perennial plants as major floristic components." The Protocols also describe the information that should be included in the survey report, including the names and qualifications of surveyors, dates of surveys and hours of survey efforts at each date, a discussion of how climatic conditions may have affected survey results, and a discussion of the potential for false negative survey results.

3. Migratory Birds

The Project is located within the Pacific Flyway, which spans from Alaska to South America and supports millions of migratory birds annually.¹² We are concerned about the potential impacts on protected avian species and what is left of their dwindling wetland habitat. Studies indicate various species of birds may be attracted to the vast arrays of photovoltaic solar panels due to the "lake effect" caused by reflective polarized light.¹³ Given that the Project falls within this critical flyway, there is a possibility for migratory birds to be injured or killed due to collisions with Project facilities. We recommend the DEIR include consideration of lake effect impacts to migratory birds. Furthermore, we recommend coordination with CDFW and USFWS on ITP requirements for migratory birds.

¹⁰ Swainson's Hawk Technical Advisory Committee. 2000. *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley*.

¹¹ California Department of Fish and Wildlife. 2018. *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities*.

¹² See <https://pacificbirds.org/birds-flyways/the-flyways/>

¹³ Upton, J. 2014. *Solar Farms Threaten Birds*. Scientific American. <https://www.scientificamerican.com/article/solar-farms-threaten-birds/#:~:text=It%20was%20one%20of%20233,fatally%20crippled%20by%20the%20facilities>

4. Cumulative Impacts

This proposed Project, along with other regional developments, significantly contributes to the considerable adverse cumulative impacts on biological resources, including but not limited to BUOW and SWHA. We request that this analysis closely examine the population status and direct and indirect cumulative impact of past, present and reasonably foreseeable activities at the individual resource level. We recommend consultation with CDFW to identify an acceptable methodology to evaluate cumulative impacts.

Thank you once again for the opportunity to provide scoping comments on the proposed Janus Solar and Battery Storage Project and for considering our comments. We look forward to reviewing the DEIR for the Project and request to be notified when it is available. Please feel free to contact us with any questions.

Respectfully submitted,



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