

Responses to Comments from Private Citizens (Comment Sets D1 and D2)

Responses to Comment Set D1 Will McGuire

- D1-1 The commenter asks whether detergents would be used to wash the solar photovoltaic panels. No detergents are anticipated to be used for panel washing. If necessary during operations and maintenance, non-toxic biodegradable detergents would be utilized. As described in the 2010 Final EIR, water storage tanks located near the O&M facility would store water required for panel washing. Panel washing requires water with very low total dissolved solids (TDS). If required, a filter would be installed to filter TDS from the well water source. No reject water would be produced during the filtering. The filter would be a self-contained cartridge filter attached directly to the well (if needed); therefore, all water would flow through the filter from the well, and no reject water would be produced. The filter would be replaced as needed to maintain appropriate water filtration levels.

Responses to Comment Set D2 Kim Williams

- D2-1 The commenter states that the construction ponds should be shown on a figure and in relation to other biological survey results. Figure B-4 of the Draft SEIR shows the temporary construction water ponds proposed as part of the Revised Project. A modified figure has been prepared to merge the information provided on Figure B-4 with the biological survey information shown on Figure C.6-2; this figure is included as Appendix 4B-1 (Biological Data and Construction Ponds) to the Final SEIR.
- D2-2 The commenter states that a figure showing the location of the floodplain modeling in relation to proposed placement of structures, roadways and bridges should be provided in the SEIR. As part of the Draft SEIR, a figure showing the FEMA floodplain in relationship to the Project Footprint was provided. This figure can be found at http://cosb.us/wp-content/uploads/FEMA_OverviewMap_11x17_121114.pdf. A copy of the Flo2D Modeling report has been included as Appendix 4C-2 (100-year Flood Analysis) to the Final SEIR.
- D2-3 The commenter suggests that the various components of PG&E Upgrades and Revised Project design be modeled and shown on graphics in the SEIR. The Revised Project would have a reduced footprint, as shown in SEIR Figure B-2. While the would be modified vertical features associated with the PG&E Upgrades and transmission interconnection facilities (microwave tower up to 100 feet tall and different configuration of the interconnection towers from the PG&E transmission line), the visual impacts of the Revised Project are already considered to be significant and unmitigable. Therefore, the Draft SEIR did not include any updated graphics or simulations reflecting the Revised Project.
- Regarding the PG&E Upgrades, the OPGW would be installed on existing transmission towers and would replace existing static wire. Similarly, the two spans of ADSS to be

installed just west of Interstate 5 would be placed underground and on existing electric distribution poles. As a result, the change in the visual landscape would be minor, and would not be visible in simulations.

D2-4 The commenter requests that nighttime lighting be modeled and visually simulated to determine how the valley will look at night during construction and in operation. The commenter also states that potential impacts to nocturnal species have not been addressed in the Draft DEIR. Nighttime lighting was a component of the Approved Project and was analyzed in the 2010 Final EIR. The purpose of the Draft SEIR is to analyze the new or different impacts of Revised Project, which includes the same sources of lighting during construction and operation.

One change to the proposed lighting plan is that motion-sensor lighting is no longer proposed for each 2 MW block of panels (see revised Applicant Proposed Measure APM-AES-3, p. B-19). Therefore, operational night lighting impacts will be reduced for the Revised Project in comparison with the Approved Project.

No nighttime lighting or illumination is anticipated to be used during construction of the PG&E telecommunications upgrades, and no nighttime lighting or illumination will be installed on the existing 230 kV transmission structures as a result of installing the OPGW. Since the microwave tower at the switching station will be less than 200 feet in height and is not located near an existing airport or heliport, it is not anticipated that operation lighting will be needed to comply with FAA or FCC requirements (Title 47 Code of Federal Regulations Part 17.7). Accordingly, there will be no impacts to nocturnal species as a result of lighting.

D2-5 The commenter requests that maps be provided that overlay the location of sensitive species from biological resources surveys with all project features. This level of detailed mapping is not required to be presented in an EIR in order to adequately assess impacts on biological resources.

Figure C.6-2 and Figure B-4 show other relevant Project components. A modified figure has been prepared to merge the information provided on Figure B-4 with the biological survey information shown on Figure C.6-2; this figure is included as Appendix 4B-2 (Biological Data and Project Infrastructure) to the Final SEIR.

D2-6 The commenter states that the existing Vasquez Creek Road and proposed 'New Vasquez Creek Road is not clearly shown on any figures. To clarify, the Revised Project does not include modifications to the existing Vasquez Creek Road. SEIR Figure B-3 shows the location of the proposed 'New Vasquez Creek Road.'

D2-7 The commenter suggests that a figure be added to show the location of all construction access points. Figure B-3 from the Draft SEIR illustrates the location of access points for the project. There are 5 access points along Little Panoche Road (including the proposed 'New Vasquez Creek Road') and 1 access point from Yturiarte Road at the Federal Jurisdictional Crossing. The figure included with the Fire Department Letters (found at <http://cosb.us/wp-content/uploads/Fire-Dept-Letters.pdf>) also shows proposed construction access points.

D2-8 The commenter is concerned about the suitability of the proposed conservation lands, in regards to species capacity. This commenter's claim that the conservation lands are

not adequate to mitigate the project's impact on biological resources was raised as a comment on the 2010 Draft EIR and again in the 2010 lawsuit challenging the County approval of the project. The Court of Appeal rejected this claim in *Save Panoche Valley v. County of San Benito* ("Save Panoche Valley") (2013) 217 Cal.App.4th 503, 527-528, concluding that the numerous studies and expert opinions supported the habitat value of the conservation lands.

The Revised Project will result in even fewer impacts on species habitat than the Approved Project, which was the subject of the lawsuit, due to the reduced permanent disturbance area. The Revised Project includes a 2,506-acre project area, reduced from 3,302 acres for the Approved Project and 4,885 acres for the Project as originally proposed in the 2010 EIR. Ground disturbance associated with Revised Project features would be reduced to a maximum of 1,888 acres from 2,303 acres. Finally, for the Revised Project, preservation of the Valley Floor Conservation Area has been increased to 2,514 acres from the 2,072 acres described under the Approved Project. See Figure B-1 (Project Location, Section B) for boundaries of mitigation lands. Therefore, the conservation lands are considered more than adequate to compensate for the loss of less species habitat. As described, these mitigation lands are comprised of approximately 10,782 acres of high value habitat within the Panoche Valley that have slopes less than 11 percent contiguous with the valley floor, and are occupied by blunt-nosed leopard lizard (as well as San Joaquin kit fox and giant kangaroo rat), and are considered likely to contain the same genetically distinct populations of these species that occur on the Revised Project site. See Figure C.6-2 of the Final SEIR for an overview of special-status species observations on the Revised Project site and the conservation lands.

There is no evidence presented by the commenter or through results of any analysis since 2010, which indicates that the conservation lands are at "maximum carrying capacity" for species. The County, USFWS, CDFW, and various experts were consulted during preparation of the Draft SEIR regarding species known to occur on the proposed project site and conservation lands. The Valley Floor Conservation Lands, Silver Creek Ranch Conservation Lands, and Valadeao Ranch Conservation Land were secured as mitigation land for the project (totally 24,176 acres). Portions of Silver Creek Ranch Land are specifically identified in the USFWS Recovery Plan (USFWS, 1998) as an area with high habitat value for many of the special-status species covered by the plan. Moreover, project studies on the Silver Creek Ranch confirmed the presence of blunt-nosed leopard lizard, giant kangaroo rat, San Joaquin kit fox, San Joaquin antelope squirrel, and other special-status species. As detailed in the Conservation Management Plan, there are various areas on the mitigation land that can be improved to increase the current population of special-status species. Over 24,000 acres of mitigation land will be conserved in perpetuity for the benefit of the species and associated habitat.

- D2-9 The commenter is concerned about the suitability of the proposed conservation lands and the existing population of sensitive species. Please see Response D2-8.
- D2-10 The comment is concerned with the suitability of the mitigation lands, particularly regarding acreage and slope. Please see Response D2-8.
- D2-11 The commenter states that the Silver Creek encumbrance issues must be revealed. It is unclear what information the commenter is requesting. There are no known encumbrance issues with Silver Creek that would make this property unsuitable for use

by the Applicant to mitigate for specific impacts associated with construction of the Revised Project.

D2-12 Please see General Response GR-1 regarding deferred mitigation. The comment does not identify specific mitigation measures that are considered to be inadequate. However, the same comment was repeatedly raised in comment letters on the 2010 Draft EIR and was again squarely rejected by the Court of Appeal in *Save Panoche Valley, supra*, at p. 524-526. The Draft SEIR reflects a good faith effort to investigate and disclose environmental impacts of the Revised Project (see CEQA Guidelines § 15003 (i) & 15144). While some of the previously approved mitigation measures that are restated in the Draft SEIR and equally apply to the Revised Project require the preparation of a more precise mitigation plan after certification of the Final SEIR, this approach to mitigation is acceptable under CEQA provided that practical considerations make it difficult to develop the plan at this stage of the planning process and the agency “commits itself to eventually devising measures that will satisfy specific performance criteria articulated at the time of approval” (*Sacramento Old City Association v. City Council* (1991) (229 Cal.App.3d 1011, 1028-1029). See also CEQA Guidelines (14 Cal. Code Regs 15123.4 (a) (1) (B)), which provides that mitigation measures may specify performance standards that would mitigate the significant effect of the project and that may be accomplished in more than one specific way.

In this case, part of the practical difficulty in identifying the precise ways in which performance standards for this project will be met stems from the role of other regulating agencies in approving the project, including USFWS and CDFW. “Incidental take” permits from these agencies have been requested based on the project’s potential impact on listed species. In the context of biological resources mitigation, the Court in *Defend the Bay v. City of Irvine* (2004) (119 Cal.App.4th 1261, 1275-1276) determined that the Lead Agency may defer defining the specifics of mitigation measures if the agency commits to the mitigation, the EIR specifies performance standards, and the agency “lists the alternatives to be considered, analyzed, and possibly incorporated in the mitigation plan.” In *Defend the Bay*, the Court upheld as adequate a mitigation measure that required the applicant to (1) consult with the USFWS and CDFG; (2) conduct surveys during the breeding season to determine if the birds are in fact present; (3) obtain a determination regarding the long-term value of the habitat area; (4) obtain permits from the USFWS and CDFG; and (5) coordinate avoidance measures as required by USFWS and CDFG.

Additional case law supporting the EIR mitigation approach is in *California Native Plant Society v. City Rancho Cordova* (March 24, 2009; 172 Cal. App. 4th 603). In the *Rancho Cordova* case, the California Native Plant Society claimed that mitigation for significant impacts to wetlands and vernal pool fairy shrimp habitat was inadequate because the requirement for creation and protection of replacement habitat did not identify a specific location for the replacement habitat. The Court rejected that argument, concluding that “the agency does not have to commit to any particular mitigation measure in the EIR, as long as it commits to mitigating the significant impacts of the project.” The Court ruled that the City could defer the development of the specific manner in which off-site mitigation was provided.

D2-13 Please see Response B1-19. The commenter requests that studies conducted since the FEIR be included in the SEIR. Additional surveys completed since the FEIR were included

as “Applicant Documents Supporting Amended Conditional Use Permit and Supplemental EIR.” Section C.6.1 outlines additional studies submitted by the Applicant as well as additional studies completed by agencies and academic researchers. Copies of each of the reports by the Applicant were included in the public Draft SEIR, or posted on the County website.

D2-14 The commenter states the buffer areas for the blunt-nosed leopard lizard (BNLL) should be no less than 395 acres, as suggested in CDFW comments. The Applicant proposed a 52.4-acre buffer for protection of the BNLL. The need for a 395 acre buffer to adequately protect BNLL was addressed and rejected by the Court of Appeal in *Save Panoche Valley, supra*, 217 Cal.App.4th at p. 524. In fact, the Court of Appeal concluded that the 2010 Final EIR’s conclusion that even smaller 22-acre BNLL buffer would be protective of the species was supported by substantial evidence in the record. Nonetheless and to afford the BNLL even greater protection, the Revised Project now proposes a larger 52.4 acre buffer. Additional details of mitigation measures that will be implemented to protect BNLL are contained in the Applicant’s Draft BNLL Avoidance Plan (provided with Draft SEIR materials and available at <http://cosb.us/wp-content/uploads/Draft-BNLL-AvoidancePlan.pdf>). The BNLL Avoidance Plan will be subject to review and approval by the USFWS and CDFW.

D2-15 The commenter states the pre-construction surveys for BNLL are impractical as mitigation unless surveys are done during the season when they are active above ground. The Applicant has conducted protocol-level surveys with guidance from the CDFW for BNLL as described under Impact BR-10 in SEIR Section C.6.3.3. Mitigation measures include preconstruction surveys for BNLL within 30 days before construction, which the team of biologist has concluded is a sufficient survey window to avoid potential impacts to BNLL that could occur in the construction area. Moreover, the preconstruction survey requirement is just one of several mitigation measures that are designed to avoid impacts on BNLL. Collectively, these measures ensure that impacts would be mitigated to a less than significant level.

A 2014 focused blunt-nosed leopard lizard survey was conducted in accordance with the methodology presented in the Supplemental Blunt-nosed Leopard Lizard Study Plan Survey Methodology letter sent to the California Department of Wildlife (CDFW) on April 29, 2014. The abbreviated surveys were conducted in Spring and Summer 2014 as documented in the letter to CDFW. The focused survey was completed within the central portion of the Project site between portions of the Valley Floor Conservation Lands where multiple individuals were observed along Panoche Creek during multi-year surveys conducted for the project and within an approximately 1500-foot buffer around a single individual sighting that was recorded in 2013 immediately north of Las Aguilas Creek (See Energy Renewal Partners 2014, Survey Area 1, Figure 1 provided with the Draft SEIR materials available on the County’s website, at http://cosb.us/wp-content/uploads/BNLL-Summary-2014_8-11-14-with-Figures.pdf). The Applicant will also conduct focused surveys as proposed in the Supplemental Blunt-nosed Leopard Lizard Study Plan Survey Methodology Letter during Spring and Summer of 2015 for a portion of the eastern project footprint (also called the Phase 2 construction area survey). The planned Phase 2 construction area survey will cover approximately 175 acres within the eastern portion of the Project Footprint (see Figure 1 of the Survey Methodology Letter).

D2-16 The commenter states biological monitoring for BNLL must occur at all times in order to adequately monitor for take or potential take. The comment consists of a general statement about the need for “full time” monitoring, but this statement is completely unsupported by any technical data or expert opinion. The SEIR’s analysis of the Revised Project’s potential impact on BNLL is based on the collective expertise of project biologists, who are familiar with BNLL and its use of the Revised Project site. These biologists have concluded that Mitigation Measure BR-10.1, which requires pre-construction surveys and implementation of avoidance measures according to a BNLL Avoidance Plan (subject to CDFW and USFWS review and approval) would reduce any impact to or potential “take” of BNLL to a less than significant level. The Avoidance plan includes a requirement for biological monitoring amongst other avoidance measures and a framework for protective procedures in the event a BNLL is detected on the project site. Furthermore, Mitigation Measure BR-G.4: Biological construction monitoring will be implemented.

D2-17 The commenter states that all nighttime driving, construction and construction support activities should be avoided to protect the nocturnal species within the Project. The need to undertake nighttime work would occur with the Approved Project and is not a new impact of the Revised Project that would require further or more restrictive mitigation, which is what this commenter requests. The purpose of the Draft SEIR is to solely evaluate any potentially new or more severe significant impacts that result from the Revised Project or any new information or changes in circumstances that may have occurred since the 2010 approval. The Draft SEIR did not identify any new impacts that could result from any nighttime work occurring during construction of the Revised Project because nighttime work would be the same.

Nonetheless, it is important to note that nighttime construction activities are more limited than daytime construction. As noted in the Draft SEIR, “no ground disturbing activities (including but not limited to grading, pile driving, trenching) would take place at night.” (See Section B.7.6 of the Draft SEIR). Mitigation Measure BR-9.1 also has been modified as follows:

Work shall be restricted to daylight hours or non-rain nighttime hours. During the site construction phases, grading and construction subsurface disturbing activities, including pile driving on the project site, after dusk shall be prohibited ~~unless coordinated through the County. If such activity is necessary, it should be conducted during nights without precipitation.~~ If non-ground disturbing activity within suitable aestivation or breeding habitat after dusk on a day with precipitation is still necessary, then one or more on-site qualified, County-approved biologists shall monitor these activities to ensure species that may be active above ground are avoided.

The Draft SEIR also identifies numerous other previously approved mitigation measures and slightly revised measures, which will ensure that species impacts would be less than significant during construction and operation, including, for example, worker education requirements so workers are familiar with and avoid sensitive species on site and implementation of best management practices during construction. These measures are in addition to the extensive conservation lands that will be preserved and protected in perpetuity.

- D2-18 The commenter is concerned that the construction and use of the proposed roadway ‘New Vasquez Creek Road’ would eliminate all value for the on-site mitigation land along the Las Aguilas Creek and would result in take of BNLL, SJKF and GKR.
- ‘New Vasquez Creek Road’ was within the Approved Project footprint and remains within the Revised Project Footprint. Therefore, the 2010 Final EIR assumed that this area would be disturbed by the project and the impacts of disturbing this area were addressed in that document. While this disturbed area will now be used to accommodate a road, the use of this area as a road would not create any new or substantially more severe significant impacts on biological resources. A figure has been created to illustrate the location of the new road more clearly, and is provided as Appendix 4B-8 (New Vasquez Creek Road Alignment) to the Final SEIR. The new road is immediately adjacent to the project fence that is south of Las Aguilas Creek. Pre-construction surveys will be conducted along the new road prior to ground disturbance in compliance with project mitigation measures and all ground disturbance will be monitored by a biologist to ensure that potential impacts to sensitive species would be reduced to a level of insignificance. This measure is in addition to the numerous other mitigation measures that will be implemented to minimize impacts on sensitive species.
- D2-19 The commenter states that part of the on-site mitigation will be compromised by being located adjacent to the proposed switchyard and traffic access. The Project switching station will be an unmanned station during operations. The Valley Floor Conservation Land includes approximately 2,514 acres of high quality contiguous habitat for the various species of concern on the project site. Although a small portion of this land is adjacent to the switchyard, the overall conservation and habitat value of the parcel is not reduced by this proximity.
- D2-20 The commenter states that the proposed mitigation lands for the GKR and the SJKF will not replace the permanent habitat lost due to the Project. The commenter states that in order for successful recovery, additional valley floor habitat must be acquired for mitigation. Please see also Response D2-8.
- D2-21 The commentator is concerned with potential impacts to wildlife species from the storm-water detention basin and temporary water ponds. Section C.6.3.3, Impact BR-22 addresses potential impacts associated with construction water ponds. Special-status bird species including waterfowl and shorebirds could be attracted to the ponds, increasing the risk of collision and electrocution from Project infrastructure. Special-status wildlife species in the area attracted to the ponds to drink could become trapped and be exposed to increased risk of mortality from drowning.
- The Applicant would install temporary exclusionary fencing around the ponds for safety and to restrict access by special-status species. Mitigation Measure BR-22.1, outlining the fence installation and monitoring requirements, is applicable to the Revised Project’s temporary construction ponds, and would reduce this impact to less than significant levels. As stated in Section B.4.6, exclusion fencing will be installed around the ponds for safety and to restrict access by special-status species. This fence will be buried approximately 6 inches deep to prevent burrowing under the fence. The fence will be of appropriate height to deter larger animals from climbing or hopping the fence. The two temporary construction ponds will be removed once construction is complete.

These basins, ponds, and exclusionary fencing will be frequently inspected to protect wildlife species within the Project Footprint. Thus, the concern is mitigated to a less than significant level.

D2-22 The commenter asks why the overall graded area for the project increased and requested clarification regarding the total acres of grading necessary. The Project was designed and refined during the 2010 San Benito County environmental review and approval process in order to minimize environmental effects. Since 2010, project engineering has progressed and the revised design includes more extensive grading required for panel installation. Approximately 392 acres will be graded for this Project. The grading areas and ground disturbance is depicted in Figure B-4 of the SEIR.

A limited amount of grading is expected to be required because of the nearly flat terrain. Grading would be required on slopes greater than 3 percent for PV power blocks. Final grading plans for the project are currently under development; however, the Revised Project includes 392 acres of proposed area that will be graded along with the general layout for trenching of underground electrical lines and maps of the perimeter access roads. Unless the panel area overlaps with the graded area, no ground preparation such as disking/harrowing/rolling is proposed. Site development at designated areas within the Project Footprint would include implementation of stormwater Best Management Practices (BMPs) to control offsite and onsite erosion, clearing of existing vegetation as necessary, rough and fine grading, construction of roads, installation of perimeter fencing, installation (trenching) of underground cables, construction of solar panel arrays, installation of temporary biological exclusion fencing as needed, and installation of electrical equipment. Project grading requirements are anticipated to result in cut-and-fill activities with no anticipated cubic yards of export. Aggregate will be imported for the permanent roads and the substation. Each of these areas is included within the solar array disturbance calculation in Table B-3 of the Final SEIR. Temporary impacts were not estimated in the 2010 Final EIR, but are summarized Table B-3, Section B. Project Description of the Draft SEIR.

D2-23 The commenter has several questions regarding Fire Protection and employee education. The questions and the responses to each are presented below.

- 1) How many employees trained as first responders will be on site at all times.
- 2) Will the employee/volunteer firefighters respond outside Project perimeters
- 3) What equipment they will have at their disposal and is adequate for a potential large-scale fire?
- 4) Clarify why the first responders are described as voluntary. Is fire protection not going to be part of their job description? Is fire protection voluntary only? How will their firefighting duties be specified?
- 5) Will the volunteer firefighters meet Hollister Fire Department requirements for first responders?

As noted in the Project Description of the Draft SEIR, the Revised Project has the same number of operational employees as the 2010 Approved Project. Also, the Revised Project has no effect on the fire hazard at the site or surrounding area. Therefore, no substantive modifications to Mitigation Measure PS-1.1 were required. To the extent

that the commenter had questions and concerns regarding implementation of the previously adopted mitigation requirement the 2010 Final EIR's analysis of the project's potential fire hazard, those concerns would have had to be presented in 2010 when the project was first approved and the mitigation was adopted. Nonetheless and as a courtesy to the commenter, the County offers the following response to the questions raised in the comment.

The comment refers to a requirement that was set forth in previously adopted and still applicable Mitigation Measure PS-1.1. The 2010 Final EIR recognized that, due to the remoteness of the site, that it would prudent for any operational employees of the project to either be trained as volunteer fire fighters or at least be provided with fire protection training to facilitate an immediate response in the event of a fire until the fire service provider reaches the site. Accordingly, the County imposed this requirement on the project in Mitigation Measure PS-1.1, which the County adopted in 2010 when it approved the project. The requirements in Mitigation Measure PS-1.1 associated with operational requirements will be included in the agreement with responsible fire department entities. That agreement will specify the number of employees that will be trained as volunteer firefighters or the fire protection training that will be mandated for permanent employees. Firefighting is considered voluntary for safety reasons; if the employee feels that fighting the fire would put his/her own life at risk or are not properly equipped to handle a larger fire, they will not be required to put their safety at risk to fight the fire and will rely on the appropriate fire department or entity to respond. As stated in Mitigation Measure PS-1.1, "the project's on-site work force to combat and be first responders to any potential fires occurring on-site or within the vicinity of the project site."

While the comment only focuses on employee firefighting capabilities to minimize fire hazards of the project, the commenter is also referred to Section B.5.8 of the SEIR, which described the revised safety plan that will be implemented. To prevent fire during operations, vegetation at the site would be kept to a height of less than approximately 18 inches. Short-duration intensive grazing by sheep may be used to maintain vegetation, depending on the amount of forage available on the site. The number of sheep required to appropriately graze the feed produced on the project site would vary seasonally depending on the rainfall and temperature of each grazing season. During normal rainfall years, anywhere from 1 to 3 bands of sheep (with each band consisting of between 750 and 1,200 adult sheep and offspring, depending on the season) would graze the project site during the winter and spring months (January to May) to use the amount of forage produced prior to and during that season. The Applicant would construct new sheep fencing as necessary. The sheep would be removed from the site during the remainder of the year.

Three water tanks holding approximately 20,000 gallons per tank would be located at existing or new well sites. These tanks would have universal adapters to enable fire trucks to refill with water at the project site.

The Revised Project also incorporates the Hollister Fire Department requirement for a perimeter road that would meet fire code requirements and provide safe access to the site in the event of an emergency in the project area.

Mitigation Measure PS-1.1 also requires that the Applicant enter into an agreement with the applicable firefighting entities to fund additional personnel needed to serve the project site during construction. The Project has been designed to allow first responders direct access to the site and the Applicant is working closely with the Hollister Fire Department to establish emergency response measures.

For the PG&E facilities, Fire Suppression would follow the PG&E standards which requires use of a chemical agent flooding system for fire suppression, or similar, subject to local building permit official approval. This fluid, "Novec," is manufactured by 3M, is an environmentally friendly Halon replacement for use as a gaseous fire suppression agent. It is generally used in situations where water from a fire sprinkler would damage expensive equipment or where water-based fire protection is impractical.

During construction of PG&E Upgrades, as stated in AMM BR-PGE-7, during fire season in designated State Responsibility Areas (SRAs), PG&E personnel will cease use of all motorized equipment will have federal or state approved spark arrestors; a backpack pump filled with water and a shovel will be carried on all vehicles; and fire-resistant mats and/or windscreens will be used when welding. In addition, during fire "red flag" conditions as determined by California Department of Forestry (CDF), welding will be curtailed, each fuel truck will carry a large fire extinguisher with a minimum rating of 40 B:C, and all equipment parking and storage areas will be cleared of all flammable materials.

D2-24 The commenter is concerned about the construction of the solar facility and the potential impacts on the Hollister Fire Department operation and response time. The commenter would like more information regarding how the Hollister Fire Department will be trained to properly respond to a fire at the solar facility and if they possess the appropriate equipment to do so. Lastly, the commenter would like to know how a fire will be controlled or suppressed while any support from local departments travel to the solar facility.

Please see Response D2-23. The County and the Applicant have closely coordinated with the Hollister Fire Department on this project to minimize the potential fire hazard of the project. As discussed in Section C.13.3.4, Mitigation Measure PS-1.1, the Applicant shall enter into an agreement with a qualified firefighting entity (the Hollister Fire Department, CAL FIRE, or private providers) to pay the firefighting providers an agreed upon fee based on actual costs to fund additional personnel needed to serve the project site during construction. While the County does not have a specific inventory of the Hollister Fire Department's firefighting equipment or training protocols, the Department has not indicated that it lacks the training or the equipment necessary to serve this project.

D2-25 The commenter states that no fire access roads were included as part of the facility layout, as requested by Chief O'Connor of the Hollister Fire Department. The commenter requests clarification regarding how the Hollister Fire Department will access the site in order to stop a fire before it spreads off site.

The SEIR includes copies of letter from the Hollister Fire Department including one dated October 17, 2013 and July 14, 2014 in which Chief O'Conner outlined the needs for access roads for the Project. Specifically, in the July 2014 letter, Chief O'Conner stated as follows:

After additional considerations of alternative routes, including various gates along the perimeter fence and driving through various areas of the future Valley Floor Conservation Lands and associated wash area, my team and I have determined that adequate, all-weather access will require a bridge that is of sufficient size to support the weight and size of our fire trucks be installed across the wash area from Yturiarte Road north into the Project area (as detailed in our letter dated October 16, 2013 to Eric Cherniss at PV2 Energy, LLC).

The perimeter road, as currently planned, was defined in an attachment to the October 2013 letter. Through these correspondences with the Hollister Fire Department, they have approved the site emergency access/egress roads as required.

D2-26 The commenter raises concern regarding who will provide any needed Emergency Medical response services. The commenter would like more information regarding the availability of EMT personnel available to respond and how that may affect response in other parts of San Benito County.

During an emergency, Project personnel would call 9-1-1. The 9-1-1 emergency dispatchers would locate the closest emergency responders to report to the Project. Fresno County has several medical centers including acute care hospitals. The Community Regional Medical Center is located in the City of Fresno and has 626 beds and basic emergency and trauma services. The Kaiser Fresno Hospital, located in the City of Fresno, offers 169 beds and basic emergency services. Medical air support units will be utilized if needed to transport injured workers in the event of a medical emergency as stated in Section C.9.3.3 of the Draft SEIR.

D2-27 The commenter is concerned about the elimination of Vasquez Creek Road and the potential access impacts for the homes, recreational lodgings and agricultural operational structures beyond the project limits. The commenter is also concerned with the location of New Vasquez Creek Road and its potential impacts on threatened and endangered species. Further, the commenter states that the road is not wide enough to provide adequate pull off areas or appropriate turning radius.

As discussed in Response D2-18, a series of measures will be implemented to minimize and avoid impacts to threatened and endangered species associated with construction of the proposed 'New Vasquez Creek Road'. Additionally, as discussed in Section B.4.4 of the SEIR, this transportation corridor would provide access to the western portion of the Valadeao Ranch Conservation Lands from Little Panoche Road for landowners and ranchers. This road is designed to suit the needs of the Project, as well as the landowners and rancher. It is not required to meet fire department standards for turning or access by fire equipment/vehicles.

D2-28 The commenter is concerned with the proposed width of the new road and its ability to accommodate the required turning radius for fire trucks. Please see Response D2-27. As stated in B.4.4 of the SEIR, "The required perimeter road would be 20 feet wide with pullouts every 2,500 to 3,000 feet. Pullouts would be approximately 20 feet wide by 300 feet long." This new road is not a perimeter road and will not be required to meet the requirements for the emergency access/egress of the perimeter road.

D2-29 The commenter would like more information regarding the type of temporary fence that will be used for livestock grazing and vegetation control. The commenter would

also like clarification on page C.6-65 (Mitigation Measure BR-G.2) regarding the type of livestock that will be used. Concerns are also noted regarding potential wildlife impacts from using livestock dogs at the site.

Existing fence at the site or installation of permanent fencing would be used to prevent livestock currently grazing in/around the Project area from entering the Project site during construction. Permanent and temporary fencing was included in the ground disturbance estimates included in the Revised Project. Sheep grazing would occur during operation of the Revised Project during years when there is enough forage on the site to support grazing. Ongoing grazing will be similar to the levels anticipated in the 2010 Final EIR. The fencing used for sheep grazing would be temporary and would be similar to the perimeter security fencing used around the project boundary. As described in Section B.4.5 of the Draft SEIR, the fence around the project site would be smooth-top chain link in the upper portion, smooth wire in the bottom portion, and a maximum height of 6 feet. Fencing around the site would be 6 feet of chain link with a 5- to 6-inch gap from ground surface to fence bottom to allow for wildlife movement. Fences around the sheep grazing areas and O&M building would utilize the same plan, unless otherwise determined by CDFW and USFWS. All permanent materials would be industrial strength with galvanized steel to aid visual dulling over time.

The perimeter of the conservation lands (Valley Floor Conservation Lands [VFCL], VRCL, and SCRCL) will be permanently fenced (as appropriate) to exclude unauthorized access and manage livestock. The majority of the existing fencing, around the perimeter of the Conservation Lands, consists of 3 to 5 strand barbed wire. If new fencing is installed, wildlife friendly fencing will be installed consistent with local BLM guidelines. This fencing design will reduce potential injury to wildlife and thus reduce the need for fence maintenance or repair.

There is no evidence to suggest that utilizing dogs for livestock management would introduce a new potential impact to the project. Ranchers have historically used dogs to assist with herding livestock within Panoche Valley. Allowing working dogs on the site is consistent with past and current ranching activities. The SEIR addresses concerns mentioned by the commenter regarding dogs harassing or killing wildlife. Mitigation Measure BR-G.2 addresses those concerns by stating that trained animals would be used and would be immunized.

With regard to sheep grazing, please see Response B4-14. The project description clearly states the Applicants intention to allow sheep grazing onsite as described in Section B.10, APM AG-1 and AG-2 of the Final SEIR.

D2-30 The commenter would like more information regarding possible alternative locations or communication options for the 300-foot communication tower on Panoche Mountain and the associated visual impacts. Please see General Response GR-2, which explains that construction of the tower will no longer be required. Section B.11.2 of the Final SEIR has been modified as explained in GR-2.

D2-31 The commenter asks about FAA-required lighting of communication tower and the impacts on night skies. As noted in General Response GR-2, only two new microwave towers would be constructed: one tower at the solar project site, and the other at Helm Substation in Fresno County, approximately 40 miles east/southeast of the project site.

PG&E would comply with the Federal Communications Commission (FCC) approval process and Federal Aviation Administration (FAA) filings and approval, including installations of FAA-lights on the new microwave towers, as required.

D2-32 The commenter asks about the height of the adjacent towers. The Panoche Mountain tower will no longer be constructed. Instead microwave facilities will be collocated on existing tower owned by ATC. See Response D2-30.

D2-33 The commenter states that Fresno County should be co-lead permitting agency under CEQA since some of the PG&E Upgrades would occur in Fresno County. The California Public Utilities Commission has exclusive permitting authority over PG&E's work; Fresno County does not have discretionary actions related to the PG&E Upgrades.

San Benito County has provided the 2010 and 2014 EIRs and notices to Fresno County. However, because Fresno County has no discretionary actions with respect to the PVSP or the PG&E Upgrades, it is not a responsible agency under CEQA. The California Public Utilities Commission (CPUC) has exclusive permitting jurisdiction over the upgrades and modifications to electrical facilities owned and operated by PG&E. Although the PG&E facilities upgrades are exempt from local land use and zoning regulations and permitting, General Order 131D, Section III.C requires that the utility communicate with, and obtain the input of, local authorities regarding land-use matters and obtain any nondiscretionary local permits. The only permits anticipated to be required from Fresno County will be ministerial, e.g. traffic control or encroachment permits.

D2-34 The commenter would like the SEIR to define what constitutes construction. SEIR Section B.7 details the changes of the revised solar project construction components.

D2-35 The commenter states that the total impacted area for construction is not clearly identified. The commenter also suggests that a breakdown of construction sequence and activities be provided to assess impacts. The total land area that will be impacted by the project is 2,506 acres. The permanent and temporary disturbance types are detailed in Tables B-2 and B-3 in Section B.5.1. Section B.5.1 also details how disturbance areas were determined. Regarding the specific construction schedule, it is not possible at this time to provide a detailed construction schedule because it will depend on when all necessary permits from the County and other responsible agencies are secured for the project.

D2-36 The commenter would like clarification regarding nighttime construction activities. The Draft SEIR states that no ground disturbing activities would occur at night; however, Table B-8 states that the drill rig trucks would be used for 20 hours per day.

Section B.7.6 of the Draft SEIR states that while the Revised Project includes the same types of construction personnel that was described in the Final 2010 EIR, as a result of the shorter construction period, substantially more personnel would be required during the approximately 18 months of construction. In addition, the definition of daytime work would be revised from 7:00 am to 7:00 pm year-round to sunrise to sunset as described below.

The workforce at the project will vary based on the work activities conducted at the site; however, the estimated number of individuals has increased from a 2010 range of 70–200 to the current range of 100–500 individuals during the day and from 30–70 (2010)

to 20–50 (2014) individuals at night. These estimates are in line with the total of the original estimates for each phase if all phases were constructed simultaneously.

Construction activities would be permitted from sunrise to sunset (as published by the National Oceanic and Atmospheric Administration), as early as 5:00 am to as late as 9:00 pm, depending on the time of year. In addition, the 2010 Final EIR described daytime work hours as 7:00 am to 7:00 pm, evening work hours as 7:00 pm to 10:00 pm and nighttime work hours as 10:00 pm to 7:00 am. No ground disturbing activities (including but not limited to grading, pile driving, trenching) would take place at night. Nighttime construction activities would be limited to the following:

- Minor non-ground-disturbing activities such as commissioning and maintenance activities to be performed when PV arrays are not energized;
- Interior use of the operations and maintenance facility;
- Unanticipated emergencies (defined as an imminent threat to life or a significant property interest), including non-routine maintenance that requires immediate attention;
- Special-status species impact avoidance and minimization activities and research (e.g., giant kangaroo rat trapping and San Joaquin kit fox radio telemetry); and
- Security patrols.

There would be no on-site temporary workforce housing, and parking of employee recreational vehicles or trailers would be prohibited. Additionally Table B-8 of the FSIER has been modified to indicate drill rigs will be used for a maximum of 12 hours per day. Drill rigs will be used only from sunset to sundown and in compliance with noise restrictions. Nighttime activities will be limited to those listed in Section B.7.6.

D2-37 The commenter is concerned with impacts to wildlife from the construction ponds. Please see Response D2-21, which details the mitigation and avoidance for impacts to biological resources.

D2-38 The commenter is concerned with the proximity of the laydown yards to the onsite and valley floor mitigation lands. In addition the commenter suggested that CDFW and USFWS be consulted regarding biological impacts from the laydown areas.

The laydown locations were chosen based on their central location and their proximity to Little Panoche Road (near access points for the construction team), switchyard, and O&M building. Biological impacts from project infrastructure, including the laydown yards, were included in the evaluation of the Project. Measures to offset temporary and permanent impacts (including those associated with laydown areas) are included in the Applicant Proposed Measures and Mitigation Measures listed in Section C.6. Potential impacts to special-status species are evaluated in this SEIR, and consultation with USFWS and CDFW is ongoing. Incidental take of listed species will be permitted separately through USFWS and CDFW.

D2-39 The commenter is concerned about potential noise impacts related to Panoche Elementary School. As stated in SEIR Section C.11, Noise (page C.11-1), the school is more than one mile away from the solar project boundary. Mitigation Measure NS-1.3 (Provide advance notice of construction) requires specifically that the Principal of Panoche Elementary School be notified between 2 and 4 weeks prior to the start of construction

activities. However, as noted in SEIR in Section C.11.3.1 under Impact NS-1 (Construction noise would result in a substantial temporary or periodic increase in ambient noise levels which would substantially disturb sensitive receptors), the SEIR does identify that construction noise would create a significant and unmitigable impact. Several other mitigation measures are recommended to reduce the severity of the impact, including Mitigation Measures NS-1.1, NS-1.2 and NS-1.4, Mitigation Measure BR-16.2, Mitigation Measures TR-1.1 and TR-1.4, and Applicant Proposed Measure (APM) N-1 (restrict use of fuel-operated generators between 7:00 p.m. and 7:00 a.m.). However, the residual construction noise levels from the Revised Project would exceed ambient noise levels by more than 5 dBA Ldn and would remain significant and unavoidable (Class I).

- D2-40 Mitigation Measure NS-1.3 (Provide advance notice of construction) would require the notice to state where and when construction would occur; provide tips on reducing noise intrusion (e.g., closing windows facing the planned construction); and provide a point of contact for any noise complaints. The Applicant would be required to report complaints to the County, and to propose resolution. Resolution may include limiting the hours of construction in the particular location of concern, putting up additional noise barriers, or otherwise implementing means to reduce and resolve to the extent feasible the issue brought forth. However, the SEIR states that this measure would not eliminate the significant noise impact; as stated in Response D2-39, the noise impact remains significant and unavoidable.
- D2-41 The commenter is correct that the noise levels occurring during construction are expected to violate local standards. As stated in the discussion of Impact NS-2 (Construction noise may violate local rules, standards, and/or ordinances), the SEIR concludes that due to the rural nature of the Panoche Valley and the increase in the number of amount of heavy equipment on-site during construction, construction noise levels from the Revised Project would be considered significant and unavoidable. Mitigation Measures NS-1.1 through NS-1.4, Mitigation Measure BR-16.2, Mitigation Measures TR-1.1 and TR-1.4, and APM N-1 are recommended to reduce noise levels.
- D2-42 The SEIR evaluates the noise levels from the inverters in Impact NS-4 (Permanent noise levels would substantially increase due to operation of project-related stationary noise sources above levels existing without the project). The long-term noise resulting from the inverters could potentially exceed San Benito County's daytime noise level standard of 45 dBA Leq for rural residential land uses because they are not proposed to be enclosed. Implementation of Mitigation Measure NS-4.1 (Locate PV inverters and transformers away from the project's property line) as modified in SEIR Section C.11.3.2 would reduce the potential for permanent noise levels to exceed the County's daytime noise level standards or to exceed the ambient noise levels by more than 5 dBA Ldn at the nearest residences to less than significant levels.
- D2-43 Please see General Response GR-3 regarding traffic safety mitigation.
- D2-44 Please see General Response GR-3 regarding traffic safety mitigation.
- D2-45 The commenter is concerned that construction workers may drink alcoholic beverages at the Panoche Inn before, during, or after work, and drive while under the influence of alcohol. The County cannot prohibit private citizens from drinking at a commercial

facility, but the additional traffic safety measures defined in General Response GR-3 would provide for enhanced presence of law enforcement in the project area.

D2-46 Please see General Response GR-3 regarding traffic safety.

D2-47 Please see General Response GR-3 regarding traffic safety. This measure also addresses carpooling.

D2-48 The commenter would like to know under what circumstances will roadways be closed or partially closed because of activities associated with construction and how long these closures or partial closures will last. Construction of the Revised Project may require short-term road closures of Little Panoche Road that could disrupt traffic flow and could lead to congestion. To ensure that any temporary construction-related lane closures would not result in significant impacts related to congestion, the Traffic Control Plan required under Mitigation Measure TR-1.1 would be implemented. The Traffic Control Plan would be prepared by the Applicant and submitted to the County for review and approval, and would identify the location and length of time of roadways closures.

In addition, Mitigation Measure TR-1.4 (Ensure Traffic Safety) would require implementation of a Traffic Safety Plan that includes provisions for ensuring that any potential delays are less than 30 minutes. The Traffic Control Plan also requires that oversize trucks requiring pilot cars travel along Little Panoche Road only between 9:00 AM and 4:00 PM.

Additionally, as per Mitigation Measure TR-1.4 the Applicant and contractors shall endeavor to ensure that traffic delays related to Project construction shall not exceed 30 minutes. When road closures and traffic delays more than 30 minutes are anticipated, the Applicant shall ensure that signs are posted at work sites and public locations at least one week in advance warning workers and the public to anticipate delays. This information shall also be available on a Project website and on signs visible from SR 25 and I-5.

D2-49 The estimates of personal vehicle traffic on Panoche Road and Little Panoche Road are based on the likely locations of construction personnel expected to work on the site and their likely residence locations. As stated in the SEIR, Section B.7.7, these figures are approximate.

D2-50 Mitigation Measure TR-1.2 (Rehabilitate, protect and monitor roadway pavement, bridges and culverts) has been modified so it also applies to Panoche Road, ensuring that the roadway condition on that road would be maintained along with Little Panoche Road. Regarding traffic safety in general, please see General Response GR-3.

D2-51 The commenter asks the hours of the day that truck traffic and deliveries would occur. Truck traffic timing is detailed in Section C.14.3.3 of the SEIR. Trucks would generally arrive at the site during daylight hours, evenly distributed through the day. Mitigation Measure TR-1.4 has been modified to prohibit Project construction delivery truck traffic from using on Little Panoche Road, Panoche Road, and Highway 25 to during normal commuting timeframes.

D2-52 The commenter states that there are discrepancies between the daily trips and water trucks for dust control as described in the 2010 Final EIR and the Draft SEIR, particularly

since the acres of impact have increased and the total square footage of PV panels has not changed. Table B-6 in the SEIR is accurate. The number of water trucks is associated with activities occurring off-pavement on the Project site, whereas the number of daily trips is associated with vehicle trips to and from the Project site along paved roads that will not require the application of water to suppress fugitive dust.

D2-53 Please see Response D2-49. The residence locations for project workers have been estimated based on likely pools of workers, and is not known with certainty.

D2-54 The commenter is concerned with potential impacts to SJKF from traffic associated with the Project. Impacts to SJKF were included in the SEIR analysis completed by the County in Impact BR-6 and Impact BR-19. The SEIR states “As discussed in the 2010 Final EIR, all truck traffic and deliveries, along with approximately 40% of personal vehicle traffic would enter the site from the north on Little Panoche Road. In order to accommodate increased daily traffic volume associated with the Revised Project, and decrease safety risks to personal traffic, and avoid some San Joaquin kit fox habitat, the Revised Project proposes to allow all remaining personal vehicle traffic to enter the site from the west on Panoche Road.” This is further confirmed in the correspondence provided with the DSEIR between the Project and Dr. Brian Cypher (a leading biologist in SJKF) found at <http://cosb.us/wp-content/uploads/CypherMemo-SJKF.pdf>.

D2-55 The commenter feels there are no established limits for the use of well water to control dust during construction. The commenter would like to know what the back-up dust control method will be and if a chemical dust suppressant will be used. The commenter states that the applicant should not rely solely on manufacturer information but rather should rely on recommendations from CDFW and USFWS regarding definition of safe exposure levels for upland species found throughout Panoche Valley.

Mitigation Measure AQ-1.1 establishes multiple best management practices to decrease fugitive dust emissions during construction. These practices include, but are not limited to, prohibiting grading activities during high wind (>15 mph), applying chemical and non-toxic soil binders, hydro seeding, revegetation, and netting. Please see Section C.4.3.4 of the SIER for additional information. The measure requires that all chemical and non-toxic soil binders shall be approved to be used in California.

D2-56 The commenter states the amount of off-road equipment usage indicates a greater potential for dust generation than the current proposed dust mitigations would indicate. The commenter stated this threat to air quality is not thoroughly reviewed, disclosed to the public or mitigated. The construction equipment proposed for use in construction of the solar arrays has not changed in the SEIR, and was defined for the 2010 Approved Project. The construction equipment proposed for use at the solar array is typical for a construction project. Also, the equipment used for installation of the PG&E Upgrades is typical for equipment used by PG&E for operations and maintenance throughout their service territory.

The Monterey Bay Unified APCD reviewed and provided a comment letter on the Draft SEIR (see Comment Letter A-3), and did not request any further consultation regarding the types of construction equipment that would be used during construction. For the portable equipment, such as generators, that will be used, the Applicant will maintain compliance with the Portable Equipment Registration Program (PERP) and MBUAPCD

will be notified of all diesel powered portable equipment over 50 horsepower maintained at the Project site for more than 5-days. See <http://www.arb.ca.gov/portable/portable.htm> for more details regarding this program.

SEIR Table C.4-7 (PG&E Equipment for OPGW Installations) lists the equipment anticipated to be utilized by PG&E during the construction period. This equipment list has been further refined in the emissions calculations for PG&E Upgrades included as Appendix 4A-1 and 4A-2.

D2-57

The commenter states Mitigation Measure AQ-1.2 fails to show how designating a dust complaint monitor will reduce the effects of dust due to the change in construction period/impacts. The commenter states it does not show what amount of acreage will be watered down 3 times per day, and whether there is a limit on that amount in order to reduce water usage. Monitor response should be the same day a complaint is made, with immediate action taken to reduce dust levels or, in the event dust levels cannot be reduced due to winds greater than 15 mph, halt construction until safe conditions resume.

Dust control watering will be conducted three times per day at a minimum, and the emissions calculations use this frequency and an assumed maximum of 50 acres of grading that would be allowable.

Regarding the availability of groundwater for dust control, SEIR Section C.15.3.3 indicates the Geologica report states that maximum estimated water required for dust control during PV system construction would total approximately 481,250 gallons of water per day (gpd) as a “worst case rate.” Geologica evaluated a potential range of water usage for dust control during project construction and found that a total of approximately 106.8 million gpd would be required, with a continuous extraction rate of approximately 230,137 gpd during the 18-month construction period. This rate assumes that one 2,500 gallon water truck provides dust control for 7 to 8 acres, and that the water would be applied to that acreage 3 times per day, for a total of 875 gallons per acre. This rate also assumes that under average working conditions, a portion of the disturbed area will be crusted over and would not require constant watering for dust suppression.

The dust monitor will be a qualified individual with experience in proper fugitive dust management at construction sites. This monitor will implement the prescribed mitigation measure for dust suppression to reduce visible emissions below 20 percent opacity. The job of this monitor is to implement mitigation measures and act as a liaison between the County, the APCD, and the construction contractors.

D2-58

The commenter requests more information regarding the non-toxic chemical soil stabilization material that will be used for the project. The commenter also requests more information on how the soil stabilization material will be monitored and any impacts to soils and aquifers.

As stated in Mitigation Measure AQ-1.1, non-toxic binders (e.g., latex acrylic copolymer) for soil stabilization will be used in accordance with manufacturer’s requirements. Chemical stabilizers would be utilized only in the event the use of water to control fugitive dust, prevent erosion or stabilize soil was not practicable or if an alternative method was necessary. The chemical stabilizer would be applied only to unpaved areas in sufficient quan-

tity and frequency to maintain a stabilized surface and reduce fugitive emissions. In this case, the construction contractor has identified PineBind, as a possible non-toxic binder. PineBind is a 100% organic emulsion that is produced from naturally occurring resin from the Ponderosa Pine which has gained wide spread use for fugitive dust control.

D2-59 The commenter states the discussion of Impact AQ-1 falsely states the Revised Project would emit fugitive dust like the Approved Project, despite the shortened construction period requiring a greater number of workforce and dramatically increased traffic and construction activities. The commenter would like to know what the “inactive storage piles” are. The commenter would like to know what the maximum allowable daily water usage level by the gallon would be established to prevent the Applicant from drawing down well levels more than 5 feet.

The Revised Project, while about 78% of the size of the fenced area of the Approved Project, would require a more intense construction period due its compressed construction schedule (approximately 18 months compared to the Approved Project schedule of approximately 5 years). The compressed construction schedule would result in higher average daily emissions levels; however, as demonstrated in the August 8, 2014 Technical Memorandum including a “CalEEMod Analysis of Potential Particulate Emissions from Construction Activities at the Panoche Valley Solar Farm Project” the construction emissions would not exceed the significance thresholds with implementation of mitigation measures. The increased emissions result from use of typical construction equipment such as dump trucks, graders, scrapers, bulldozers, compactors, and front end loaders.

The Revised Project also requires an increase in the amount of daily ground disturbance activities. The modified Mitigation Measure AQ-1.1 (Reduce fugitive dust) for the Revised Project would allow for an increase in the grading limits from 8.1 to 50 acres per day. The Air Quality Technical Report (AMEC, 2014) prepared for the Revised Project demonstrates that the daily significance threshold for fugitive dust emissions would not be exceeded if the frequency of watering is increased from 2 times per day to 3 times per day. Therefore, as described above, Mitigation Measure AQ-1.1 has also been revised to require watering 3 times per day to ensure that daily significance thresholds are not exceeded.

The inactive storage piles are temporarily stockpiled soil, where soil may be stored and then used as needed. These piles will be covered, enclosed, and stabilized in a manner to decrease wind erosion.

Please see Response D2-62 for additional information regarding groundwater drawdown.

D2-60 The commenter requests more information regarding irrigation for ground cover and restoration in disturbed areas. No irrigation is planned under the panels during operations. Once the material under the panels has stabilized and requirements of the site construction erosion control plans have been met, the vegetation below the panels will be allowed to grow naturally. In accordance with Mitigation Measure BR-G.3, the Applicant will develop and implement a Habitat Restoration and Vegetation Plan for temporarily disturbed areas.

D2-61 Please see Responses D2-40, D2-41, and D2-42 regarding noise effects at the Panoche Elementary School. Because the school is one mile away from the Revised Project

boundaries, the sources of vehicle emissions and dust would not occur within one mile of the school.

D2-62

The commenter is concerned that the Panoche Valley water wells have dropped 5' in the past 15 years, an average of 0.027 feet per month. The commenter states the DSEIR predicts a drop of 5 feet within the proposed 18 month construction period, an average of 0.27 feet per month. If water usage were to continue at this level throughout the established 20 year operational period due in order to deal with unforeseen increases in predicted dust events, well water levels could drop 64.8 feet or more in 20 years.

The Revised Project would use a substantially greater amount of groundwater during 18-month construction period than would the Approved Project. This water use would temporarily lower groundwater levels for portions of the Panoche Valley Groundwater Basin. The greatest drawdown would occur around the extraction wells and would decrease with increasing distance from the pumped wells.

Pumping simulations performed by Geologica for Well #4 found that water level drawdown would be greatest at the end of the construction period, just before groundwater extraction rates would be reduced for operational needs. The simulations predicted that maximum drawdown (12 months after the start of pumping) in two wells near the southern boundary of the project site would be between 1.2 and 2.7 feet. Drawdown for a well that serves an organic farm southeast of the property was predicted to result in a maximum drawdown of approximately 0.45 to 1.5 feet. The maximum simulated drawdown for the pumped well (Well #4) was predicted to be 3-5 feet. Due to uncertainties in aquifer parameters and unknown future rainfall recharge rates; the amount of time required for complete recovery of water levels after construction is uncertain but could take several years. The continuation of current drought conditions would extend the recovery time for Panoche Valley Groundwater Basin levels after drawdown caused by construction water use for the Revised Project. Careful and regular monitoring of groundwater levels in both on-site and off-site wells, as required in Mitigation Measure WR-1.1, would be required in order to prevent the creation of overdraft conditions in the Panoche Valley Groundwater Basin.

Further aquifer testing and ongoing groundwater monitoring, as required by Mitigation Measures WR-1.1 and WR-1.2, throughout the basin will provide additional data on aquifer conditions and the actual effects of long-term pumping for the project. The groundwater level data will be used in real time to monitor the effects of extraction, which can be adjusted as needed.

The available water column for Well #14 and Well #16 is unknown. However, the minimum available water column reported by Geologica (for Wells #17 and #18) was approximately 30 feet. It is therefore assumed that a drawdown of 2.7 feet would not preclude the use of any off-site well for water supply. Moreover, groundwater monitoring and well interference analysis required in mitigation measures would ensure that the use of off-site wells for water supply would not be adversely affected. Geologica's report concludes that predicted drawdown levels during the construction phase and operation phase are unlikely to significantly impair existing water supply well use in the valley. However, due to the lack of detailed information about the groundwater basin characteristics, the potential for the Revised Project's water use to negatively affect ground-

water remains significant. There is a potential for project water use to lower the water levels in off-site wells (those outside the solar project boundaries).

As stated above, implementation of two comprehensive mitigation measures is required. Mitigation Measure WR-1.1 establishes a Groundwater Monitoring and Reporting Plan, and Mitigation Measure WR-1.2 requires Aquifer Testing and Well Interference Analysis. These mitigation measures have been modified based on the more aggressive groundwater withdrawal included in the Revised Project. Implementation of these measures would ensure that groundwater extraction for the Revised Project would be properly monitored and that drawdown at nearby private wells would not exceed five feet.

D2-63 The commenter is concerned that an established water usage rate for dust suppression has not been determined. The commenter is concerned there no limit to the amount of water the Applicant can use during construction and operation, nor is there a limit to how much impact to adjacent landowner well levels will be allowed. The commenter would like clear limits established to prevent creating conditions under which the surrounding agricultural businesses can no longer continue to successfully operate. Please see Response D2-57 for discussion of the proposed amount of water that will be needed for dust suppression, and Response D2-62 for discussion of effects of dust suppression water withdrawal on groundwater levels.

D2-64 The commenter states the well-water depth monitoring should be done every month during construction to ensure well-water does not drop more than 5 feet during the 18 month period and every month for 6 months following the start of operation to monitor water levels and ensure usage does not exceed predicted operational use levels, and every year thereafter to ensure levels are regenerated to pre-construction baseline conditions. The commenter states a time frame for well regeneration must be established and a plan to restrict use should be instituted and means of enforcement should be clear to prepare for the possibility of well levels not regenerating to pre-construction baseline levels within 6 months post construction and every year thereafter.

A Groundwater Monitoring Plan and Aquifer Testing Plan will be developed in accordance with mitigation requirements. Groundwater monitoring is planned to begin prior to construction activity. Monthly testing and reporting will occur throughout the construction phase of the Project. Groundwater monitoring frequency will decrease, as sufficient groundwater elevation data is gathered and evaluated to establish reliable groundwater elevation trends throughout the pre-, during, and post-construction phases of the Project. Planned future aquifer test results may also warrant additional changes to the planned monitoring frequency and/or the selected groundwater monitoring wells.

Additionally, the implementation of mitigation measures, including the pumping test and groundwater monitoring program (Mitigation Measure WR-1.1 and WR 1.2), will enhance the ability to predict changes to groundwater levels within the basin and to quickly react to and mitigate unexpected changes in water levels.

D2-65 The commenter states that Mitigation Measure AQ-1.1 has not been reviewed by the CDFW or the USFWS. Both agencies were provided with the 2010 Draft and Final EIR and the 2014 Draft SEIR, so they have had opportunities to comment on this mitigation measure. The monitoring of onsite dust will be the responsibility of the County's compliance monitor, required in Mitigation Measures EM-1 (Provide funding for

environmental monitoring) and Mitigation Measure EM-2 (Provide documentation for monitoring).

D2-66 The commenter would like clarification regarding the water usage needed to clean the solar panels. The proposed square footage of solar panels is the same in both the Final EIR and the Draft SEIR. Section B.5.4 states that the Revised Project would require substantially less water during operation than what was described in the 2010 Final EIR. This decrease in operational water need is primarily related to a reduction in the number of proposed solar arrays, resulting in less panel washing. Panel washing would occur, at most, two times per year and would require an estimated 2.84 acre-feet of water annually, assuming approximately 1 million panels. Please refer to Table B-2 for additional information regarding impacts from the Revised Project.

D2-67 The commenter would like more information regarding a potential increase in the number of times a year the solar panels are cleaned due to persistent drought and lack of vegetation. Please see Response D2-66 regarding frequency of panel washing.

D2-68 The commenter believes that the reason the San Benito Board of Supervisors approved the cancellation of the Williamson Act contracts was to meet California renewable portfolio standard (RPS). However, the commenter argues that the state has declared that the project is not necessary to meet these RPS goals would like more information regarding why the Board approved the immediate cancellation of the Williamson Act contracts and whether that is no longer valid.

When the Board of Supervisors approved the cancellation of the Williamson Act contracts, the Board found the other public concerns outweighed the objectives of the Williamson Act. Specifically, the Board found that the solar project would help further the state's progress toward achieving its goal for increased renewable energy and reduced greenhouse emissions, as the proposed project would generate renewable energy for the state while providing jobs to local residents. As the Court of Appeal explained in *Save Panoche Valley v. San Benito County* (2013) 217 Cal.App.4th 503 when it upheld the Board approval of the cancellation:

The reason for the proposed project's existence is to create a solar farm to generate renewable energy. Though completion of the solar project by itself will not fulfill the state's renewable energy goals, each additional renewable energy project helps the state advance toward meeting the requirements of the RPS.

The Board also found that the cancellation represented only 1.2 percent of all contracted land within San Benito County, and 0.04 percent of all contracted land in the State of California itself.

There has been no change to the Revised Project that would alter the reasoning behind this decision and the need for additional renewable energy projects in California is emphasized by the increase in the RPS goal from 20% by 2020 to 33% as part of Senate Bill 2. Moreover, the commenter cites no evidence to support this statement. According to recent California PUC data, California's three large IOUs collectively served 22.7% of their 2013 retail electricity sales with renewable power.¹ Southern California Edison,

¹ <http://www.cpuc.ca.gov/PUC/energy/Renewables/>

which has agreed to purchase the power generated by this project, is currently serving 21.6% of its 2013 retail electricity sales with renewable power.² Therefore, this project is still necessary and essential to help the State achieve the RPS standard.

- D2-69 The commenter states that the Draft SEIR misrepresents the total square footage of solar panels. As detailed in Table B-2, the Final EIR solar arrays were estimated to cover approximately 2,200 acres, while the solar arrays of the Revised Project, as described in the SEIR are anticipated to cover 1,629 acres. This reduction is not based solely on the size of the panels but advancements that have been made in solar panels and associated production, changes to the layout of the project, and efficiencies since the Final EIR was published in 2010.
- D2-70 The commenter states that impacts from the Project expand beyond the footprint of the project and the SEIR underestimates the total acres of impacts. The commenter states that total area of disturbance should include all direct and indirect impacts areas. The commenter continues to state that the impacts associated with the construction of New Vasquez Creek Road were not included in the SEIR. Please see Response D2-35. The total acres of disturbance are 2,506 acres. The total disturbance from the construction of the new road is provided in Table B-2 (4 acres). Both permanent and temporary impacts are provided in Tables B-2 and B-3.
- D2-71 The commenter states that the on-site mitigation is compromised from the construction of New Vasquez Creek Road. Please see Response D2-27. The new Vasquez Creek Road is not included in the Valley Floor Conservation Lands.
- D2-72 The commenter states that the on-site access roads or “interstitial spaces” should be included in the total disturbance. The total disturbance of the Project stated in Table B-1 includes disturbance from “interstitial spaces.” The impact of 1,629 acres from the solar arrays includes the interstitial spaces.
- D2-73 The commenter would like more information regarding the location of the silt fences and any biological impacts. The location of the silt fence will be determined after the final Stormwater Pollution Prevention Plan (SWPPP) is completed and detailed surveys have been done. As stated in the DSEIR, Mitigation Measures BR-10.1 and BR-16.1, based on the discretion of the Designated Biologist or Biological Monitor, additional protection measures such as exclusion fencing may be used around work areas may be implemented as deemed necessary. Exclusion fencing will take into account protection of special-status species with potential to occur within the Project Footprint.
- D2-74 The commenter would like more information regarding the size of the foundation for the tracking PV panels and any potential ground disturbing impacts. Solar panels and associated electrical equipment would be installed on approximately 185,000 support post foundations. Posts would be steel I-shaped sections with a cross sectional area of 4.5 square inches each. Concrete foundations associated with inverters and MV transformers would impact approximately 96,000 square feet (151 foundations total). Foundations may vary around the site with variations in geological conditions, hydrological conditions and soil types. Combining switchgear concrete foundations would disturb

² <http://www.cpuc.ca.gov/PUC/energy/Renewables/>

approximately 9,000 square feet (11 foundations). Each of these areas is included within the solar array disturbance calculation in Table B-3 of the Draft SEIR. Please refer to Section B.5.1 of the Final SEIR.

- D2-75 The commenter would like to see an impact summary comparing of the 2010 Approved Project with the Revised Project. The total impacts to the Draft SEIR should include all impacts including access roads and fencing. Table B-2 of the SEIR presents a breakdown of permanent project impacts as compared to the impacts presented in the 2010 Final EIR. The 2010 Final EIR did not include detailed impacts broken down by project component. However, that level of detail is not necessary to evaluate impacts associated with the Revised Project. The Draft SEIR includes a comparison between the components of the Final EIR Proposed Project and the Revised Project. Permanent disturbance to the site would result from construction roads, the substation and O&M facility, parking areas, equipment pads, and PV rack posts.
- D2-76 The commenter states that the grading areas portrayed in Figure B-4 are not accurate since the current grading of the land has not been analyzed. The location of the proposed grading areas shown on SEIR Figure B-4 was determined using the Light Detection and Ranging (LIDAR) topographic surveys of the project footprint and is the most accurate information available to assess impacts during the planning phase of the project. The proposed grading areas were designed by a Professional Engineer, specific to the project footprint and accurately reflect the proposed grading areas.
- D2-77 Please see Response D2-65 regarding the involvement of the CDFW and USFWS in reviewing project components and mitigation lands.
- D2-78 The commenter would like a further explanation regarding how the project site will be accessed once the switchyard location is established. The switching station will not block access to the rest of the site. New Vasquez Creek Road along with the other perimeter access road entrances shown on Figure B-3 will be utilized by O&M staff and security personnel and authorized guests.
- D2-79 The commenter suggests that all employees working on the project should be screened for presence on the child/sex offenders list due to the proximity of the site to the Panoche Elementary School. By contract, the construction contractor shall comply with all applicable labor and immigration Laws, including the Immigration Reform and Control Act of 1986 and Form I-9 requirements. Without limiting the generality of the foregoing, to the extent required by Applicable Law, Contractor shall perform all required employment eligibility and verification checks and maintain all required employment records.
- D2-80 Please see Response D2-61 regarding the distance of the project boundaries from Panoche Elementary School.
- D2-81 Please see Response D2-61 regarding the distance of the project boundaries from Panoche Elementary School. The County cannot reasonably prevent drivers of private vehicles from driving within 1,000 feet of the school, but as described in General Response GR-3, there will be increased law enforcement presence in the project area during construction.
- D2-82 The SEIR acknowledges that the traffic impacts and groundwater usage resulting from the Revised Project would be more severe than those of the Approved Project. How-

ever, they remain in the same CEQA classification that was defined in the 2010 EIR: less than significant with incorporation of recommended mitigation measures. As explained in Response D2-65, the CDFW and USFWS have had opportunities to comment on project alternatives.

- D2-83 The description of the Westlands CREZ Alternative was updated for the Draft SEIR, as was the description of the Distributed Generation Alternative. The Applicant has obtained a Power Purchase Agreement with Southern California Edison Company (SCE), so the generation from the Revised Project would be contributing to SCE's obligations to help meet California's Renewable Portfolio Standards.
- D2-84 As explained in Response D2-65, the CDFW and USFWS have had opportunities to comment on project alternatives. While no smaller project has been proposed in the Panoche Valley, it is reasonable to speculate that such a project could be developed, since the land and transmission capacity are both available.
- D2-85 As explained in Response D2-65, the CDFW and USFWS have had opportunities to comment on both the 2010 EIR and the 2014 Draft SEIR.
- D2-86 The commenter claims the 2010 Final EIR states the Project will be in operation for at least 20 years, but the Draft SEIR states the facility will be in operation for 30 years. Section B.9 was not updated for the SEIR. The commenter requests clarification on the life of the facility. The commenter also states that the decommissioning bond may need to be revised to reflect current costs.

With the exception of the switching station that will be owned and operated by PG&E, the solar facility is assumed to be in operation for 30 years. Section B.9 of the DSEIR states:

...The project would be in operation for at least 30 years, with the possibility of a subsequent re-powering of the project for additional years of operation. Upon its eventual decommissioning, whenever that occurs, the Applicant or its successor in interest would be responsible for the removal, recycling, or disposal of all solar arrays, inverters, transformers and other structures on the site. As stated in the 2010 Final EIR, the Switchyard would be owned and operated by PG&E, and decommissioning would occur per the utility specifications at the time.

The Applicant will update the decommissioning bond as appropriate to reflect the Project costs.