November 1, 2025

TO: County of Sacramento Board of Supervisors (submitted via email):

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RE: Coyote Creek Agrivoltaic Ranch Final Environmental Impact Report

Action Requested:

- **DENY CERTIFICATION OF THE FEIR**
- **DENY APPROVAL OF THE COYOTE CREEK AGRIVOLTAIC RANCH PROJECT**

Dear County of Sacramento Board of Supervisors,

California Four Wheel Drive Association (Cal4Wheel), American Sand Association (ASA), and BlueRibbon Coalition (BRC) (collectively: Organizations) are writing to provide public comment on the Coyote Creek Agrivoltaic Ranch Final Environmental Impact Report (the "FEIR").[1] Our Organizations collectively represent 100,000s of thousands of motorized off-highway vehicle (OHV) and non-motorized outdoor recreation enthusiasts, many of whom live near and/or recreate at the Prairie City SVRA (PCSVRA), which is located immediately north and west of the site proposed for the Coyote Creek Agrivoltaic Ranch (CCAR) solar project (the "Project"). This comment provided herein does not supplant the rights of other Cal4Wheel, ASA, and BRC agents, representatives, clubs, or individual members from submitting their own comments; the County of Sacramento should consider and appropriately respond to all comments received for the FEIR.

Our Organizations advocate the responsible use of public lands for the benefit of the general public and all recreationists by educating and empowering our members to secure, protect, and expand shared outdoor recreation access by working collaboratively with public land managers and other recreationists. Our members use OHVs of all forms, as well as other motorized methods, to enjoy federally and state managed public lands throughout California, including California State Parks dedicated to OHV use, such as PCSVRA. Cal4Wheel, ASA, and BRC members visit PCSVRA for motorized recreation, and to participate in non-motorized activities such as hiking, wildlife and nature study, camping, photography, dark sky celestial observation, and other similar pursuits on a frequent and regular basis throughout every season of the year. Additionally, our member clubs regularly host events for recreation, safety training, and gear testing purposes on PCSVRA. Our Organizations members and supporters have concrete, definite, and immediate plans to continue such activities at PCSVRA throughout the future.

For the reasons explained below and in our prior comments, **we urge the County Board of Supervisors (the "Board") to deny FEIR certification and reject the Project**.

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GENERAL COMMENTS

Should the Board approve the proposed Project, our Organizations members will be directly affected due to the Project's impacts on outdoor recreation at PCSVRA. In addition, due to its impacts on biological and other public trust resources, the Project will have a significant *indirect* effect on our Organizations members as well.

Our members subscribe to the tenets of:

- Public access to public lands now, and for all future generations
- Active stewardship to maintain conservation of public lands, and safety for those who enjoy them
- Conservation of ecological, cultural, and archeological resources in balance with implementation of the Congressional (federal) and Public Resource Code (state) mandates for multiple-use public land management
- Sharing our natural heritage

Our Organizations support the concept of managed recreation and believes it is prudent to identify areas where off-highway vehicle (OHV) use is appropriate. Recreation, especially recreation off of paved or gravel roads, is the leading cause of growth in visitors to public lands[2]. This is a longstanding trend, and it is critical to note, California has led the nation as the state with the highest percentage of population and number of participants in OHV recreation since 2008. The current valuation of the US OHV (off-highway vehicle) market is $10.8 billion to $11.9 billion[3], based on reports from 2024-2025. Projected growth will place the US OHV market at $21 billion by 2033. California represents more than 10% of the current $10.8 to $11.9 billion valuation. It is clear that public interest in OHV recreation is a dominant value and preferred mode of outdoor recreation for residents across the USA, and especially, in California.

CA State Parks manages 1.59 million acres of public land in California[4], encompassing 280 state parks. Within the state park system, only 9 of those 280 parks are State Vehicular Recreation Areas (SVRAs) that are dedicated to motorized recreation. The 9 SVRAs comprise 141,740 acres, which is less than 9% of the state park system. Outside of state parks, there are 48 million acres of federally managed public land in California. More than 50% of those 48 million acres are 100% closed to OHV access through designations that prioritize resource preservation over human use and access, including designations as Wilderness, Wilderness Study Areas, Roadless Conservation Areas, Areas of Critical Environmental Concern, National Conservation Areas, Wildlife Refuges, and similar categories of preservation-dominant classification. Additionally, large volumes of public land acreage have been eliminated from both motorized access and all public access due to the construction of utility-scale renewable energy (solar, wind, rare mineral extraction) projects. Within the remaining 50% of federally-managed public lands, the vast majority of OHV access is restricted to a continually shrinking set of designated routes. **Across the state of California, the 9 SVRAs comprise a mere 141,740 acres, thus representing a miniscule 0.2% of public lands that are designated for the purpose of OHV recreation.** These numbers are provided to demonstrate early in this discussion that the volume of state park land that is available for OHV recreation is an exceptionally tiny fraction of California's state parks and public lands. Thus, the 9 SVRAs that are open for OHV access are truly precious to OHV enthusiasts and the OHV industry.

California's public lands offer the primary source for the public to enjoy outdoor recreation. Reduction or elimination of public access to CA State Parks managed land thus bears the potential to increase user conflicts and resource damage by removing sufficient recreation access to public lands for all forms of recreation, including OHV. Additionally, degradation of the natural and cultural values of CA State Parks managed public lands diminishes the quality of the outdoor experience for our members, as well as the general public.

As currently written, the FEIR provides an imbalanced framework for solar project implementation that will directly, immediately, and severely impose negative impacts on PCSVRA and unnecessarily restrict, close, or degrade the value of public access to motorized recreation at PCSVRA. The County neglected to fulfill both legal and administrative requirements as stipulated by CEQA and California's Public Resource Code (PRC). The FEIR omits content specific to known conflicts between operation of a solar development, and operation of an existing OHV facility that is immediately adjacent to it. We thus call your attention to the fact that the FEIR is insufficient to ensure viable operation of PCSVRA for perpetuity.

Our Organizations have reviewed the FEIR and determined that it is deficient in the following areas:

1. Inadequate assessment of dust-related impacts, dust mitigation, and dust management
2. Project's glare impacts on the PCSVRA viewshed
3. Inadequate analysis of Project's hydrological/hydrogeological impacts
    - Inadequate analysis of Project's water usage
    - Improperly deferred mitigation for water usage impacts
4. Inadequate analysis of Project consistency with PCSVRA Wildlife Habitat Protection Plan
5. Failure to analyze Project impacts on the final adopted PCSVRA Road and Trails Management Plan
6. Inadequate analysis of Project potential to create traffic conflicts and public safety hazards
7. Inadequate analysis of Project's impacts on OHV recreation
8. Economic and social impacts
9. Inadequate mitigation of Project impacts on designated unit of State Parks system
10. Inadequate and artificially constrained alternatives analysis
11. Lack of enforceability of Developer–PCSVRA commitments, successor liability, and subsequent inadequacy of the Use Permit / FEIR
12. County of Sacramento legal obligations under PRC § 5090.24 and CEQA
13. Inadequate environmental baseline and cumulative impacts analysis for biological resources
14. Inadequate assessment of Project impacts on plants and animals covered under the California Endangered Species Act and the state's "fully protected" species statutes
15. Inadequate analysis of Project's impacts on rare and heritage oak woodlands
16. Inadequate analysis of Project's potential to cause solar panel "lake / mirage effect" and resultant impacts on birds
17. Inadequate analysis of impacts from Project-related blasting, grading, and land-leveling activities
18. Inadequate analysis of Project consistency with FAA regulations and aviation corridor safety requirements
19. Inadequate analysis of Project's consistency with Sacramento County Planning and Zoning Code and related local statutes
20. False assertion of government ownership of state-managed public lands

OVERVIEW OF LEGAL AND PROCEDURAL VIOLATIONS

The FEIR for the Coyote Creek Agrivoltaic Ranch Project is substantively and procedurally deficient under the California Environmental Quality Act[5] (CEQA) and other provisions of the California Public Resources Code[6] (PRC); California Endangered Species Act[7] (CESA); and Sacramento County Planning and Zoning Code[8]. Collectively, these deficiencies render the FEIR legally inadequate for certification and require the County to recirculate the DEIR for new public review before proceeding with project consideration.

CEQA Violations – Substantive and Procedural Defects

The FEIR fails to meet CEQA's foundational mandates for full disclosure, interagency consultation, and mitigation of significant environmental impacts. Major violations include:

- **Failure to Recirculate After Substantive Changes**: As outlined in *Master Response H* of the FEIR, numerous new analyses and mitigation revisions were introduced following public review. New analyses specifically concern dust management, visual glare, and traffic conflicts along Scott Road and White Rock Road (among other issues). These constitute *significant new information* under CEQA (Pub.Res. Code, §21092.1), requiring recirculation for additional public comment.
- **Inadequate Baseline and Cumulative Analysis**: The FEIR lacks a defensible environmental baseline for biological resources and water supply; which is contrary to CEQA Guidelines §15125(a) and §15130. The omission of cumulative effects violates CEQA's requirement to assess reasonably foreseeable impacts.
- **Deferred and Non-Enforceable Mitigation**: Mitigation measures for dust, glare, and water usage rely on deferred future plans rather than specific performance standards, directly violating CEQA Guidelines §15126.4(a) and case law.
- **Failure to Consult with Affected State Agencies and Tribes**: The County failed to notify or coordinate with the California Off-Highway Motor Vehicle Recreation (OHMVR) Commission, as well as with tribal governments possessing cultural resource interests within the project area, violating CEQA Guidelines §§15086 and 15064.5(b).

Violations of Off-Highway Motor Vehicle Recreation Act of 2003 (Public Resources Code §§ 5090.01, et seq.)

The FEIR and County process contravene PRC §5090.24(a) and (c)[9], which mandate interagency coordination and public hearings for projects that may affect State Vehicular Recreation Areas (SVRAs). Despite direct adjacency to Prairie City SVRA, Sacramento County failed to:

- Notify or consult the OHMVR Commission
- Conduct a publicly noticed hearing before the Commission

This omission represents a substantive violation of state law designed to protect SVRAs from incompatible adjacent development. As documented by Cal4Wheel in DEIR public comments and public comments to the Sacramento County Planning Commission, no hearing or consultation occurred throughout the DEIR or FEIR phases of plan development, despite repeated public requests.

Further violations occur under PRC §§5090.35 and 5090.39, where the County failed to assess increased resource management burdens imposed on PCSVRA resulting from adjacent habitat destruction.

Violations of the California Endangered Species Act (CESA) (Cal.Fish & Game Code, §§ 2050, et seq.)

The FEIR's biological resources section fails to adequately identify, evaluate, or mitigate impacts to state-listed species, including Swainson's hawk (Buteo swainsoni), burrowing owl (Athene cunicularia), and western pond turtle (Actinemys marmorata), among other CESA species. The lack of site-specific survey data and enforceable mitigation conflicts with Fish & Game Code §§2053 and 2081[7], which prohibit project approval resulting in take of state-listed species absent an incidental take permit. The County's

reliance on generalized habitat descriptions and deferred survey commitments fails to satisfy both CEQA and CESA standards, leaving the project vulnerable to enforcement and litigation.

Violations of Sacramento County Planning and Zoning Code

The FEIR conflicts with multiple provisions of the Sacramento County General Plan and Zoning Code, particularly those requiring environmental compatibility and protection of public recreation resources:

- **Land Use Element** (Policies LU-9, LU-10, LU-115[10]) – requiring that major infrastructure avoid adverse effects on state-managed parks and recreation facilities
- **Recreation Element** (Policies REC-1, REC-3[11]) – mandating the preservation of recreational lands and avoidance of use conflicts
- **Economic Development Element** (Policies ED-1, ED-3[12]) – requiring protection of established recreation-based economic assets such as PCSVRA
- **Conservation Element** (Policies CO-41, CO-44[12]) – requiring avoidance of significant impacts to biological and visual resources adjacent to open space lands

The County's failure to demonstrate consistency with these adopted policies represents a direct violation of Sacramento County Code §1.2.4[8], which mandates conformity between project approvals and the General Plan.

Legal Implications

Taken together, the County's disregard of CEQA, PRC, CESA, and local planning requirements establishes a clear record of legal insufficiency. The FEIR's failure to disclose, analyze, and mitigate foreseeable impacts to Prairie City SVRA, sensitive biological resources, and public safety constitutes a procedural and substantive violation of environmental law. The County must therefore:

1. **Withhold certification of the FEIR**,
2. **Recirculate a revised DEIR for public comment** incorporating required analyses and agency consultations, and
3. **Hold a formal, publicly-noticed hearing before the OHMVR Commission**, as required by PRC §5090.24(c).

Failure to remedy these deficiencies before certification exposes the County to litigation under CEQA and PRC, and undermines the integrity of environmental and recreational resource protection across Sacramento County.

INADEQUATE ASSESSMENT OF DUST-RELATED IMPACTS, DUST MITIGATION, AND DUST MANAGEMENT

In response to public comments on the DEIR specific to dust mitigation and management, the County has introduced and relied on post-DEIR material, new analyses, and mitigation/design revisions to shore up the FEIR's dust impact and mitigation assessment. This new information is substantial and should be attached to a recirculated DEIR where the public and review and evaluate it. CEQA requires recirculation when significant new information is added to an EIR after public notice of a DEIR but before certification. (Pub. Res. Code §21092.1; CEQA Guidelines §15088.5) "Information" includes project changes, added data, or analyses that deprive the public of a meaningful opportunity to comment.

In the FEIR, the County added new material that reframed the Project's impacts on dust and on the adjacent PCSVRA, including:

- A new *Prairie City SVRA Consistency Analysis Memorandum* (FEIR Appendix A, dated June 5, 2025), addressing how design changes and coordination with State Parks would purportedly avoid or minimize conflicts inside PCSVRA. Topics include air quality/dust compatibility and operational interface. This memorandum did not accompany the DEIR.
- Master Responses in Chapter 20 that consolidate and resolve numerous dust-related comments by directing readers to global answers (for example: "Refer to Master Response I") rather than augmenting the analysis in the DEIR. The Chapter 20 record shows repeated dust/PCSVRA concerns that the FEIR addressed through new narrative rather than through recirculated technical analysis.

Because the new Appendix A and the Master Responses present information a reasonable person would consider important in evaluating dust generation, deposition on solar panels, and cross-boundary conflicts with an existing OHV recreation facility, the County was required to recirculate per Guidelines §15088.5(a)–(b). Failure to recirculate is a per se procedural violation.

Additionally, the FEIR relies on deferred and non-enforceable dust mitigation, contrary to CEQA. CEQA mandates that mitigation be *fully enforceable* and supported by *specific performance standards*; agencies may not defer the formulation of mitigation without those standards and feasible implementation steps as stipulated in Guidelines §15126.4(a)(1)(B), (a)(2). Courts repeatedly reject "plan later" or "study later" provisions that lack objective performance criteria as demonstrated in *San Joaquin Raptor Rescue Center v. County of Merced*, 149 Cal.App.4th 645 (2007)[13], where the court invalidated an EIR because the lead agency deferred key mitigation and relied on later plans.

The FEIR addresses dust control primarily through AQ-2a (construction BMPs), AQ-2b (Tier 4 equipment), AQ-2c (a later "Construction Emissions Control Plan"), AQ-2d (pay-to-mitigate off-site fees), and AQ-2e (operational BMPs). Yet the measures are framed as checklists and future planning obligations rather than outcome-based caps linked to monitoring and adaptive triggers. The measures also rely on later SMAQMD fee calculations (AQ-2d) without identifying the quantitative performance standards that will verify on-site dust minimization before resorting to off-site offsets. As such, fees are used as a substitute for on-site dust control performance. That approach conflicts with Guidelines §15126.4(a)(2).

For this reason, the FEIR's applies applicable dust regulations incorrectly and/or incompletely. SMAQMD Rule 403[14] requires "every reasonable precaution" so that fugitive dust does not become airborne beyond the property line (construction, grading, travel on unpaved roads, etc.). The FEIR never translates Rule 403's legal obligations into measurable, enforceable conditions with monitoring and corrective action. Nor does it reconcile Rule 403 with an explicit project request to deviate from the County's surfacing standard (dirt in place of the Sacramento County Zoning Code's gravel-surfacing requirement), which obviously increases fugitive dust risk and enforcement difficulty.

By not aligning mitigation with Rule 403's no-beyond-property-line standard (such as explicit opacity or fence-line PM metrics, independent monitoring, work stoppage/abatement triggers), the FEIR violates CEQA's requirement to disclose and commit to *feasible* mitigation capable of avoiding or substantially lessening the impact per Guidelines §15126.4(a)(1).

Post-DEIR responses acknowledge dust/PCSVRA conflicts but substitute narrative for analysis. The FEIR's Response-to-Comments chapter documents repeated public concerns that windborne dust from construction/operations could affect PCSVRA and that costs/liabilities might be shifted to the OHV Trust Fund. Rather than updating the DEIR's air analysis with new modeling, fence-line standards, or a PCSVRA-specific Dust Control Plan, responses repeatedly direct commenters to "Master Response I" or to specific response numbers, while adding Appendix A (a new June 5, 2025 memo). That is the very scenario Guidelines §15088.5 was designed to prevent: the public did not have a chance to review and comment on the *new* information and design refinements that purportedly resolve dust conflicts with PCSVRA.

Furthermore, the County's own record shows the DEIR's dust analysis was materially changed but not recirculated. The DEIR identifies the suite of AQ-2 measures and acknowledges PM exceedances absent mitigation; the FEIR relies on the same framework yet introduces new coordination/design materials (Appendix A) and global Master Responses to address dust conflict points raised during public review (including dust deposition on panels, wind patterns, PCSVRA interface, and responsibility for mitigation). Those additions are "significant new information" because they would have elicited specific public comment on dust performance standards, monitoring, and enforceable inter-agency commitments, especially given the requested deviation from County surfacing standards.

As remedy, it is imperative for the County to:

- **Recirculate** t**he DEIR with the new Appendix A material and any dust-related design/coordination refinements, and, supply a PCSVRA-specific dust management and mitigation plan** that:
    - Commits to Rule 403 compliance with objective performance standards
    - Includes third-party monitoring, real-time reporting, and automatic work-stoppage/abatement triggers
    - Prohibits explicitly any fiscal reliance on PCSVRA or the OHV Trust Fund for dust mitigation
- **Withdraw the surfacing deviation and require gravel-surfaced travel ways** consistent with County code, or demonstrate equivalent or better dust performance with binding standards and independent verification
- **Replace fee-based offsets (AQ-2d) as a dust remedy with enforceable, on-site dust performance standards and project-level mitigation** as required by CEQA; fees do not prove on-site dust is reduced to less-than-significant levels

PROJECT'S GLARE IMPACTS ON THE PCSVRA VIEWSHED

After the DEIR circulation closed, the County added new analyses, master responses, and design/mitigation revisions that alter the glare and broader visual-resources picture. Despite this, however, the County but did not recirculate the EIR as CEQA requires. The record again shows reliance on narrative "master responses" rather than enforceable, performance-based mitigation; failure to ground glare conclusions in a defensible baseline and receptor-specific analysis (including on-site OHV users at PCSVRA); and inconsistency with County design and policy standards.

The FEIR's Response to Comments chapter repeatedly channels aesthetic/visual objections to "Master Response N" and acknowledges the Project's "significant and unavoidable" scenic impacts as viewed from Prairie City SVRA – this is a crucial vantage from which glare and glint effects are a critical matter for rider safety and visitor experience. These are substantive FEIR additions that reframe the analysis and

resolution of visual effects post-DEIR. The County's project page also shows the DEIR Appendix AE-2 – Glare Report as a technical underpinning, but the FEIR relies on new, consolidating master responses and planning/design refinements to answer glare concerns rather than recirculating a revised technical analysis. the FEIR adds master responses and narrative/coordination materials that a reasonable person *would* want to comment on… especially as they bear on PCSVRA users' direct line-of-sight and potential glare interference. The County was required to recirculate under Guidelines §15088.5 and Public Resources Code §21092.1 before certification. Its failure to do so is a per se procedural violation.

On this issue, the FEIR again substitutes narrative for analysis and lacks a defensible glare baseline and receptor-specific evaluation. CEQA requires a stable, accurate baseline (Guidelines §15125) and good-faith, reasoned analysis (Guidelines §15151). For visual/glare, that means identifying sensitive receptors (including OHV riders, spectators, staff within the SVRA), view angles, panel elevation/tilt, AR coating assumptions, soiling/cleaning states, seasonal sun paths, wind/dust conditions, and safety-critical views (IE: track approaches, spectator berms, control towers). The County is required to analyze both indirect and cumulative effects (Guidelines §15126.2, §15130).

Public comments on the DEIR raised concerns regarding the Project's visual impacts to the PCSVRA viewshed, as well as the Project's potential to create significant intrusive glare that impedes the safety of OHV riders and the general public who recreate within PCSVRA. Rather than updating the DEIR's glare analysis with receptor-specific modeling and performance thresholds, the County repeatedly directs commenters to **"**Master Response N" - a consolidated narrative that does not substitute for new technical analysis nor provide testable performance standards. The FEIR explicitly concedes significant and unavoidable scenic impacts as seen from PCSVRA. The issues of PV glare and viewshed degradation both require focused analysis and enforceable measures, not generalized aesthetics prose. By failing to produce a comprehensive receptor-specific glare analysis for PCSVRA users and all elevated vantage points throughout the State Park unit, and by relying on master responses instead of recirculated technical work, the FEIR violates §§15125, 15126.2, and 15151, and undermines informed public review.

The FEIR relies on deferred/non-enforceable glare mitigation, which is contrary to CEQA. Mitigation must be specific, enforceable, and tied to objective performance standards; agencies may not "plan to plan" mitigation. (Guidelines §15126.4(a)(1)(B), (a)(2).) CEQA case law rejects deferred mitigation lacking measurable triggers and monitoring (*San Joaquin Raptor Rescue Center v. County of Merced*, 149 Cal.App.4th 645 (2007)).

To the extent the FEIR relies on generalized measures (such as panel finish, landscaping, setbacks, edge treatments, or future "coordination" with State Parks) to address glare and visual spillover, it does not translate them into quantified glare performance metrics (IE: maximum acceptable luminance/"glint" duration at named SVRA viewpoints; seasonal worst-case sun angles; visibility thresholds for track users). Nor does it adopt independent monitoring and automatic work-stoppage/corrective triggers if thresholds are exceeded. Re-routing commenters to "Master Response N" confirms once again that the County used narrative in place of enforceable, performance-based commitments. This is a CEQA violation via deferral under Guidelines §15126.4.

Additionally, the FEIR is inconsistent with the County's policy and planning code governing visual quality and design review. The County's Countywide Design Guidelines[15] and Design Review framework oblige applicants to minimize adverse visual effects (including glare) on adjacent public spaces through siting, screening, and materials selection; projects must demonstrate substantial compliance with these guidelines during design review. The County's project page confirms this project requires a Design Review to determine substantial compliance with the Countywide Design Guidelines.

The FEIR concedes significant and unavoidable scenic impacts from PCSVRA viewpoints and never ties design revisions to measurable, enforceable glare outcomes for those public vantage points. This creates a blatant conflict with design policies that call for reducing light/glare and visually integrating large infrastructure adjacent to public recreation lands. Cal4Wheel's comments to the Sacramento County Planning Commission addressed persistent conflicts with County visual policy – conflicts that the Planning Commission opted to ignore. In order to avoid litigation culpability, it is imperative that the County Board of Supervisors must not repeat this procedural error by ignoring those conflicts once again.

The County's own FEIR record shows a post-DEIR shift on Visual/Glare, which was handled via Master Responses instead of recirculation. The Response to Comments chapter lists dozens of instances where the County tells commenters to "Refer to Master Response N," while repeating the DEIR's admission of significant and unavoidable scenic impacts from PCSVRA. This is precisely the type of post-circulation consolidation and "new information" that triggers recirculation when it bears on impact conclusions or mitigation feasibility. PCSVRA-facing visual hazards (glare/glint) were not resolved with enforceable mitigation, further demanding the recirculation imperative.

There are additional conflicts and planning considerations that the County must resolve:

- **Inconsistency with State Park planning:** PCSVRA's General Plan[16] emphasizes the protection of visitor experiences and scenic/open-space context of the SVRA; the FEIR's "significant and unavoidable" admission paired with non-enforceable glare controls is inconsistent with that planning framework.
- **Cumulative Aesthetics/Glare:** The FEIR does not robustly analyze cumulative view and glare effects considering other regional infrastructure and growth pressures identified publicly (aesthetics, Guidelines, §15130). Public comments on the DEIR, in County public meetings, as well as County testimony underscore the scale of visual change at the SVRA boundary.

The FEIR's post-DEIR handling of visual glare via master responses, revised narrative, and non-enforceable design gestures required recirculation and fails CEQA's mandates for rigorous disclosure and enforceable mitigation. Until these defects are cured, certification of the FEIR would be unlawful.

INADEQUATE ANALYSIS OF PROJECT'S HYDROLOGICAL/HYDROGEOLOGICAL IMPACTS

The FEIR relies on deferred, unenforceable measures to mitigate the Project's significant water usage effects and fails to conduct a substantive analysis of the project's cumulative and site-specific hydrological impacts. These omissions include inadequate disclosure of effects on groundwater recharge and depletion, unexamined interactions with the Aerojet Superfund groundwater plume, and unmitigated consequences to the Coyote Creek and Deer Creek watersheds, both of which support regionally significant ecological systems and public water resources. The FEIR's reliance on post-approval planning to address these issues violates CEQA Guidelines §15126.4(a)(1)(B), PRC §21081.6(b), and established California case law, which require that environmental mitigation measures be fully defined, enforceable, and accompanied by measurable performance standards prior to project approval.

The FEIR identifies water supply and usage as an issue requiring mitigation but fails to establish quantifiable, enforceable performance criteria. Instead, it defers development of a future "Water Supply and Management Plan" to be prepared after project approval; this is an unlawful approach under CEQA. Under CEQA Guidelines §15126.4(a)(1)(B), deferred mitigation is permissible only when:

1. Specific performance standards are set, and
2. An explicit commitment to those standards is made prior to project approval.

The FEIR fails both prongs. The proposed mitigation measures for water usage merely state that the applicant "shall prepare a water management plan in coordination with County Environmental Management staff" to minimize drawdown and avoid conflicts with local wells. No groundwater modeling, recharge rate data, or cumulative demand analysis is provided. The measure contains no performance thresholds for maximum groundwater extraction, no timeline for implementation, no identified monitoring entity, and no penalty or corrective mechanism for noncompliance. This violates the principles established in *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, where the court held that mitigation plans developed post-approval, without binding standards or quantified limits, fail to satisfy CEQA's disclosure and enforceability requirements. Likewise, *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70[17] confirmed that vague commitments to future plans do not constitute lawful mitigation.

The proposed Project will disturb approximately 2,700 acres of permeable soil in the Coyote Creek watershed, replacing it with compacted roadbeds, solar panel foundations, and battery storage infrastructure. Yet the FEIR provides no analysis of reduced groundwater recharge capacity or associated impacts on the Coyote Creek and Deer Creek hydrologic systems, both of which contribute to the Cosumnes River basin aquifer system.

Multiple public comments on the DEIR brought these issues to the Count's attention. The project site overlies an area of active groundwater recharge that supports both domestic wells and surface riparian systems. The FEIR's hydrology section fails to model infiltration loss or to quantify changes in evapotranspiration and surface runoff from the newly impervious surfaces. These deficiencies directly violate CEQA Guidelines §15125(a) and §15126.2(a), which require an accurate baseline and full disclosure of reasonably foreseeable indirect physical changes to the environment.
Moreover, the FEIR's assumption that "water usage will be minimal following construction" is not supported by evidence. Cleaning and dust suppression for utility-scale photovoltaic arrays, particularly in dry Sacramento County summer months, require substantial recurring water consumption, estimated at 20,000–40,000 gallons per MW per year for projects of comparable size. The County's failure to provide these calculations or identify the water source renders its "less than significant" finding arbitrary and unsupported by substantial evidence, violating PRC §21081.5 and Guidelines §15151.

The FEIR additionally failed to analyze the Project's potential to compromise contaminant mobilization from the Aerojet Plume. The project site lies within the hydrologic influence of the Aerojet Rocketdyne Superfund site, where groundwater contamination from trichloroethylene (TCE), perchlorate, and other solvents has been documented migrating westward toward the Lower American River and Rancho Cordova aquifers. The U.S. EPA and California Department of Toxic Substances Control (DTSC) have ongoing remedial actions to contain the Aerojet plume, which extends within proximity to the Coyote Creek drainage basin. Despite this known hazard, the FEIR fails to analyze whether:

- Groundwater extraction for project construction, dust mitigation, and solar panel cleaning could alter hydraulic gradients that influence contaminant migration;
- Construction excavation and grading could intersect contaminated shallow groundwater zones; and
- Recharge reduction from soil compaction could affect the hydrostatic balance maintaining containment of the Aerojet plume.

By failing to include a hydrogeologic model or interagency consultation with DTSC, EPA Region IX, or California Water Resources Control Board, Sacramento County violated CEQA Guidelines §15086(a) (consultation with responsible agencies) and §15161 (requirement for complete and reasoned analysis of environmental effects). This omission is procedurally identical to the CEQA violation identified in *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184[18], where the court invalidated an EIR for failure to evaluate water supply contamination risks and the adequacy of mitigation for known hazardous groundwater conditions.

Throughout the environmental analysis conducted for this project, cumulative watershed impacts were not addressed. CEQA requires the County to consider the cumulative effects of the project in conjunction with other foreseeable regional developments (Guidelines §15130). The FEIR fails to evaluate cumulative watershed impacts arising from other utility-scale solar and industrial projects along the Capital Southeast Connector corridor, ongoing urban expansion in Rancho Cordova and Folsom, and groundwater extraction for adjacent agricultural and construction operations. These cumulative effects increase sedimentation, stormwater runoff, and pollutant loading into Coyote Creek, which eventually connects with the Cosumnes River, a recognized Wild and Scenic River tributary under the state's Natural and Scenic Rivers System (PRC §5093.50 et seq.). Failure to account for hydrologic cumulative effects contradicts Sacramento County General Plan Policy CO-50, which requires that "development shall maintain the natural hydrologic functions of watersheds" and "protect groundwater recharge areas." By failing to demonstrate such consistency, the County's FEIR violates Sacramento County Zoning Code §1.2.4, which prohibits project approvals inconsistent with the General Plan.

Unfortunately, the County has demonstrated inadequate response to public and agency comments. Multiple DEIR comment letters, including those from Cal4Wheel, ECOS Sacramento, and private experts, specifically requested that the County:

1. Quantify construction and operational water use
2. Identify the source of non-potable water for dust suppression
3. Analyze impacts to the Aerojet plume
4. Evaluate downstream hydrologic and ecological effects on Coyote Creek

The County's FEIR failed to incorporate or respond meaningfully to these comments, instead issuing general statements that "water usage will be addressed in subsequent design and operational plans" and "impacts are not expected to be significant." This "trust us later" approach violates CEQA Guidelines §15088(c), which requires "good faith, reasoned analysis" in responses to comments. Courts have consistently found such cursory responses unlawful, including in *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502[19], where the California Supreme Court held that an EIR must provide specific, evidence-based responses to environmental concerns raised in the record. The County's dismissal of public input here mirrors that procedural deficiency.

The FEIR's reliance on deferred water management planning also contravenes:

- Sacramento County General Plan Policy CO-52, which mandates that "major development projects shall demonstrate sustainable water use and avoid overdraft of groundwater basins."
- State Water Resources Control Board Resolution No. 2019-0015, directing agencies to protect and enhance groundwater recharge zones and minimize impervious coverage.

- California Water Code §106.3(a), which establishes that "every human being has the right to safe, clean, affordable, and accessible water," thereby requiring that local approvals avoid contaminating or diminishing shared aquifers.

The County's failure to integrate these policy directives or conduct hydrologic modeling to demonstrate compliance renders the FEIR inconsistent with both local and state law. To bring the project into legal compliance, Sacramento County must:

1. **Recirculate the DEIR with a complete hydrologic analysis that:**
    - **Quantifies total water demand for construction, operation, and maintenance;**
    - **Identifies the precise water source(s) and delivery infrastructure; and**
    - **Models groundwater drawdown, recharge, and pollutant migration impacts (including Aerojet plume dynamics).**
2. **Establish enforceable performance standards for water use and quality, including:**
    - **Maximum allowable extraction volumes;**
    - **Monitoring and reporting protocols; and**
    - **Mitigation triggers for adaptive management or cessation of use.**
3. **Conduct formal interagency consultation with DTSC, EPA, and the Central Valley Regional Water Quality Control Board to evaluate plume migration risk and water quality degradation.**
4. **Revise mitigation measures to require that the Water Supply and Management Plan be prepared, approved, and publicly reviewed before any project approval or grading permit issuance.**

The FEIR's treatment of water resource impacts represents a textbook violation of CEQA's core mandates for transparency, enforceability, and interagency coordination. The County's decision to defer water mitigation until after project approval (without measurable standards, monitoring, or analysis of plume and watershed interactions) renders the environmental review process procedurally defective and substantively incomplete. By ignoring foreseeable hydrological risks, cumulative watershed effects, and the ongoing contamination threat posed by the Aerojet plume, Sacramento County has failed to proceed in the manner required by law (PRC §21168.5). Until the County recirculates a revised and fully compliant EIR, certification of the FEIR and project approval would constitute a violation of CEQA, PRC, and the Sacramento County General Plan.

INADEQUATE ANALYSIS OF PROJECT CONSISTENCY WITH PCSVRA WILDLIFE HABITAT PROTECTION PLAN

The FEIR fails to ensure Project consistency with the PCSVRA Wildlife Habitat Protection Plan[20] (WHPP), nor does it analyze the resultant ecological and regulatory impacts of wildlife displacement, habitat fragmentation, and disruption of a regionally important wildlife corridor that connects Deer Creek Hills Preserve, Coyote Creek, and Prairie City SVRA. The EIR's failure to analyze this impact constitutes a substantive violation of CEQA, California Public Resources Code §5090.35 and §5090.39, and multiple Sacramento County General Plan policies protecting ecological connectivity, open-space conservation, and wildlife migration corridors.

CEQA requires that the FEIR assess the Project's consistency with adopted Resource Management Plans. Under CEQA Guidelines §15125(d), an EIR must discuss the project's consistency with "applicable plans, policies, and regulations adopted for the purpose of avoiding or mitigating an environmental effect." PCSVRA's WHPP, an enforceable management document prepared under California Public Resources

Code §5090.35(d), is exactly such a plan. It is a statutory requirement under the Off-Highway Motor Vehicle Recreation Act of 2003, obligating each SVRA to maintain and enhance habitat for wildlife and plant species, including those with special-status designations.

By omitting any discussion of the WHPP, the FEIR fails to evaluate whether the Project's construction and operation would:

- Fragment or displace wildlife populations managed under the WHPP;
- Impede migration corridors identified as critical in the WHPP's habitat connectivity mapping; or
- Undermine ongoing state conservation obligations under PRC §5090.39(b)(2), which directs the California State Parks Department to manage SVRAs for both recreation and conservation purposes in balance.

In *Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal.App.4th 859[21], the court held that failure to evaluate consistency with a legally adopted habitat management plan constituted a CEQA violation because it deprived decision-makers and the public of critical information needed to assess resource conflicts. The same standard applies here.

The EIR fails to evaluate the Project's impacts on regional wildlife corridors, wildlife movement, and habitat connectivity between Deer Creek Hills Preserve, Coyote Creek riparian corridor, and PCSVRA. This is a CEQA violation. Multiple public comments have called the County's attention to the fact that the project area is a regionally critical wildlife corridor. In fact, the Project site bisects the only remaining open-space linkage between the Sierra foothills and the lower Cosumnes River watershed. Construction of a 2,700-acre solar and battery complex with security fencing, lighting, and large substation infrastructure will effectively create an impermeable barrier to wildlife movement.

The County's omission of this analysis violates CEQA Guidelines §15126.2(a), which mandates that an EIR must evaluate both direct and reasonably foreseeable indirect physical changes in the environment, including barriers to movement and habitat fragmentation. Furthermore, CEQA Appendix G, Section IV(a) requires explicit analysis of whether a project would "impede the use of wildlife corridors or substantially interfere with the movement of native species."

The County has ignored both scientific and public record evidence. The PCSVRA WHPP clearly identifies the park as a "regional refuge" for migratory and resident wildlife displaced by suburban growth and infrastructure projects surrounding Rancho Cordova and Folsom. Deer Creek Hills Preserve, managed by the Sacramento Valley Conservancy, supports extensive grassland, riparian, and oak woodland habitats that funnel wildlife movement westward into the PCSVRA open-space matrix. The Coyote Creek corridor, which traverses the northern portion of the solar project area, has been repeatedly cited by ECOS Sacramento and the Habitat 2020 Coalition as a crucial ecological linkage supporting migratory birds, bobcats, coyotes, deer, and raptors (among other species). The FEIR's failure to address or even mention these connectivity functions is a direct violation of CEQA §21083(b) and Guidelines §15125(a) requiring the establishment of an accurate and stable environmental baseline.

This places an unreasonable and legally deficient encumbrance on PCSVRA, as the project exacerbates pressure on PCSVRA to absorb habitat and conservation burdens. By converting 2,700 acres of open grassland habitat adjacent to Prairie City SVRA into a fenced industrial solar and battery storage facility, the project will displace wildlife populations into the SVRA's limited habitat zones. This outcome directly undermines the intent of the Off-Highway Motor Vehicle Recreation Act (PRC §§5090.35–5090.39), which mandates that State Vehicular Recreation Areas be managed for balanced resource protection and

recreation, not as regional wildlife refuges. The FEIR's silence on this issue shifts the regional conservation burden onto PCSVRA, effectively compelling the SVRA's WHPP to serve as the sole mitigation mechanism for displaced wildlife from the project area – this constitutes a legally indefensible outcome.

- PRC §5090.39(b)(2) prohibits actions that impair an SVRA's ability to maintain its designated recreation and conservation balance.
- CEQA Guidelines §15065(a)(1) requires a finding of significance where a project "has the potential to substantially degrade the quality of the environment or reduce the habitat of fish or wildlife species."
- The County's failure to evaluate this pressure on PCSVRA constitutes a violation of both CEQA and Public Resources Code §5090.24(a), which requires interagency coordination to maintain the "long-term viability of lands within the SVRA system."

In addition, the CCAR Project is inconsistent with Sacramento County General Plan and Open Space Policies. The County's General Plan Conservation and Open Space Elements require preservation of wildlife corridors and avoidance of habitat fragmentation:

- Policy CO-59: "Identify and protect regional wildlife movement corridors that connect large habitat areas."
- Policy CO-60: "Discourage development that would disrupt or fragment existing wildlife corridors."
- Policy LU-115: "Protect the ecological integrity of natural open-space areas adjacent to public parks and preserves."

By ignoring the Project site's role as a wildlife linkage between Deer Creek Hills, Coyote Creek, and PCSVRA, the FEIR fails to demonstrate consistency with these binding policies, violating Sacramento County Zoning Code §1.2.4, which prohibits approvals that conflict with adopted General Plan provisions. By willfully failing to analyze an inconsistency with the PCSVRA WHPP, the County is slow walking themselves into a litigation landmine. *San Francisco Planning and Urban Research Assn. v. City and County of San Francisco* (2023) 87 Cal.App.5th 703[22] affirmed that failure to evaluate plan consistency is a procedural error that renders an EIR deficient.

With this gross failure, the County chose not to respond to substantive public and agency comments on the issue. Public comments from Cal4Wheel, ECOS Sacramento, and private citizens (as referenced in County records and the FEIR's Response to Comments) specifically identified the absence of wildlife corridor analysis and the need to ensure consistency with the PCSVRA WHPP. Rather than conducting the required technical study or adding new analysis, the County's FEIR Master Response I dismisses concerns about PCSVRA environmental impacts and instead defers to existing mitigation commitments… none of which address habitat connectivity. This constitutes a failure of CEQA Guidelines §15088(c), which mandates "good faith, reasoned analysis" in responses to comments. The County's reliance on conclusory statements that "project-level mitigation will address potential biological resource conflicts" without producing a wildlife corridor connectivity analysis mirrors the procedural defect found unlawful in *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, where generalized assurances of mitigation were deemed inadequate.

After DEIR publication, the County received multiple comments identifying the regional wildlife corridor function of the Project site and its proximity to the PCSVRA WHPP management area. However, the FEIR introduced no corresponding new analysis, no interagency consultation, and no revisions to mitigation or findings. Under CEQA Guidelines §15088.5(a), omission of an analysis that would reveal new or

substantially more severe impacts constitutes “significant new information.” The County’s refusal to recirculate the EIR following these revelations violates PRC §21092.1 and undermines the procedural integrity of the environmental review process.

As remedy, **to bring the environmental review into compliance with CEQA, the County must:**

1. **Recirculate the DEIR with a complete biological and wildlife connectivity analysis, including consistency review against the Prairie City SVRA WHPP, Deer Creek Hills Preserve management plans, and regional Habitat Conservation Plans.**
2. **Prepare a Wildlife Corridor Impact Assessment mapping pre- and post-project movement pathways, barrier fencing effects, and mitigation opportunities (including wildlife undercrossings, corridor easements, and habitat offsets).**
3. **Conduct formal consultation with the California Department of Parks and Recreation and the OHMVR Division, as required by PRC §5090.24(a) and §5090.24(c).**
4. **Adopt enforceable mitigation measures that include:**
    - **Permanent wildlife corridor easements, that meet CDFW standards, connecting Deer Creek Preserve and PCSVRA;**
    - **Removal or redesign of perimeter fencing to allow wildlife permeability; and**
    - **Habitat restoration, monitoring, and adaptive management funded by the project proponent.**

Until these steps are completed, the FEIR remains procedurally and substantively inadequate and cannot lawfully be certified.

The County’s failure to analyze and ensure consistency with the Prairie City SVRA Wildlife Habitat Protection Plan and its omission of wildlife corridor, habitat displacement, and ecological pressure impacts constitute major violations of CEQA, Public Resources Code §5090.24 and §5090.39, and Sacramento County’s own planning policies. The FEIR’s silence on these issues undermines the integrity of state-mandated conservation management for SVRAs and deprives the public of its right to an informed environmental review. The County must therefore withdraw the FEIR, recirculate a revised DEIR, and reinitiate consultation with State Parks and regional conservation stakeholders before proceeding to certification or project approval. The FEIR’s complete omission of required analysis under the Prairie City SVRA WHPP and its disregard for regional wildlife connectivity renders the document legally indefensible and its certification unlawful under CEQA.

FAILURE TO ANALYZE PROJECT IMPACTS ON THE FINAL ADOPTED PCSVRA ROAD AND TRAILS MANAGEMENT PLAN

The FEIR fails to evaluate the project’s consistency with the final, adopted version of the PCSVRA Road and Trails Management Plan (RTMP), adopted by California State Parks in December 2024. Instead, the FEIR relies on an earlier draft RTMP prepared prior to adoption. This reliance on outdated and superseded planning information constitutes a significant legal and procedural deficiency under CEQA and related Sacramento County planning requirements.

Within Appendix A – Prairie City SVRA Consistency Analysis, the FEIR references the RTMP generically and reproduces excerpts describing the project as one that State Parks “is currently considering.” This phrasing clearly indicates reliance on the *draft RTMP* circulated in early 2024, not the finalized version adopted later that year. The FEIR contains no citation to the December 2024 adoption date, no reference to the Notice of Determination filed by California State Parks, and no indication that the final RTMP, now

the operative management plan governing PCSVRA, was analyzed for consistency. The FEIR's Table SI-6 and Appendix A omit any acknowledgment that the RTMP had progressed beyond the draft stage. Consequently, the FEIR's assessment of the project's consistency with PCSVRA management objectives, road and trail alignments, and long-term recreational infrastructure policies is based on an obsolete planning document.

This omission is not a clerical oversight; it is a substantive legal failure. CEQA Guidelines §15125(d) explicitly require an EIR to describe the project's relationship to "applicable plans and policies." The "applicable" plan for Prairie City SVRA at the time of FEIR certification was the *adopted* RTMP, not the draft. Reliance on an outdated plan deprives the EIR of substantial evidence supporting its conclusions and renders its findings of consistency invalid. Courts have consistently held that agencies must analyze a project's effects in the context of current adopted policy frameworks, not speculative or outdated drafts. An EIR that bases its analysis on superseded documents fails the fundamental CEQA standard of providing an "accurate, stable, and finite" project description and setting analysis.

Further, CEQA Guidelines §15124(b) requires that the environmental setting reflect "conditions as they exist at the time of the notice of preparation," or as updated by "realistic foreseeable conditions." The adoption of the final RTMP in December 2024 materially altered the regulatory and management landscape governing roads, trails, habitat connectivity, and event operations at PCSVRA. These modifications represent the *current environmental and policy setting*, and the FEIR's failure to integrate those updates means the analysis is outdated and unsupported by substantial evidence.

This flaw also violates Sacramento County's General Plan Policies CO-60 and LU-120, which require consistency analyses between new projects and the management plans of adjacent open-space and recreation lands. Prairie City SVRA is a legislatively designated California State Park unit; its adopted RTMP is therefore a controlling land-management document that must be incorporated into adjacent-project analyses. By failing to do so, the FEIR contravenes local policy and undermines County obligations to ensure compatibility between public recreation lands and adjacent industrial or commercial developments.

The deficiency also rises to the level of significant new information under CEQA Guidelines §15088.5(a). Because the final RTMP contains new data, revised trail alignments, and updated mitigation strategies to preserve wildlife corridors and recreational experience, its omission from the FEIR prevents informed public review and decision-maker understanding of current environmental conditions. This omission triggers the legal requirement for recirculation of the FEIR.

Failure to address the adopted RTMP undermines the County's ability to certify the FEIR as complete and accurate. The County cannot make legally defensible findings of consistency, nor can it support a Statement of Overriding Considerations that relies on an incomplete environmental baseline. Any certification of this FEIR without correction would constitute an abuse of discretion under Public Resources Code §21168.5, as the record lacks substantial evidence to support its conclusions regarding recreation, traffic, and habitat interface impacts tied to the SVRA.

The FEIR's reliance on the draft PCSVRA RTMP, rather than the final adopted version, represents a critical legal defect. The County must revise and recirculate the FEIR to incorporate analysis of the adopted December 2024 RTMP, reassess project consistency with the updated management policies, and provide opportunity for public comment on the revised findings. Without these corrective actions, the FEIR remains procedurally invalid and substantively indefensible under CEQA and County planning law.

INADEQUATE ANALYSIS OF PROJECT POTENTIAL TO CREATE TRAFFIC CONFLICTS AND PUBLIC SAFETY HAZARDS

The FEIR failed to disclose, analyze, and mitigate the Project's foreseeable traffic conflicts and public safety hazards. These violations stem from both omissions in the DEIR and substantive changes and new information introduced post-public review that the County failed to recirculate.

The FEIR introduced new analysis and access logistics concerning the project's heavy construction traffic but failed to recirculate these changes for public comment. Specifically, White Rock Road and the Prairie City SVRA entrance were omitted entirely from the DEIR's Chapter 13 (Transportation and Circulation) but were later identified through public comment and agency correspondence as a principal construction access route.

The omission of this access route precluded meaningful public participation and invalidates the FEIR's procedural adequacy under CEQA. Courts have held that omission of critical circulation routes constitutes a "fundamental inadequacy" requiring recirculation (*Citizens for Quality Growth v. City of Mount Shasta* (1988) 198 Cal.App.3d 433[23]). Omission of the White Rock Road / Prairie City SVRA construction entrance violates CEQA's disclosure mandate. The DEIR's Chapter 13 limited its analysis to Scott Road - a two-lane rural road - and failed to identify the White Rock Road access - a four-lane, 55 mph divided expressway and part of the Capital South-East Connector D2 Corridor. However, the FEIR's Appendix AQ-1 (Air Quality) and Project Description (Chapter 2) show that major project components (including the battery energy storage system (BESS), switchyard, substation, and 1.3-mile gen-tie corridor) would use this same Prairie City SVRA entrance for material delivery and construction access.

This means the County knowingly analyzed traffic impacts as if only one minor rural access (Scott Road) would serve the project, when in fact the heaviest equipment and haul loads would use the expressway intersection at the PCSVRA gate. Such an omission constitutes a failure of good faith disclosure under CEQA Guidelines §15151, rendering the FEIR legally inadequate (*Berkeley Keep Jets Over the Bay v. Board of Port Comm'rs* (2001) 91 Cal.App.4th 1344, 1370–71[24]).

Even the California Department of Parks and Recreation flagged this access omission in its Comment Letter A5-10, warning that the tight turning radius and existing power pole location could create severe truck hazards during construction. The County's response… that Mitigation Measure TC-3 (traffic plan for Scott Road) would suffice… is unresponsive and noncompliant with CEQA Guidelines §15088(c), which require "good faith, reasoned analysis" in responses to public comments.

Additionally, Mitigation Measure TC-3 (MMTC-3) is deferred, inadequate, and not enforceable. MMTC-3 directs the applicant to prepare a "traffic control plan" after project approval to mitigate "temporary addition of oversize vehicles, haul trucks, and worker vehicles" along Scott Road. However:

- TC-3 does not identify White Rock Road or the PCSVRA entrance despite their use for thousands of haul trips.
- The measure defers preparation of the traffic control plan until after project approval, violating CEQA's prohibition against deferred mitigation (Guidelines §15126.4(a)(1)(B); *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645).
- TC-3 lacks quantifiable performance standards, such as truck ingress/egress restrictions, flagging requirements, or queuing limits, to ensure public safety on a 55 mph expressway.

- TC-3 relies solely on post-approval County review rather than binding, pre-approval mitigation, contrary to PRC §21081.6(b), which requires all mitigation measures to be fully enforceable at approval.

Thus, TC-3 fails both procedurally and substantively under CEQA and exposes the County to liability for foreseeable injury or death from traffic conflicts. This is a concern that was explicitly raised by Cal4Wheel members and multiple other commenters, thus the County was made aware of this area of deficiency in the DEIR and FEIR, yet chose to ignore the deficiency and move forward to recommend the FEIR for approval within the Planning Commission review of the project.

Failure to analyze traffic safety hazards violates both CEQA and County Transportation Policies. CEQA Guidelines §15064.3(c) requires analysis of a project's effect on "safety and operation of the circulation system," not just vehicle miles traveled (VMT). The FEIR fails to evaluate:

- Rear-end collision risk for eastbound vehicles decelerating suddenly to turn into PCSVRA
- Left-turn and queuing hazards for westbound construction trucks crossing 55 mph traffic into a narrow median
- Inadequate turning radius and sight distance obstructions at the SVRA gate identified by State Parks in Comment A5-10
- Increased emergency response delays due to simultaneous SVRA public use and construction truck activity

These omissions violate CEQA Guidelines §§15126.2(a) and 15130, which require analysis of foreseeable indirect physical hazards. They also violate Sacramento County General Plan Policies CI-45, CI-55, and CI-58, which require the County to:

> *"Avoid or mitigate safety hazards associated with new development along high-speed roadways"… and… "ensure adequate access for emergency and recreational traffic."*

By failing to address these policies, the FEIR is inconsistent with County law and violates Sacramento County Zoning Code §1.2.4, which prohibits project approvals that conflict with adopted General Plan safety policies.

The introduction of post-DEIR information on construction access constitutes "Significant New Information" and therefore requires recirculation. After the DEIR comment period, the County's own responses to comments and appendices added new detail regarding the project's use of the PCSVRA entrance, including additional heavy-haul truck trips associated with substation, switchyard, and BESS construction. These constitute *significant new information* under §15088.5(a) because:

- The DEIR's baseline did not include White Rock Road impacts
- The new data altered the severity of impact conclusions
- Members of the public and agencies (including the CA State Parks Department of Parks and Recreation, and the OHMVR Commission) were deprived of the opportunity to comment on a now-substantially different project description

This violation parallels *Save Our Peninsula Committee v. Monterey County Board of Supervisors* (2001) 87 Cal.App.4th 99[25], where an EIR was invalidated for omitting traffic data on critical access roads, depriving the public of meaningful review.

Additionally, the County's failure to incorporate agency comments violates CEQA's coordination mandate. CEQA Guidelines §§15086 and *15088* require interagency consultation and meaningful responses to responsible agencies' comments. The California Department of Parks and Recreation, as the public land manager of Prairie City SVRA, is a responsible agency with jurisdiction over adjacent access routes and safety considerations. The OHMVR Commission is required per PRC §5090.24 (a) and (c) to coordinate with all entities involved in proposed development of lands adjacent to a State Vehicular Recreation Area (SVRA) regarding any action that will affect an SVRA. The County's failure to incorporate DPR's Comment Letter A5-10, update Chapter 13 to include White Rock Road, and modify or expand mitigation accordingly, constitutes a procedural defect under CEQA. A myriad of legal precedent, including *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1111–1112[26], clearly defines that failure to respond meaningfully to responsible agency comments renders an EIR inadequate.

In short, the Project's cumulative and operational safety impacts remain unanalyzed. White Rock Road is part of the Capital SouthEast Connector (D2 Expressway), a major freight and commuter corridor. The FEIR fails to assess cumulative hazard impacts under CEQA Guidelines §15130, including (but not limited to):

- Regional truck and commuter traffic associated with nearby industrial development
- Congestion and hazard amplification at the White Rock/Grant Line and Prairie City intersections
- Conflicts between construction-haul traffic and high-volume recreation traffic during SVRA events

The omission of cumulative traffic hazard analysis renders the FEIR's conclusions arbitrary and unsupported by substantial evidence, violating PRC §21081.5 and CEQA Guidelines §15151.

The County's certification of the FEIR despite these defects would constitute a failure to proceed in the manner required by law, exposing the County to litigation under PRC §21168.5. Courts have repeatedly invalidated EIRs for similar traffic omissions. To bring the FEIR into legal compliance, Sacramento County must:

1. **Recirculate the DEIR with a full Traffic and Circulation reanalysis incorporating White Rock Road and Prairie City SVRA as construction access points.**
2. **Prepare a quantitative safety impact analysis including turning radius, sight distance, queuing, collision risk, and emergency response time modeling.**
3. **Adopt a revised Mitigation Measure TC-3 that:**
    - **Explicitly includes White Rock Road;**
    - **Requires pre-approval preparation of the Traffic Control Plan;**
    - **Specifies enforceable performance standards (e.g., truck restrictions, flagging, temporary signals); and**
    - **Includes independent monitoring during construction.**
4. **Ensure consistency with Sacramento County General Plan Circulation and Safety Policies and Zoning Code §1.2.4.**

The FEIR's omission and later uncirculated inclusion of the White Rock Road / Prairie City SVRA construction access route, and its failure to identify, analyze, and mitigate severe traffic and public safety hazards, constitute both procedural and substantive violations of CEQA. The County's reliance on an unenforceable mitigation measure (TC-3) and disregard of responsible agency input render the FEIR legally indefensible. The County must therefore withhold certification, recirculate a revised DEIR, and ensure lawful disclosure and mitigation before any project approval or construction activities commence.

INADEQUATE ANALYSIS OF PROJECT'S IMPACTS ON OHV RECREATION

The FEIR is deficient because it fails to disclose, analyze, and mitigate the Project's significant impacts on off-highway vehicle (OHV) recreation at PCSVRA. The FEIR also improperly relies on non-binding "understandings" and unenforceable monetary contributions in place of required mitigation and coordination with the California Department of Parks and Recreation (DPR) and OHMVR Commission, which are the responsible agencies for the SVRA. This omission and reliance on vague language violate CEQA's foundational mandates for full disclosure, enforceable mitigation, and interagency coordination. The FEIR's errors are compounded by its failure to analyze the project's impacts on the economic, cultural, and regional significance of PCSVRA as a nationally recognized OHV destination.

PCSVRA is a regionally and nationally significant recreation facility, functioning as one of California's most heavily visited and economically productive OHV recreation areas that draws users from across the western United States. It supports year-round casual recreation as well as organized OHV events.

The PCSVRA boasts over 100,000 visitors annually. The FEIR omits any analysis of the project's direct and indirect impacts on the park's events and recreational operations. The DEIR's Chapter 14 (Recreation) contains no event-specific discussion, and the FEIR merely acknowledges "proximity to PCSVRA" without assessing interference from construction noise, dust, glare, traffic congestion, or altered scenic quality… all of which materially degrade the recreation experience and operational viability of a state-designated OHV facility.

CEQA requires agencies to evaluate a project's effects on the use and enjoyment of recreational facilities (Guidelines §15126.2(a)) and to identify any physical changes that "increase the use of existing recreational facilities or cause substantial deterioration of the facility" (Appendix G, Section XIV(a)–(b)). By omitting analysis of event attendance, user experience, and economic impacts, the FEIR fails to satisfy CEQA's analytical mandate and Public Resources Code §21083(b)(1), which requires identification of significant effects that may "adversely affect recreational opportunities."

The FEIR demonstrates improper reliance on non-binding monetary contributions as "mitigation" for the project's negative impacts on PCSVRA. The FEIR's response to comments and revised project description introduce new text stating:

> *"The County understands that the applicant has made a commitment to provide a dedication of $1,000,000 for trail improvements and/or aesthetic improvements… In total, the County understands that the improvements to park infrastructure, reimbursements for park staff time, and the dedication total approximately $1.75 million."*

However, the FEIR also concedes:

> *"The County does not control how any potential funding contributions would be implemented… impacts to the scenic viewshed in this area would remain significant and unavoidable."*

This language fails to meet CEQA's basic standard for enforceable mitigation measures. The use of phrases such as "the County understands" and "the applicant has made a commitment" provides no binding obligation, no defined recipient, no mechanism for transfer, and no performance standard ensuring that funds will be applied to the mitigation of project impacts. There is also no written agreement or condition of approval requiring payment of the alleged $1.75 million or specifying its allocation toward recreation or environmental mitigation.

CEQA Guidelines §15126.4(a)(2) require that mitigation measures be "fully enforceable through permit conditions, agreements, or other legally binding instruments." **Monetary contributions or vague funding "commitments" that are not memorialized by contract or condition are <u>legally meaningless</u>**. This is clearly confirmed through court rulings in *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1111–1112, *Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173, 1187[27], among other notable cases. The County's reliance on unenforceable funding assurances constitutes a failure to proceed in the manner required by law under PRC §21168.5 and renders the FEIR invalid.

The FEIR also utilizes improper deference to "Applicant's Understanding" and unsubstantiated assumptions in project description. The FEIR's revised Chapter 2 (Project Description) now states that:

> *"…the applicant's understanding is that there would be no need for closure of the entire SVRA at any point."*

This is not an analytical finding; it is a speculative statement by the project proponent, repeated verbatim by the County without supporting evidence. CEQA requires a stable, accurate project description based on substantial evidence, not speculative assumptions. (*County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185.) By inserting vague "understandings" into the FEIR rather than binding commitments or verified studies, the County has substituted conjecture for analysis, depriving the public, DPR, and the OHMVR Commission of their right to evaluate true operational impacts. Moreover, the Project's impacts on the SVRA can (and likely will) be significant, even if they don't result in the "closure of the ***<u>entire</u>*** SVRA".

Furthermore, the FEIR ignores DPR's own comment letters and the Prairie City SVRA General Plan, which establish that even temporary construction-related noise, dust, or glare can trigger event cancellation or significant safety restrictions. The County's dismissal of these foreseeable effects violates CEQA Guidelines §15088(c) (requiring reasoned responses to agency comments) and §15151 (requiring good-faith effort at full disclosure).

Cal4Wheel has repeatedly called the County's attention to the gross and willful lack of coordination with responsible agencies, the California Department of Parks and Recreation and the Off-Highway Motor Vehicle Recreation Division and Commission. DPR and the OHMVR Commission hold direct jurisdiction over PCSVRA operations and resource management (PRC §5090.24(a)). The FEIR record indicates no meaningful coordination with DPR and the Commission beyond cursory responses to comments and (perhaps) some backroom, off-the-record dialogue with select DPR staff. This violates clear statutory requirements for interagency consultation (Guidelines §15086). This also deprived PCSVRA stakeholders and the general public from their rights and responsibilities to engage in interagency consultation through PRC-mandated public hearing requirements.

The County's decision to rely on "the County's understanding" of how SVRA operations might be affected, without verifying such conclusions through formal DPR consultation or written concurrence, constitutes a procedural failure. The omission is especially serious given the project's adjacency to a state-funded recreation facility protected under the Off-Highway Motor Vehicle Recreation Act of 2003 (PRC §§5090.24, 5090.35), which mandates preservation of OHV recreation opportunities and requires that state-managed SVRAs not be impaired by adjacent incompatible development.

Additionally, the FEIR fails to address the economic and cultural significance of PCSVRA as a regional recreation driver. The Hangtown Motocross Classic alone generates an estimated $5–6 million in direct

local spending through lodging, dining, retail, and event logistics. The Prairie City Grand Prix and other annual powersports events contribute millions more to the local economy and support hundreds of seasonal and part-time jobs. CEQA requires that decision-makers consider environmental effects that lead to indirect social or economic consequences (Guidelines §15131(a)), especially when these consequences result from physical environmental changes. The FEIR's omission of a recreational-economic analysis violates this principle and contradicts Sacramento County General Plan Policy TR-12, which emphasizes the role of recreational facilities in regional tourism and quality of life. By failing to acknowledge PCSVRA's national standing and regional economic importance, the FEIR misrepresents the scale of potential impacts and prevents meaningful consideration of feasible alternatives or mitigation.

The FEIR concedes that "*the impacts to the scenic viewshed in this area would remain significant and unavoidable*," yet simultaneously presents the $1.75 million "dedication" as if it would somehow mitigate those same impacts. These contradictions demonstrate that the County substituted aspirational narrative for substantive environmental review. CEQA does not permit mitigation to be based on non-binding "understandings" or unverified third-party actions (*Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 794[28]). The County's approach of using discretionary language to imply mitigation… without imposing conditions, verifying commitments, or ensuring enforceability… renders the FEIR fatally flawed both procedurally and substantively.

As remedy to achieve legal compliance, Sacramento County must:

1. **Recirculate the DEIR to include a full recreation and event impact analysis addressing:**
    - **Noise, dust, glare, traffic, and air-quality impacts during major OHV events;**
    - **Event-specific coordination with DPR/OHMVR Division; and**
    - **Quantified economic and attendance impacts from degraded event conditions.**
2. **Formalize all proposed contributions through a binding Development Agreement or Condition of Approval that specifies:**
    - **Total contribution amounts, payment schedule, and recipient (DPR);**
    - **Permissible use of funds tied directly to impact mitigation (e.g., dust suppression, visual screening, trail maintenance, or event infrastructure support); and**
    - **Verification and enforcement provisions ensuring compliance prior to any construction permits.**
3. **Consult directly with DPR/OHMVR Division under PRC §5090.24(a) to develop joint mitigation strategies that protect PCSVRA's recreational function and public investment.**
4. **Include performance standards ensuring no interference with scheduled OHV events and no requirement for partial or full SVRA closure during construction.**

The FEIR's treatment of OHV recreation and powersports events at PCSVRA fails the fundamental purpose of CEQA: to ensure informed decision-making and enforceable mitigation. By omitting detailed analysis of recreation impacts, substituting vague "understandings" for binding commitments, and neglecting consultation with DPR, Sacramento County has not proceeded in the manner required by law (PRC §21168.5). Given PCSVRA's national prominence, large-scale attendance, and irreplaceable role in California's OHV recreation network, these deficiencies are not procedural technicalities; they strike at the core of CEQA's substantive disclosure and mitigation requirements. Certification of the FEIR in this condition would be unlawful and contrary to both the letter and intent of California environmental and recreation policy.

ECONOMIC AND SOCIAL IMPACTS

The FEIR omits and misrepresents critical information about the project's economic and social impacts. Specifically, the FEIR provides no credible analysis of the severe economic losses to Sacramento County and surrounding communities that will result from degradation of PCSVRA, which is one of the region's most significant recreation and economic assets. The FEIR's omission of economic and accessibility impacts also violates California's statutory protections for disabled and low-income residents, who disproportionately depend on affordable, motorized outdoor recreation opportunities such as those provided by PCSVRA. Together, these failures constitute a procedural violation of CEQA, a violation of Sacramento County General Plan economic and equity policies, and an unlawful suppression of essential socioeconomic data relevant to environmental decision-making.

CEQA requires disclosure of economic and social effects that flow from physical environmental changes. While CEQA generally distinguishes between "environmental" and "economic/social" effects, Guidelines §15131(a) explicitly mandates that economic and social changes caused by physical environmental impacts must be disclosed when those changes are relevant to evaluating project significance or feasible mitigation. Courts have confirmed that economic harm resulting from physical environmental degradation (such as reduced visitation, recreation displacement, or visual blight) is within CEQA's scope when it stems from an environmental cause (*Goleta Valley Coastal Landowners v. Board of Supervisors* (1990) 52 Cal.3d 553[29]; *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184). Here, the FEIR's refusal to evaluate the economic fallout from visual, noise, dust, traffic, and other impacts on PCSVRA constitutes a violation of §15131(a) and §15126.2(a), which require an analysis of "economic or social changes resulting from physical changes in the environment."

PCSVRA contributes approximately $59 million annually to the local economy, including $9 million in local tax revenue and 385 jobs. It is an irreplaceable economic engine and recreation asset. Over a 20-year period, Prairie City's cumulative economic output is projected to exceed $180 million in tax revenue for Sacramento County… constituting three times the total tax revenue the CCAR project claims to generate ($67 million). The FEIR omits this comparative analysis entirely and fails to quantify the economic consequences of reduced SVRA visitation due to construction-phase operational conflicts, traffic congestion, public safety hazards, loss of scenic quality, and degraded recreation experience. It also ignores the reality that Prairie City's economic contribution is not static but growing annually due to expanding outdoor recreation demand (as noted in the introduction of this comment letter), particularly among urban and suburban residents seeking affordable, accessible outdoor experiences within the greater Sacramento metro region.

This omission is not a minor oversight: it is a fundamental failure to disclose a foreseeable environmental and economic effect, violating CEQA Guidelines §§15125(a) and 15126.2(a), which require a stable, accurate baseline and a full description of reasonably foreseeable environmental consequences.

The FEIR showcases disparate treatment of economic information and misleading public narrative. The FEIR incorporates and repeats project applicant DESRI's claim that the Coyote Creek solar project would generate $67 million in tax revenue over 20 years. Yet, it fails to provide any factual analysis, methodology, or citation for that figure and presents it as an undisputed benefit while dismissing the documented, recurring economic benefit of Prairie City SVRA. The County's reliance on unverified applicant data violates CEQA Guidelines §15151, which require "a good faith effort at full disclosure." By contrast, the documented Prairie City economic data are derived from State Parks' Department of Finance-certified expenditure models and the OHMVR Division's 2023 Economic Impact Study, which demonstrate recurring, measurable, and sustainable economic benefit. The FEIR's selective inclusion of

speculative project benefits while omitting concrete recreation-related losses constitutes misrepresentation of material facts. This is a procedural defect that undermines the adequacy of the environmental review. Such inadequacy has repeatedly been confirmed as legally insufficient and indefensible, as in *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 732[30].

Additionally, through flagrant degradation to the recreational values of PCSVRA, the CCAR project imposes severe discriminatory impacts on disabled and low-income residents. Motorized recreation is not merely a leisure activity, it is a legally recognized mode of access for individuals with disabilities under Title II of the Americans with Disabilities Act[31] (ADA), Section 504 of the Rehabilitation Act[32], and the California Off-Highway Motor Vehicle Recreation Act (PRC §§5090.24–5090.39). For thousands of disabled residents in the Sacramento region, PCSVRA provides accessible, adaptive outdoor recreation opportunities that would otherwise be unavailable in non-motorized settings. The park's design (graded terrain, vehicle-accessible trails, adaptive equipment programs, and developed staging areas) allows inclusive participation in outdoor recreation, social engagement, and event competition.

By degrading the recreation experience through dust, noise, traffic, visual intrusion, and viewshed destruction, and by failing to evaluate or mitigate those impacts, the County has effectively ignored its obligations under CEQA to evaluate disproportionate impacts on disadvantaged and disabled populations (Guidelines §15131(b); *Communities for a Better Environment v. South Coast AQMD* (2010) 48 Cal.4th 310[33]). Moreover, Sacramento County's General Plan Policy LU-115 and Health and Safety Element commit to protecting and enhancing equitable recreation opportunities. The County's inaction directly conflicts with these adopted policies, violating Zoning Code §1.2.4, which prohibits approvals inconsistent with General Plan objectives.

The FEIR also ignores environmental justice and displacement of recreation access. PCSVRA provides affordable outdoor access for working-class families, veterans, and underprivileged youth… demographics that often lack the time or resources to travel to distant recreation destinations. Displacement of these users due to project-related impacts will exacerbate recreation inequity and undermine regional quality of life. The FEIR's failure to analyze this impact contravenes California Government Code §65040.12, which mandates consideration of environmental justice in land use planning, and SB 1000 (2016)[34], which requires local agencies to evaluate and mitigate disproportionate burdens on disadvantaged communities.

By ignoring how the project undermines access to a uniquely affordable and inclusive recreation facility, the FEIR denies consideration of significant social equity impacts, violating both CEQA's analytical duties and California's environmental justice framework.

Furthermore, the FEIR relies on economic mischaracterization and failure to evaluate job quality and permanence. The FEIR emphasizes temporary construction jobs as an economic benefit while failing to disclose that the project will create fewer than 10 permanent positions post-construction… most of which are maintenance or monitoring roles with limited local hiring potential. By contrast, PCSCRA's year-round recreation economy supports hundreds of recurring jobs in park and event operations – as well as a myriad of local jobs in small business services, OHV accessories and repair, lodging, and hospitality – all of which hare long-term, locally staffed positions. CEQA requires evaluation of both the quantity and quality of jobs affected by project implementation (Guidelines §15126.2(a)). The FEIR's omission of comparative employment analysis deprives decision-makers of critical context and violates PRC §21081.6(a)(1), which requires substantial evidence for findings of significance.

We call your attention to the fact that County's response to comments demonstrates deflection, not analysis. The FEIR's Response to Comments, Chapter 20, repeats the claim that project economic and recreation impacts are "outside the scope of CEQA," citing generalized statements that "Prairie City will not be directly affected." This is legally inaccurate. Where a physical environmental change (IE: dust, glare, traffic, or view degradation) causes reduced visitation or economic harm to a recreation facility, CEQA requires disclosure and analysis. (*Bakersfield Citizens*, supra.) The County's refusal to analyze the economic consequences of environmental harm reflects a misapplication of CEQA and invalidates the EIR's conclusion of "no significant impact."

The consequences of the County's willful choice to ignore PCSVRA's economic and social contributions have severe implications:

- Over $100 million in lost local tax revenue over 20 years
- Permanent decline in visitation, sponsorships, and event participation
- Economic losses to hundreds of local small businesses
- Diminished recreational access for disabled and low-income populations
- Long-term erosion of Sacramento County's regional recreation brand and tourism identity

These are foreseeable, measurable impacts that CEQA required the County to evaluate. Instead, the FEIR's "no impact" conclusion and reliance on speculative applicant data constitute an abuse of discretion and a failure to proceed in the manner required by law (PRC §21168.5).

To comply with CEQA and state equity law, Sacramento County must:

1. **Recirculate the DEIR with a comprehensive economic and social impact analysis comparing the value of PCSVRA's recreation economy to the CCAR project's projected economic output.**
2. **Quantify recreation visitation reductions and model associated losses in revenue, employment, and local tax base.**
3. **Analyze impacts on accessibility and environmental justice, including effects on disabled and low-income residents under ADA, PRC §5090.35, and SB 1000.**
4. **Adopt binding mitigation measures requiring coordination with DPR's OHMVR Division to preserve recreational quality and protect economic sustainability of PCSVRA.**

Until these requirements are satisfied, the FEIR is legally indefensible and cannot lawfully be certified.

By omitting analysis of economic, social, and accessibility impacts, and by presenting an unbalanced and misleading narrative of fiscal benefit, the FEIR fails CEQA's essential purpose of informed decision-making. Sacramento County's approval of this document would effectively sanction the destruction of a $59 million annual recreation economy, eliminate hundreds of jobs, and disproportionately harm disabled and disadvantaged residents who rely on Prairie City SVRA for affordable, accessible recreation.

The County's own General Plan mandates economic balance, equity, and preservation of regional recreation assets. Yet, the FEIR's omissions and reliance on unverified applicant claims represent a complete breakdown of environmental review integrity.

A vote to certify this FEIR is therefore a vote to forfeit over $100 million in local revenue, marginalize thousands of recreation users, and dismantle one of Sacramento County's most inclusive and economically vital public resources.

INADEQUATE MITIGATION OF PROJECT IMPACTS ON DESIGNATED UNIT OF STATE PARKS SYSTEM

California law classifies State Parks and State Vehicular Recreation Areas (SVRAs) as units managed to preserve outstanding natural and scenic values and native fauna/flora for public enjoyment (PRC §5019.53). The State Parks Department's planning and operations manuals further require "defensive planning" and close oversight of adjacent land uses precisely to protect park resources and visitor experience; the landscapes are intended as places of natural respite and must be insulated from incompatible edge effects. Under CEQA Guidelines §15125(d), an EIR must analyze consistency with applicable plans and policies adopted to avoid or mitigate environmental effects… which here include California State Parks' planning frameworks and management standards for park adjacency. By omitting any protective setback/buffer from the industrial-scale facility immediately abutting PCSVRA, the FEIR fails to demonstrate consistency with those statewide management standards and with CEQA's plan-consistency mandate.

The FEIR's "no-buffer" approach conflicts with established State Parks guidance and practice:

- **Purpose and classification:** State Park units (including SVRAs) are managed to preserve natural/scenic character and wildlife, with improvements limited to those necessary for public enjoyment and education. This purpose is obviously undermined where industrial structures, glare, dust, and heavy truck access occur on the park boundary without separation.
- **Adjacency/edge management:** State Parks' Department Operations Manual[35] (DOM 2100 – Real Property Management) directs "defensive planning," requiring districts to monitor and address adjacent development proposals, zoning and general plans to protect park resources. The FEIR offers no evidence of a park-protective edge strategy (IE: vegetated setbacks, height/reflectivity controls, haul-route constraints, view-shed easements, or a minimum buffer), even while admitting visual impacts at Prairie City remain "significant and unavoidable."

In Cal4Wheel's public comment letters for the DEIR and the Planning Commission, we called attention to unresolved visual and operational conflicts at the SVRA boundary and urged the County to recirculate the DEIR. Many other public commenters provided the same feedback, and the County has willfully opted to ignore them. The FEIR Master Response N (Visual Resources) includes post-DEIR material acknowledging lingering park-facing impacts.

CEQA requires feasible mitigation and alternatives… buffers are the textbook mitigation in this circumstance. CEQA §21002.1 and Guidelines §15126.4 require adoption of feasible mitigation and evaluation of reasonable alternatives that would avoid or substantially lessen impacts. A graduated buffer/setback from the SVRA (with enforceable performance standards for glare, dust, height, lighting, noise, and truck movements) is an obvious, low-cost mitigation that the County did not analyze. Instead, the FEIR relies on narrative assurances and later "coordination" with no binding edge-protection measures. This is a blatant act of deferred mitigation that is barred by CEQA and case law (e.g., *San Joaquin Raptor Rescue Center v. County of Merced*, 149 Cal.App.4th 645).

Cal4Wheel comments (in addition to other public comments) further called out that the County artificially constrained the alternatives analysis to on-parcel layouts that pressed the industrial footprint to the SVRA

fence line, rather than evaluating reduced-scale or reoriented layouts with protective setbacks. Failure to buffer a State-designated park violates PRC §5090.24 and County plan consistency. For SVRAs, PRC §5090.24(a), (c) require interagency coordination and a public hearing with the OHMVR Commission for substantial adjacent development. Such coordination and process were not carried out, and the FEIR did not transform that omission into park-protective conditions (such as a minimum buffer adopted as a condition of approval). That is both a procedural and substantive defect.

Locally, Sacramento County General Plan policies on conservation, open space, recreation, land-use compatibility, and design review require avoiding incompatible edge effects on public parks and preserving scenic/open-space character at park interfaces. The FEIR's "significant and unavoidable" admission, paired with no buffer and no enforceable edge standards, creates a direct inconsistency with those adopted policies, violating Zoning Code §1.2.4. The County is by code forbidden from approving projects that are inconsistent with the General Plan.

The County's own FEIR record underscores why a buffer was necessary. The FEIR's Response-to-Comments directs stakeholders to Master Response N while concluding SVRA-facing aesthetic impacts remain significant and unavoidable… a concession that triggers the duty to adopt feasible mitigation (in this case, a real buffer) or recirculate if new information changes the analytical posture. Master Response N and other post-DEIR changes should have prompted recirculation under PRC §21092.1 and CEQA Guidelines §15088.5.

Furthermore, the County is facing the potential of functioning as the responsible party to se dangerous precedent for accelerating "park-edge industrialization" statewide. By certifying an FEIR that normalizes zero-buffer siting against a State Park unit, the County would set a statewide precedent: local agencies could approve industrial facilities at park boundaries without park-protective setbacks, relying on later "coordination" and non-binding assurances… even where the EIR admits significant, unavoidable park impacts. That outcome is contrary to PRC §5019.53's protective purpose for park units and to State Parks' adjacency management standards. It also frustrates CEQA's core aim of impact avoidance at the source, not compensatory promises after the fact.

While the legal consequences for the County's certification of this FEIR are steep, the remedies are simple and clear.

FEIR defects include:

- Failure to analyze and adopt a protective buffer as feasible mitigation (Guidelines §15126.4)
- Deferred/unenforceable edge "coordination" in lieu of binding conditions
- Omission of plan-consistency analysis with State Parks' adjacency standards (Guidelines §15125(d))
- Failure to recirculate after material post-DEIR changes (PRC §21092.1; Guidelines §15088.5)
- Failure to comply with PRC §5090.24 park-coordination requirements for a project directly affecting an SVRA.

Required remedy actions include:

- Recirculate the EIR with an alternatives set that includes minimum one-half (0.5) mile park-edge buffers (or the maximum feasible) paired with objective edge-performance standards (glare, dust, lighting, height, noise, truck routing).

- Adopt binding conditions of approval (setback maps, view-shed easements, vegetation screens, non-reflective materials limits, night-lighting curfews, haul-route prohibitions near SVRA entrances) enforceable under PRC §21081.6(b).
- Conduct formal coordination and a public hearing with the OHMVR Commission and State Parks, and integrate their conditions into the approvals pursuant to PRC §5090.24(a), (c).
- Demonstrate General Plan consistency and Design Guidelines compliance at the park interface, or issue findings of overriding considerations only after proving no feasible buffer/mitigation exists (a showing the current record does not make).

A State-park-edge industrial project with no protective buffer is inconsistent with California's park-protection framework and CEQA. Until the County analyzes and adopts a park-protective setback with enforceable edge standards the FEIR remains legally and procedurally indefensible.

INADEQUATE AND ARTIFICIALLY CONSTRAINED ALTERNATIVES ANALYSIS

CEQA has established a clear and unquestionable baseline rule: a reasonable range of feasible alternatives aimed at avoiding significant impacts must be analyzed. CEQA requires an EIR to "describe a range of reasonable alternatives to the project … which would feasibly attain most of the basic objectives but would avoid or substantially lessen any of the significant effects of the project." (Guidelines §15126.6(a)–(f); Pub. Res. Code (PRC) §21002.1.) An agency may not pre-decide the site or artificially narrow alternatives so that all choices produce the same conflicts. As demonstrated in *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, the geographic scope of alternative sites cannot be unreasonably limited. *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692 further clarifies through court ruling that project planners must grapple with feasible alternatives, not dismiss them with bare and baseless conclusions.

Numerous public comments on the DEIR and to the County Planning Commission, including those from Cal4Wheel, identified that the County confined alternatives to near-identical, same-site layouts and dismissed off-site, distributed, or reduced-scale configurations that could avoid the PCSVRA interface and associated environmental conflicts (dust, glare, traffic hazards, habitat fragmentation). Cal4Wheel's Planning Commission letter details this deficiency and ties it to CEQA's core alternatives mandate. However, the County placed arbitrary constraints to the geographic range of alternative site analysis; this is inconsistent with County planning policies and statewide solar project planning standards. The FEIR's Master Response D (Alternatives) as a late addendum failed to cure these defects.

Artificial constraints hid feasible options that would reduce watershed and public-health risks. A legally adequate range of alternatives would include:

- Off-site locations (previously disturbed lands, industrial corridors, or brownfields),
- Reduced-scale layouts,
- Reorientation with park-protective buffers/setbacks, and
- Distributed generation portfolios (parcels not hydrologically connected to sensitive corridors).

Those options directly relate to avoided or reduced impacts that the FEIR left unresolved:

As noted previously in this comment letter, this project creates significant negative impacts to the watershed and groundwater recharge. The site conversion of 2,700 acres to roads, foundations, and fenced yards will reduce infiltration and alter runoff regimes; alternatives sited on already-disturbed or paved lands would plausibly reduce groundwater recharge loss and stormwater impacts. Yet the County

deferred water analysis and failed to provide necessary performance standards, thereby skipping over the alternatives lever that CEQA prioritizes.

In relationship to concerns already raised about implications from the Aerojet plume risk, shifting layout or selecting off-site/disturbed lands would reduce the risk that construction dewatering, dust-control withdrawals, or grading will alter local hydraulic gradients that could influence the Aerojet Superfund plume. Correlated issues with the Aerojet plume were not substantively resolved in the FEIR. This gap is magnified by the County's refusal to evaluate alternatives that avoid that hydrologic sensitivity. Because CEQA prefers impact avoidance via alternatives, the County's decision to lock into one hydrologically sensitive footprint, while omitting off-site/disturbed-land options, violates §15126.6's purpose and structure.

The FEIR's "same-site, same-impact" alternatives are legally inadequate. In our previous comments, Cal4Wheel noted that the FEIR's options vary minimally in footprint, orientation, or phasing. None relocate the facility away from the SVRA boundary or analyze a materially smaller buildout that could change impact conclusions. That approach mirrors what courts reject: presenting "alternatives" that all suffer the same significant effects so decision-makers never see a genuine trade-off. The County's alternatives section was a post-DEIR patch (Master Response D, pp. 820–826) that still did not broaden the geographic scope or meaningfully test reduced-impact sites or designs.

All of this is flagrantly inconsistent with statewide solar-siting and County planning policies. California solar-siting guidance (statewide planning norms reflected across general plans, CAPs, and agency design guidelines) consistently favor:

- Prioritizing previously disturbed land and industrial/commercial corridors;
- Avoiding displacement of existing recreation/open-space uses; and
- Preserving habitat connectivity and watershed functions.

The project's alternatives analysis is inconsistent with statewide solar project planning standards and County planning policies requiring siting that minimizes environmental and community conflicts. The County's own General Plan/Design policies (conservation, open-space, recreation, circulation/design review) were not integrated into alternatives screening. This constitutes yet another CEQA error because §15126.6 demands planning-policy-informed alternatives that actually reduce conflict, not simply reshuffle panels on the same contested footprint

The County's responses and "late master responses" did not cure the defect, which legally triggered the requirement for DEIR recirculation. Yet instead of revising and recirculating the DEIR with a truly expanded alternatives set, the FEIR consolidated criticisms into master responses (including Master Response D) after the public comment window. These post-DEIR changes (Alternatives; Visual; Substantive Changes) constitute significant new information requiring recirculation under PRC §21092.1 and Guidelines §15088.5**.** Failure to recirculate compounds the alternatives violation.

The practical consequences of the constrained alternatives analysis are unresolved significant impacts. Because the County sidestepped off-site/disturbed-land and reduced-scale options and rejected a park-protective buffer alternative the FEIR leaves major effects unresolved:

- **Aesthetics/Visual:** Significant and unavoidable SVRA viewshed impacts remain (an avoidable outcome if a buffer/reorientation alternative had been evaluated).

- **Hydrology/Water/Aerojet:** No alternative avoids hydrologically sensitive areas or reduces water use/dust-control withdrawals at scale, despite the Synopsis identifying deferred water mitigation and Aerojet plume concerns.
- **Biological/Connectivity:** No alternative tests fenced-footprint reductions or wildlife-permeability/buffer corridors that would lessen fragmentation pressure on the SVRA/open-space matrix… another violation given CEQA's directive to consider corridor-protective design (Appendix G, Biological).

CEQA Guidelines §15126.6 were violated as the FEIR failed to present a reasonable range that would avoid and lessen impacts, instead confining choices to same-site, same-impact variants. PRC §21002.1 / Guidelines §15126.4 were violated; by skipping feasible avoidance-based alternatives, the County defaulted to deferred mitigation that cannot substitute for comparing lower-impact locations/designs. CEQA Guidelines §15088.5 were violated as the "late" Master Responses (including Alternatives) amounted to significant new information requiring recirculation, which the County did not do. Additional plan-consistency failures are blatant. The constrained alternatives analysis is inconsistent with County conservation, open-space, and recreation design policies; recognized statewide siting norms favoring disturbed lands and conflict-avoidance.

In order to achieve remedy, the County must:

1. **Recirculate the EIR with an alternatives chapter that squarely evaluates:**
    - **Off-site/disturbed-land siting and industrial corridor options**
    - **Reduced-scale and phased build scenarios tied to measured water, hydrology, and biological benefits**
    - **Park-protective buffer/setback alternatives that shift generation blocks away from the SVRA and sensitive drainages**
    - **Distributed portfolio alternatives combining on- and off-site resources to meet objectives**
2. **Incorporate hydrogeologic screening (recharge, runoff, plume-migration risk) into alternatives selection, with interagency consultation informed by the Synopsis' water/plume concerns**
3. **Demonstrate General Plan/Design Guidelines consistency by selecting at least one alternative that materially reduces SVRA, watershed, and connectivity impacts, and document the comparative benefits with substantial evidence.**

By tailoring "alternatives" to produce the same impacts, and by refusing to analyze off-site, reduced-scale, buffered, or distributed options that could avoid watershed, plume, and SVRA conflicts, the FEIR fails CEQA's heart… the alternatives analysis… and is legally indefensible.

LACK OF ENFORCEABILITY OF DEVELOPER–PCSVRA COMMITMENTS, SUCCESSOR LIABILITY, AND SUBSEQUENT INADEQUACY OF THE USE PERMIT / FEIR

To address the Project's impacts on the PCSVRA, the FEIR indicates that, per the "County's understanding", the applicant has committed to contributing at least $1.75 million for trail/staging improvements, kart-track viewing relocation, and reimbursements). As written, however, these are voluntary promises, not binding mitigation. CEQA does not allow an agency to rely on aspirational undertakings to support "less-than-significant" findings. Where mitigation is needed, it must be imposed as an enforceable condition of approval, expressly incorporated into the Mitigation Monitoring and Reporting Program (MMRP), and run with the land for the life of the project, including ownership transfers

and decommissioning. Absent those elements, any agreement between the current developer and PCSVRA is at risk of dissolution upon sale, merger, or assignment, leaving State Parks without the bargained-for benefits and the County without a defensible record that impacts were actually reduced.

This risk is not theoretical. Under California real property law, personal covenants between two parties do not bind a subsequent purchaser unless:

1. The obligation is made a land-use condition of a discretionary approval;
2. It is memorialized in a recorded instrument (e.g., covenant/easement) that touches and concerns the property; and,
3. The entitlement itself makes performance a continuing obligation of "successors and assigns."

In CEQA terms, the requisite mechanism is a condition that is specific, measurable, and enforceable (not merely "coordinate with," "endeavor to," or "subject to future agreement"). As the California Supreme Court has explained, agencies must adopt "fully enforceable" mitigation… before they approve the project… and then assure implementation through an MMRP. The FEIR's reliance on unrecorded understandings fails those tests and impermissibly defers mitigation to later, uncertain negotiations.

For that reason, Mitigation Measure #4 (and any related SVRA-facing mitigation) must be rewritten as a legally binding condition of approval. The condition should:

1. Identify the improvements with engineering-level specificity, schedule, and completion milestones;
2. Require recordation of a covenant or easement benefitting DPR/PCSVRA;
3. Require a performance security (bond, LOC, or escrow) sized to the full cost of delivery and indexed for inflation;
4. State that obligations bind the permittee and all successors, assigns, transferees, and lessees;
5. Prohibit any transfer of ownership or control until the County approves and records an assumption agreement by the successor; and,
6. Integrate monitoring and cure provisions in the MMRP, including objective triggers and County enforcement remedies (with suspension or revocation for non-performance).

Without those elements, any sale of the solar facility could extinguish the developer's promises, and the FEIR's impact conclusions would rest on illusory mitigation.

With respect to the Planning Commission's Attachment 2 (Use Permit Conditions), only an express, recorded, and successor-binding condition cures the deficiency. If the Use Permit stated that "all conditions run with the land and bind successors and assigns," then the form of successor coverage exists, but the County must still (1) convert the PCSVRA commitments from soft "understandings" into enumerated, measurable conditions, (2) require recordation in DPR's favor, and (3) add performance security and transfer-approval/assumption language. **However, Attachment 2 <u>does not</u>:**

- **Adopt the PCSVRA commitments as conditions**
- **Provide successor language, nor**
- **Require recordation and security.**

Thus, the Use Permit is inadequate under CEQA and local law because it does not ensure implementation beyond the initial owner's tenure.

The absence of legally binding, successor-applicable conditions causes direct and severe harm to PCSVRA. State Parks would be relying on benefits that may never materialize while absorbing construction- and operation-related externalities (traffic surges, dust, viewshed degradation, crowd management costs). From a public-safety standpoint, the SVRA's high-attendance events and daily operations demand predictable infrastructure and staffing; unfulfilled improvements increase risks to spectators and participants. Legally, the County cannot claim these impacts are mitigated when the operative measures are neither adopted, recorded, funded, nor enforceable against future owners.

Finally, on **permit duration and enforceability**: a discretionary use permit may be time-limited or conditioned to expire upon decommissioning, but **mitigation obligations must persist for as long as the impact persists.** Conditions that silently expire with the initial permit term, or that lack successor language, are **unenforceable** against a purchaser and therefore inadequate under CEQA.

To avoid a procedural or legal vulnerability of the FEIR and entitlement, the County should ensure that Use Permit Condition "No. X" explicitly states:

- **The commitments to PCSVRA infrastructure (trail improvements, bleachers, canopy, staff reimbursements) are conditions of approval.**
- **These obligations run with the land and bind not only the current permittee but successors and assigns.**
- **The condition requires a recorded covenant or easement agreement in favor of PCSVRA / State Parks.**
- **The condition establishes performance security (escrow, bond, letter of credit) to guarantee fulfillment.**
- **The condition requires County review of any sale or transfer to ensure an assumption agreement is executed by the successor.**

Absent these language enhancements, the permit remains potentially inadequate, and the obligations to PCSVRA may lack enforceability… this threatens PCSVRA's ability to rely on the promised benefits and gives stakeholders, including Cal4Wheel, grounds to question the legal sufficiency of the FEIR and entitlement.

COUNTY OF SACRAMENTO LEGAL OBLIGATIONS UNDER PRC § 5090.24 AND CEQA

Sacramento County failed to fulfill its statutory interagency coordination obligations under Public Resources Code (PRC) §5090.24 with the California Off-Highway Motor Vehicle Recreation (OHMVR) Commission. This failure deprived the PCSVRA stakeholders and the general public of a legally guaranteed opportunity to participate in decisions directly affecting the integrity, operation, and long-term viability of one of California's high-value State Park recreation units. It also skewed the environmental review process, leading to substantive analytical deficiencies throughout multiple FEIR sections, including those addressing recreation, traffic, air quality, aesthetics, biological resources, hydrology, and land-use compatibility.

PRC §5090.24 dictates a statutory mandate for interagency coordination. The Off-Highway Motor Vehicle Recreation Act of 2003 (PRC §5090.24) expressly requires that any local agency proposing a project adjacent to, or affecting, a designated State Vehicular Recreation Area must coordinate with both the

OHMVR Commission and the California Department of Parks and Recreation (DPR). The purpose is to ensure that SVRA operations, visitor safety, natural resources, and recreation opportunities are not impaired by nearby development. The law envisions coordination early in the planning and environmental review stages, including notice, consultation, and public hearing opportunities that allow both agencies and the public to meaningfully comment. Sacramento County did not consult or coordinate with the OHMVR Commission, nor did it conduct a hearing before the Commission and invite PCSVRA stakeholder participation . This procedural omission violates both PRC §5090.24 and CEQA's interagency consultation provisions under Guidelines §§15086(a) and 15161, which require lead agencies to engage responsible agencies holding jurisdiction or special expertise.

The result of this procedural omission is the disenfranchisement of stakeholders and the public. The failure to engage the OHMVR Commission effectively excluded the SVRA's core user community - a statewide constituency including recreational users, clubs, competitive powersports organizations, and local businesses - from the legally required forum for review and comment. Prairie City SVRA's user base extends well beyond Sacramento County: it includes tens of thousands of annual visitors, event participants, recreation programs, and disabled and low-income residents throughout California. Without OHMVR Commission involvement, the County circumvented the public notice and outreach channels that normally flow through DPR's established stakeholder networks, effectively disenfranchising those most directly affected by the project. This failure violates CEQA's public-participation mandate (Guidelines §§15087, 15088(c)) and undermines the procedural integrity of the EIR process.

Substantive deficiencies in the FEIR stemming directly from lack of OHMVR Commission coordination. Because the County bypassed DPR and the OHMVR Commission, the FEIR's analyses suffer from critical technical and contextual omissions that would have been corrected through proper coordination. These include:

- **Recreation and User Experience:** The FEIR fails to analyze how construction noise, glare, dust, and visual intrusion will degrade the quality of the recreation experience at Prairie City SVRA, or how such degradation will affect attendance, event scheduling, and economic output. DPR routinely provides technical data on SVRA visitation, event traffic, and carrying capacity; this data is absent from the FEIR.
- **Traffic and Safety:** Without input from OHMVR traffic management specialists, the FEIR ignores the vehicular conflict risks between project construction traffic and SVRA event traffic on Scott Road and White Rock Road. These remain as unaddressed safety hazards .
- **Visual and Aesthetic Impacts:** The FEIR concedes "significant and unavoidable" impacts to the SVRA viewshed but lacks any feasible buffer, setback, or design-screening measures—issues that would have been jointly scoped with DPR had interagency review occurred.
- **Biological Resources:** DPR routinely maintains wildlife and habitat corridor data for SVRAs and adjacent lands. The absence of such data contributed to the FEIR's failure to address habitat fragmentation and wildlife displacement along the Coyote Creek and Deer Creek corridors.
- **Hydrology and Water Quality:** DPR and the OHMVR Division oversee erosion and stormwater controls for off-highway vehicle areas. Their absence from the review process allowed the FEIR to overlook how altered runoff from the solar array could affect downstream water quality within the SVRA.

Cal4Wheel has provided detailed comments on each issue noted above elsewhere in this letter, thus we restrain to a simple list here. However, it is critical to highlight that collectively, these analytical failures demonstrate that the County's procedural shortcut directly translated into substantive inadequacies across the FEIR.

The County's omission of OHMVR coordination not only violates state statute but also creates direct inconsistency with Sacramento County's own General Plan and Zoning Code, including:

- General Plan Policy LU-115: requiring compatibility between new development and adjacent public recreation lands;
- Policy CO-60: mandating avoidance of degradation to scenic and recreational resources; and
- Zoning Code §1.2.4: prohibiting approval of projects inconsistent with adopted General Plan policies.

Without OHMVR Commission consultation, the County could not make a good-faith finding of General Plan consistency. CEQA Guidelines §15125(d) requires EIRs to evaluate such consistency explicitly; the FEIR does not.

This procedural failure parallels findings in *Friends of Sierra Madre v. City of Sierra Madre* (2001) 25 Cal.4th 165[36], where the court held that omission of a required review step invalidated an EIR regardless of its substantive content. Similarly, *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184 emphasized that failure to consult responsible agencies constitutes a fundamental CEQA flaw requiring decertification. In *Friends of Mammoth v. Board of Supervisors* (1972)[37], the California Supreme Court held that public agencies must consider environmental impacts before project approval, emphasizing the importance of public involvement and thorough environmental review. Similarly, in *Laurel Heights Improvement Association v. Regents of the University of California* (1988)[38], the court underscored the necessity of detailed environmental analysis and public disclosure. These cases highlight the legal imperative for the County to engage in comprehensive environmental review and public consultation, particularly when projects may affect public recreational resources like PCSVRA. Under PRC §21168.5, such omissions constitute a failure to proceed in the manner required by law, rendering the FEIR certification unlawful.

The County's failure to engage in required interagency coordination under PRC §5090.24 undermines the entire environmental review process. It deprived the public of meaningful participation, suppressed technical input from the state agency charged with managing OHV recreation, and produced a deficient FEIR that fails to identify, evaluate, or mitigate significant impacts to PCSVRA.
The omission is not a procedural oversight; it is a statutory breach that invalidates the FEIR's certification under CEQA. Until the County rectifies this by recirculating the EIR through full coordination with the OHMVR Commission, the FEIR remains legally and procedurally indefensible.

INADEQUATE ENVIRONMENTAL BASELINE AND CUMULATIVE IMPACTS ANALYSIS FOR BIOLOGICAL RESOURCES

The FEIR fails to establish an adequate environmental baseline for biological resources, omits relevant field data, and provides no scientifically defensible cumulative impacts analysis. The deficiencies are procedural and substantive, violating CEQA's fundamental requirement that an EIR serve as an "informational document" providing decision-makers and the public with a full understanding of a project's environmental consequences (CEQA Guidelines §15003(b); *Laurel Heights Improvement Assn. v. Regents of the University of California* (1988) 47 Cal.3d 376). The FEIR fails to accurately describe existing biological conditions on and adjacent to the project site, does not incorporate regional datasets from the California Department of Fish and Wildlife (CDFW) or U.S. Fish and Wildlife Service (USFWS), and disregards cumulative effects on regional habitat linkages and species movement corridors. These

omissions render the County's findings unsupported by substantial evidence, in violation of Public Resources Code (PRC) §§21002, 21081.5, and 21168.5.

An accurate and stable environmental baseline is the foundation of CEQA analysis. Guidelines §15125(a) requires an EIR to include a description of the "physical environmental conditions in the vicinity of the project," forming the baseline against which future impacts are measured. The Project FEIR relies primarily on desktop reconnaissance data, incomplete field surveys conducted during an atypical drought year, and generalized habitat mapping that excludes riparian, ephemeral wetland, and upland grassland microhabitats. The FEIR fails to establish an accurate baseline for site-specific and regional habitat conditions, omitting both on-site survey data and adjacent PCSVRA resource inventories maintained by the California Department of Parks and Recreation (CDPR). The SVRA's WHPP, which documents populations of burrowing owl, tricolored blackbird, western pond turtle, and migratory bat species, was ignored despite its relevance to the contiguous ecosystem.

This incomplete baseline violates CEQA's "rule of reason" standard articulated in *Communities for a Better Environment v. South Coast AQMD* (2010) 48 Cal.4th 310, which held that agencies may not rely on speculative or incomplete data in place of empirical field analysis. Without comprehensive seasonal and multi-year surveys, the County's baseline artificially minimizes the site's biological value, particularly for species that rely on the project's grassland matrix for foraging, dispersal, or overwintering.

The Project site lies within the Coyote Creek–Deer Creek watershed, a key biological corridor that connects the lower American River basin to foothill ecosystems and supports regionally significant wildlife movement. ECOS Sacramento and other conservation organizations have documented how this corridor provides essential permeability for migratory and resident species, including raptors, mule deer, badgers, coyotes, and amphibians. The FEIR's limited analysis reduces this landscape to fragmented "non-native grassland," failing to evaluate its role in maintaining genetic diversity and regional population resilience.

The FEIR's biological assessment disregards the CDFW California Essential Habitat Connectivity Project (2010)[39] and the Sacramento County Habitat Conservation Plan[40] (HCP), both of which identify the Prairie City–Coyote Creek corridor as a conservation priority. By failing to assess the project's interference with this corridor, the FEIR violates CEQA's requirement to disclose significant effects on wildlife movement and habitat fragmentation (Guidelines Appendix G, Section IV(c)).

Moreover, the County's omission of this corridor contradicts Sacramento County General Plan Policy CO-124, which mandates preservation of ecological connectivity between open spaces and prohibits developments that sever habitat linkages. The FEIR makes no effort to reconcile this conflict, thereby violating Guidelines §15125(d) (requiring evaluation of consistency with applicable plans and policies).

CEQA requires that an EIR evaluate cumulative effects when a project's incremental impact is "cumulatively considerable" in the context of other past, present, and reasonably foreseeable projects (Guidelines §15130(a)). The FEIR's cumulative impacts section offers a superficial discussion limited to generalities about "regional solar development," without analyzing specific projects or their collective impact on the same species, habitat types, or watersheds. In reality, the Coyote Creek project is one of several large-scale solar installations proposed or approved within the Scott Road–White Rock Road corridor, an area already under ecological pressure from the Mather South, SunCreek, and Jackson Township developments. The FEIR fails to evaluate how cumulative loss of grassland and riparian habitat from these projects, combined with the Coyote Creek facility's extensive fencing and grading, would exacerbate regional biodiversity decline. This omission contravenes the holdings of *Kings County Farm*

Bureau v. City of Hanford (1990) 221 Cal.App.3d 692, where the court found that general statements about cumulative impacts, unsupported by quantified analysis, fail CEQA's informational requirement.

Additionally, the FEIR provides no quantitative assessment of habitat conversion acreage, fragmentation index, or loss of species movement corridors when combined with existing developments. The omission of spatial and temporal analysis tools (e.g., GIS-based habitat modeling) further underscores the County's failure to apply scientific rigor, violating CEQA Guidelines §15144, which mandates reliance on facts and expert analysis rather than assumption or speculation.

Multiple agencies and members of the public submitted comments during the DEIR period urging a more robust assessment of habitat linkages, special-status species, and hydrologic connectivity. The County's responses in the FEIR either dismissed these concerns as "outside the project scope" or deferred further study to post-approval planning; an approach explicitly disallowed under *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645. The FEIR's Response to Comments, Chapter 20, contains no substantive revisions to biological analyses, only assurances that "mitigation measures would avoid significant impacts." This reliance on deferred, unquantified, or future mitigation without measurable performance standards violates CEQA Guidelines §15126.4(a)(1)(B) and *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, which hold that mitigation measures must include specific criteria capable of evaluation before project approval.

Furthermore, the FEIR's biological resources section is inconsistent with multiple governing policies and regulations:

- **Sacramento County General Plan Policies CO-116, CO-120, and CO-124**, which require protection of rare, threatened, and endangered species and maintenance of habitat connectivity.
- **Sacramento County Zoning Code §1.2.4**, prohibiting approvals inconsistent with the General Plan.
- **California Fish and Game Code §§1602 and 2081**, which require consultation and permitting for impacts to riparian habitat and special-status species—neither of which is adequately addressed in the FEIR.
- **Public Resources Code §21083(b)(1)**, which defines significant effects to include substantial adverse changes in habitat.

By ignoring these standards, the County has failed to proceed in the manner required by law (PRC §21168.5) and cannot make lawful findings of mitigation adequacy under PRC §21081(a).

Contemporary ecological research underscores that California's Central Valley grasslands, even when dominated by non-native species, retain high functional value for pollinators, small mammals, ground-nesting birds, and raptors. Studies published in *Conservation Biology* (Davis et al., 2017) and *Environmental Management* (Huntsinger & Oviedo, 2014) confirm that conversion of such landscapes to industrial use drastically reduces biodiversity and ecosystem resilience. The FEIR fails to incorporate this widely accepted scientific understanding, instead characterizing the project site as "degraded" and therefore expendable… an assertion that is unsupported by field data.

Given the FEIR's failure to establish an accurate baseline, evaluate habitat connectivity, or conduct a meaningful cumulative impacts analysis, its findings are unsupported by substantial evidence. This violates CEQA Guidelines §§15125(a), 15130, 15144, and Public Resources Code §§21002, 21002.1(b), and 21168.5. The County must:

1. **Recirculate the EIR** with a revised biological resources section incorporating multi-seasonal field surveys, DPR and CDFW data, and regionally scaled habitat modeling.
2. **Reevaluate cumulative effects** using spatial analysis tools to quantify the combined habitat loss and fragmentation across the Coyote Creek–Deer Creek corridor.
3. **Consult with DPR and CDFW** to ensure mitigation measures reflect agency standards for habitat conservation and corridor design.
4. **Adopt enforceable performance standards** for mitigation, including measurable acreage preservation ratios, monitoring protocols, and adaptive management commitments.

Until these actions are taken, the FEIR remains legally deficient and procedurally invalid under CEQA and state planning law. Sacramento County's FEIR for the Coyote Creek Agrivoltaic Project fails the fundamental CEQA test of full disclosure and informed decision-making. By constructing an incomplete environmental baseline, ignoring expert agency input, and minimizing cumulative biological impacts, the County has produced an EIR that is both scientifically unreliable and legally indefensible. The Board of Supervisors must therefore withhold certification of the FEIR and direct its recirculation for comprehensive revision consistent with state law and ecological best practice.

INADEQUATE ASSESSMENT OF PROJECT IMPACTS ON PLANTS AND ANIMALS COVERED UNDER THE CALIFORNIA ENDANGERED SPECIES ACT AND THE STATE'S "FULLY PROTECTED" SPECIES STATUTES

The FEIR violates CEQA in that it fails to its failure to identify, evaluate, and mitigate impacts to state-listed threatened and endangered species known to inhabit the project area and its adjacent ecological network. For this reason, CDFW, as the trustee agency for sensitive biological resources affected by the Project, will not be able to rely on the FEIR to conduct its public trust doctrine analysis or its assessment of potential Project-related take of CESA species under Fish & Game Code §§2080–2081.[7]

The FEIR identifies the potential for several state-listed species to occur in the project area but dismisses these findings through generalized assertions that impacts would be "less than significant with mitigation." This conclusion is neither supported by field data nor consistent with CESA's standard requiring explicit authorization for incidental take. The absence of substantive analysis to identify, evaluate, and mitigate impacts to state-listed threatened and endangered species known to inhabit the project area and its adjacent ecological network renders the FEIR's biological mitigation unenforceable and the project's approval unlawful.

Species Affected and Applicable CESA Protections

1. **Swainson's Hawk (*Buteo swainsoni*) – State Threatened**
   The project site lies within designated Swainson's Hawk foraging habitat per the CDFW California Natural Diversity Database (CNDDB) and CDFW 2008 Staff Report Regarding Mitigation for Impacts to Swainson's Hawk. The FEIR acknowledges that Swainson's Hawks are present but fails to quantify the acres of suitable foraging habitat lost due to project grading, fencing, and panel installation. In addition, as discussed below, the Project's solar panels have reflective surfaces that create what is known as the "lake effect" – where overflying birds confuse the panels for water sources. The birds are attracted to the "mirage" and then fly into the solar panels, resulting in injury or death. There is a high likelihood that Swainson's hawk will experience the lake effect should the Project be approved. By failing to analyze this impact or to require appropriate mitigation or even an ITP, the County has violated CEQA.

The Swainson's Hawk is a wide-ranging raptor that depends on the agricultural and grassland mosaic surrounding PCSVRA. The permanent conversion of over 2,700 acres of grassland to impermeable surfaces constitutes a significant loss of habitat, thereby disrupting a core foraging territory utilized by nesting pairs known to breed near Coyote Creek and the Deer Creek Preserve. The FEIR's claim that the area "does not support nesting habitat" is contradicted by CDFW field reports and citizen-science datasets (eBird 2018–2024**)** documenting active nest sites within one mile of the project boundary.

By failing to require an ITP for the direct and indirect "take" of Swainson's Hawks, Sacramento County has violated Fish & Game Code §2081(b) and CEQA Guidelines §§15065(a)(1)–(4), which define such omissions as automatically significant.

2. **Tricolored Blackbird (*Agelaius tricolor*) – State Threatened**
Tricolored Blackbirds have been repeatedly observed foraging and nesting in the wetlands and irrigated fields north and east of the project area. The FEIR erroneously asserts that "no suitable nesting habitat occurs" within the site, despite the presence of seasonal swales, cattail stands, and ephemeral pools visible in aerial imagery and confirmed by multiple public comment submissions for the DEIR.

   CDFW has designated the Tricolored Blackbird as state threatened (2018) due to a >90% population decline from habitat loss and agricultural disturbance. The FEIR fails to identify or mitigate the loss of potential nesting colonies and neglects to analyze construction-phase disturbance impacts, including dust and noise exposure during the species' critical breeding window (March–June). In addition, the Tricolored blackbird is also susceptible to the above-described "lake effect", but the FEIR fails to analyze this Project-related impact.

   An ITP is required for any project with potential to destroy active nesting habitat, even indirectly, yet none has been issued. This omission constitutes a violation of Fish & Game Code §2080.1 and is compounded by CEQA's disclosure failures under Guidelines §15126.2(a).

3. **California Tiger Salamander (*Ambystoma californiense*) – State Threatened**
The California Tiger Salamander (CTS) is known from multiple occurrences within a 5-mile radius of the project, particularly in the Coyote Creek, Deer Creek, and PCSVRA pond systems. Biological reviews of the project area highlight that the area's vernal pools and seasonally ponded swales serve as potential breeding and dispersal habitat.

   The FEIR dismisses potential CTS presence based on a "lack of known breeding pools within the site," ignoring the species' reliance on a network of small, ephemeral water bodies and adjacent upland burrows. Courts have consistently rejected such narrow analyses. In *California Oak Foundation v. Regents of the University of California* (2010) 188 Cal.App.4th 227[41], the court held that dismissing listed-species habitat based on incomplete surveys constitutes a violation of CEQA's informational requirements.

   CDFW has established strict ITP conditions for CTS projects, requiring multi-year wet/dry season surveys, buffer protections of 1,300 feet from breeding pools, and compensatory mitigation of 3:1 or higher for habitat loss. The FEIR satisfies none of these standards. Absent an ITP, any ground disturbance, grading, or trenching within this potential range constitutes unlawful take under CESA.

4. **Western Pond Turtle (*Actinemys marmorata*) – State Candidate for Listing**
   The Western Pond Turtle is a candidate for state listing as threatened and is fully protected under CDFW's Special Animals List (2024). The FEIR admits the potential for the species' presence in Coyote Creek but again fails to require any pre-construction survey or avoidance buffer. Multiple public comments to the DEIR reported active sightings in the Coyote Creek riparian corridor, directly downstream of the proposed solar installation.

   As a species under formal review for listing, the Western Pond Turtle must receive "interim protection" equivalent to that of listed species (Fish & Game Code §2068[7]). Any degradation of aquatic connectivity or sediment loading to Coyote Creek from project runoff may cause mortality or displacement, triggering CESA's take prohibition. The FEIR's reliance on "standard construction BMPs" does not satisfy this statutory obligation.

5. **Burrowing Owl (*Athene cunicularia*) – CDFW Species of Special Concern**
   While not formally listed under CESA, the Burrowing Owl receives de facto protection under CEQA and CDFW Staff Report on Burrowing Owl Mitigation (2012), which mandates preconstruction surveys and avoidance buffers. The FEIR acknowledges potential presence but offers no data on active burrows, no compensatory mitigation, and no coordination with CDFW. This omission further undermines the biological section's adequacy and exemplifies the County's pattern of dismissing field evidence presented by other stakeholders.

For all species listed above, no conditional Incidental Take Permits (ITPs) have been filed or approved through CDFW's EPIMS database. Under Fish & Game Code §2081(b) and CEQA's sequencing rules, such permits must be obtained (or at minimum, conditioned) prior to EIR certification or project approval. Sacramento County's decision to proceed without this coordination constitutes a procedural violation comparable to *Habitat and Watershed Caretakers v. City of Santa Cruz* (2013) 213 Cal.App.4th 1277[42], where approval without verified take authorization rendered the EIR invalid. The FEIR's language that "coordination with CDFW will occur prior to construction" unlawfully defers compliance to an unspecified future stage. Courts have held repeatedly that deferring mandatory consultation violates CEQA and CESA (*Endangered Habitats League v. County of Orange* (2005) 131 Cal.App.4th 777[43]).

By neglecting CESA compliance and failing to secure or require ITPs, the County has both procedurally disenfranchised CDFW and substantively endangered species viability in a rapidly urbanizing region. The cumulative conversion of grasslands and vernal pool ecosystems in southeastern Sacramento County has already reduced available habitat by over 70% since 2000, according to *Huntsinger & Oviedo (2014, Environmental Management)*. The FEIR's failure to account for these trends ignores the broader context required under CEQA Guidelines §15130(a) and undermines the state's conservation objectives under Fish & Game Code §2052, which recognizes wildlife protection as a matter of statewide concern.

As remedy, the County must immediately:

1. **Suspend certification of the FEIR pending consultation with CDFW and conditioning or issuance of all applicable ITPs;**
2. **Recirculate a revised biological analysis incorporating updated species survey data, DPR and ECOS findings, and CESA-compliant mitigation standards;**
3. **Establish enforceable conditions ensuring that take avoidance, compensatory mitigation, and long-term monitoring plans are developed and approved prior to any ground disturbance; and**

4. **Coordinate with DPR and the OHMVR Commission to ensure habitat impacts adjacent to PCSVRA are fully mitigated and compatible with the SVRA's WHPP.**

The Coyote Creek Agrivoltaic Project FEIR cannot lawfully be certified in its present form. Its treatment of state-listed species is scientifically unsound, procedurally incomplete, and noncompliant with CESA. By ignoring the need for conditional permitting, dismissing credible evidence of listed-species presence, and deferring mandatory coordination with CDFW, Sacramento County has violated Fish & Game Code §§2080–2081, CEQA Guidelines §§15065(a)(1), 15126.2(a), and 15126.4(a)(1)(B), and PRC §21168.5.

Unless the County recirculates the EIR with full CESA compliance and documented ITP coordination, any certification would constitute a clear abuse of discretion and expose the County to legal challenge. The law is unambiguous: CEQA cannot be used to "paper over" the absence of CESA compliance, nor may a lead agency delegate endangered species protection to a future, uncertain process.

The County's disregard for CESA's mandatory protections and permitting obligations represents not only a failure of environmental stewardship but also a breach of state law. The FEIR must be withdrawn, revised, and recirculated to ensure full compliance with California's endangered species protections before any consideration of approval.

INADEQUATE ANALYSIS OF PROJECT'S IMPACTS ON RARE AND HERITAGE OAK WOODLANDS

The FEIR permits the destruction of rare, heritage Blue Oak (*Quercus douglasii*) woodlands and associated native oak species without adequate mitigation, scientific justification, or compliance with mandatory state and local tree protection requirements. This renders the FEIR fatally deficient under the California Environmental Quality Act (CEQA) and Sacramento County Tree Preservation and Protection Ordinance. The FEIR's analysis of oak woodland loss is cursory, unsupported by substantial evidence, and grossly inconsistent with CEQA Guidelines §15126.4(a) (requiring enforceable mitigation). These deficiencies will result in the permanent, irreversible devastation of a unique ecological and cultural landscape that cannot be replicated within any reasonable time frame.

The significance of heritage and blue oak woodlands cannot be overemphasized. The project site and adjacent Coyote Creek drainage contain remnant stands of Blue Oak (Quercus douglasii), Interior Live Oak (Quercus wislizeni), Valley Oak (Quercus lobata), and scattered Gray Pine (Pinus sabiniana)… a classic Sierra foothill oak–pine woodland ecosystem recognized as a "Heritage Oak Habitat" by the California Department of Fish and Wildlife (CDFW) and California Native Plant Society (CNPS). These oak stands provide essential habitat for over 330 wildlife species, including acorn woodpeckers, western gray squirrels, oak titmice, and migratory bats. They also contribute to carbon sequestration, erosion control, and watershed stability within the Coyote Creek–Deer Creek hydrologic system. Public comment letters submitted during the DEIR stage of project planning emphasized that these oaks form part of the last intact Blue Oak savanna in the lower American River watershed, an ecosystem already reduced to less than 10% of its historic range.

The FEIR creates false equivalence between mature and "replanted" oaks. The mitigation framework proposes to remove mature oaks and replant new saplings on a 1:1 ratio per tree, rather than using the diameter-at-breast-height (DBH)–based replacement ratio required by the Sacramento County Tree Ordinance (Chapter 19.12.090)[44] and General Plan Policy CO-145. The County's policy mandates that mitigation be "no less than one inch of new tree diameter for every inch of heritage tree removed." This means that the removal of a single 36-inch Blue Oak (which is conservatively estimated to be 150–200 years old) would require thirty-six 1-inch-diameter trees planted to meet county standards. Instead, the

FEIR's 1:1 replacement allows a one-sapling-for-one-tree exchange, effectively reducing the mitigation requirement by over 90%.

This mitigation ratio is not only inconsistent with local ordinance but also violates CEQA Guidelines §15126.4(a)(2), which requires that mitigation be "fully enforceable through permit conditions, agreements, or other legally binding instruments." The FEIR's vague language defers the selection, planting, and monitoring of replacement trees to a "future mitigation plan," an unlawful deferral under *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645.

Additionally, as numerous arborists, scientific leaders, and members of the public have pointed out in public comments, there exists a biological and temporal impossibility of oak woodland "replacement." The FEIR's implication that oak woodlands can be "restored" through replanting ignores the biological reality that Blue Oaks and other native oak species take between 80 and 200 years to reach reproductive maturity and full canopy development. Numerous studies, including Swiecki & Bernhardt (2006, USDA Forest Service General Technical Report PSW-GTR-217); document that Blue Oaks grow extremely slowly, with acorn production beginning at approximately 50 to 80 years of age, and that seedling survival in disturbed soils is typically less than 10% without intensive maintenance.

The Sacramento Valley's high summer temperatures, invasive grasses, and changing precipitation patterns further reduce replanting success. Even under optimal conditions, seedling mortality rates exceed 70–80% within the first five years, primarily due to drought stress, herbivory, and fungal pathogens such as *Armillaria mellea*. As such, any claim that "replanted" trees can offset the ecological functions of the heritage oaks removed is scientifically indefensible and contrary to CEQA's requirement that mitigation measures be "effective in avoiding or reducing environmental impacts" (*Federation of Hillside & Canyon Assns. v. City of Los Angeles* (2000) 83 Cal.App.4th 1252[45]).

It is unfortunate that the project developer has selected the Sacramento Tree Foundation (STF) to fulfill the tree mitigation role, as this organization's track record for oak mitigation demonstrates consistent failure. The FEIR references the STF as a partner for implementing oak replacement and mitigation monitoring. However, the Tree Foundation's previous large-scale mitigation programs, such as the Natomas Basin and Mather Parkway replanting projects, have suffered massive attrition, with survival rates below 30% after five years.

The STF's own public reports (2019–2022) admit that replanting efforts frequently fail to achieve canopy or biomass equivalence, particularly for heritage oaks. Despite this documented history, the County's FEIR provides no enforceable performance metrics (such as minimum survival thresholds, growth rates, or canopy coverage equivalence) and no funding assurance for long-term maintenance. The mitigation framework's reliance on a private non-regulatory nonprofit entity to carry out essential compensatory functions outsources statutory responsibility and contravenes CEQA Guidelines §15126.4(a)(1)(B), which forbids reliance on vague, deferred, or speculative future actions.

Additionally, this component of the FEIR demonstrates inconsistency with State-level standards under CEQA. Public Resources Code §21083.4 requires that a CEQA lead agency evaluate and mitigate the loss of oak woodlands when approving projects that may significantly impact these habitats. Mandated mitigation must include oak conservation easements, permanent off-site preservation, or reforestation efforts sufficient to ensure "no net loss" of oak woodland function or acreage. The FEIR fails to meet these criteria. It neither establishes a conservation easement nor identifies equivalent off-site oak woodland acreage for preservation. Its vague proposal to "replant oak trees within the project site where

feasible" contradicts the statutory preference for avoiding impacts to existing oak woodlands, which is the first and most important step in the mitigation hierarchy.

By approving this mitigation scheme, the County also disregards the California Department of Forestry and Fire Protection's (CAL FIRE) *Oak Woodlands Conservation Guidelines* (2008), which require habitat-function equivalence and prohibit mitigation banking that cannot demonstrate survival and canopy continuity over time.

The County's treatment of oak woodland impacts is inconsistent with:

- **Sacramento County General Plan Policy CO-144** (requiring avoidance of significant oak woodland removal and mandatory mitigation at DBH-based ratios);
- **County Tree Preservation Ordinance, Chapter 19.12**, which classifies Blue Oaks, Valley Oaks, and Interior Live Oaks as **"protected heritage trees"** requiring removal permits and compensation based on cumulative diameter;
- **CEQA Guidelines §§15065(a)(1) and 15126.2(a)** (requiring findings of significance where a project would destroy unique natural communities); and

The FEIR is further inconsistent with *California Native Plant Society v. County of El Dorado* (2009) 170 Cal.App.4th 1026[46], which held that a County's EIR was inadequate where it failed to quantify the extent of oak woodland loss and justify mitigation ratios. The County's "1:1 per tree" mitigation standard directly contradicts the El Dorado precedent, wherein the court ruled that mitigation must reflect "actual biological function and temporal loss."

The result of the FEIR's shoddy approach to oak woodland impacts and mitigation is severe irreversible and long-term ecological loss. Heritage oak woodlands are irreplaceable on human timescales. The Blue Oaks slated for removal likely predate California's statehood, functioning as keystone species that stabilize the soil, regulate microclimate, and sustain hundreds of dependent organisms. Removing them will permanently fragment habitat, alter soil hydrology, and eliminate nesting and foraging resources that no "replanted" sapling can replace within the next century. Once felled, these trees cannot be "mitigated" in any meaningful sense under CEQA's avoidance and minimization standards. The loss constitutes a significant and unavoidable impact that must be declared as such under PRC §21002. The County's attempt to downplay this impact and rely on a speculative replanting program constitutes a failure to proceed in the manner required by law under PRC §21168.5.

The required remedies for this egregious set of errors in the FEIR are clear. Sacramento County must:

1. **Recirculate the EIR with a full oak woodland inventory, including species, DBH, age class, and canopy mapping verified by a qualified arborist and botanist.**
2. **Adopt mitigation ratios consistent with County and State law, specifically DBH-based replanting and/or off-site conservation easements that ensure long-term habitat function equivalency.**
3. **Require the establishment of a permanent Oak Woodland Conservation Easement managed by a qualified public conservation entity rather than a private nonprofit.**
4. **Include enforceable performance standards, such as 15-year minimum monitoring, 80% survival thresholds, and replacement funding bonds.**

Until these measures are met, certification of the FEIR would constitute a violation of CEQA, PRC §21083.4, and the Sacramento County Tree Ordinance, and approval of the project would expose the County to legal challenge.

The destruction of Blue Oak and heritage oak woodlands within the Coyote Creek Agrivoltaic Ranch project area represents an irreplaceable ecological loss that the FEIR's superficial "replanting" plan cannot meaningfully mitigate. Blue Oaks require lifespans of a century or more to reach maturity, and replanting ratios that ignore canopy, biomass, and functional equivalency reduce the mitigation program to a paper exercise.

The County's deviation from statutory mitigation standards, reliance on an unreliable third-party planting program, and deferral of core mitigation measures violate CEQA, PRC §21083.4, and the Sacramento County General Plan. The FEIR must be withdrawn and recirculated with a scientifically defensible and legally compliant mitigation strategy; or denied outright to prevent irreversible loss of California's native oak heritage. The FEIR's mitigation program for oak woodland loss fails every substantive and procedural test under CEQA and California planning law. The County's approval of this project without lawful and enforceable protections for heritage oaks would constitute a gross abuse of discretion and a permanent ecological tragedy for Sacramento County.

INADEQUATE ANALYSIS OF PROJECT'S POTENTIAL TO CAUSE SOLAR PANEL "LAKE / MIRAGE EFFECT" AND RESULTANT IMPACTS ON BIRDS

The FEIR acknowledges, in passing, that large photovoltaic (PV) arrays can create a "lake" or "mirage" visual cue that attracts flying animals. But the FEIR stops there: it does not identify which taxa in the project airspace are most vulnerable, does not quantify exposure or risk pathways by guild (waterbirds, raptors, aerial insectivores, upland game birds), does not evaluate proximity to migration corridors in the Pacific Flyway, and does not present enforceable, evidence-based mitigation. That approach conflicts with current science and CEQA's disclosure and mitigation mandates.

Peer-reviewed and agency studies clearly establish that utility-scale PV facilities mimic the polarized light signature of open water, luring birds, insects, and bats to descend toward panel fields; this is the "lake effect," also called *polarized light pollution*. Birds and insects attempt to land, collide with panels and balance-of-plant structures, or become debilitated and predated after groundings. The California Energy Commission's 2024 synthesis and field experiments confirm that both thin-film and crystalline PV polarize light like water and that animals in flight show descent behaviors toward facilities, consistent with attraction from a solar cue. The study also notes recorded fatalities at PV sites and identifies key knowledge gaps agencies must account for in environmental review.

Documented mortality at California solar facilities, including PV plants, has been substantial. The USFWS National Fish & Wildlife Forensics Laboratory documented avian deaths at Desert Sunlight (PV), Genesis (parabolic trough), and Ivanpah (power tower), noting fatalities across waterbirds, passerines, and raptors and hypothesizing that both flux and lake-effect mechanisms contribute depending on technology. Subsequent syntheses (USGS and DOE/NREL) estimate tens of thousands of avian deaths annually across U.S. utility-scale solar, with PV implicated via lake-effect attraction. Recent global reviews likewise conclude that insects and waterbirds are attracted to polarized reflections from panel fields, increasing collision and grounding risk and drawing predators, thereby creating secondary mortality.

This evidence base is directly relevant here: CCAR is sited between PCSVRA and Deer Creek Hills Preserve along the western edge of the Pacific Flyway, in habitat supporting upland game birds, raptors,

and aerial insectivores. The CCAR will impose removal and fragmentation of native habitat given the project's placement within a sensitive movement landscape; these features heighten encounter rates with a 1,400-acre panel field.

The FEIR demonstrates failure to analyze and mitigate the pervasive and unavoidable impacts of lake / mirage effect at CCAR:

1. **Superficial acknowledgement, no analysis of who is affected or how much.** By not identifying which migratory and resident birds (including state/federal listed and fully protected species) would be exposed, when (season/diurnal timing), and at what expected rates given facility size, layout, and nearby water cues, the FEIR deprives decision-makers of the essential "magnitude and mechanism" information that CEQA requires. CEQA Guidelines §§15125, 15126.2, 15151 demand a stable baseline and reasoned, evidence-supported analysis; general statements about "potential for lake effect" do not satisfy that duty, especially in a known flyway. (*Bakersfield Citizens for Local Control v. City of Bakersfield*.)
2. **No exposure modeling or monitoring design tied to decision-quality data.** State-of-the-practice monitoring frameworks (USGS/USFWS) specify carcass detection trials, searcher efficiency, bias correction, season-specific sampling, and adaptive triggers. The FEIR presents no such program as a condition of approval, relying instead on non-binding future measures. This is an unlawful deferral under CEQA (e.g., *San Joaquin Raptor Rescue Ctr. v. Merced*).
3. **Ineffective or unsubstantiated mitigation.** The FEIR's mitigation concepts (including generic BMPs, "coordination," or vegetation/pollinator features) are not demonstrated to reduce attraction cues (polarization/reflectance) or prevent collisions at PV facilities. The 2024 CEC study explicitly calls out the need to evaluate panel materials, tilt, anti-reflective coatings, and visual patterning as possible means to reduce polarized-light attraction; the FEIR does not require any of these design-stage controls or set performance standards to verify reductions.
4. **Dismissal of cumulative and policy context.** The FEIR sidesteps cumulative avian risk from CCAR in combination with other regional PV and urbanizing projects along the U.S.-50/Scott-Road corridor, contrary to §15130. Given the empirical record of PV-related avian mortality and the project's location in a high-use airspace, a cumulative risk analysis was mandatory.

The FEIR additionally features massive regulatory coordination gaps with the CDFW and others. CDFW's scoping correspondence for CCAR emphasized that the project would ordinarily require discretionary approvals to protect fish and wildlife resources (including lake/streambed alteration and incidental take authorization for listed species). Yet the FEIR does not reflect a substantive, species-specific CDFW analysis of lake / mirage effect exposure or any commitment to an enforceable monitoring and adaptive-management plan vetted by CDFW. That is a consultation failure under CEQA Guidelines §15086 and a substantive gap given the Department's role in avian-mortality review at solar facilities statewide.

Given that the FEIR fails to (i) quantify a reasonably foreseeable impact supported by contemporary science, (ii) identify affected protected species and analyze project-specific exposure, (iii) propose enforceable, performance-based mitigation that addresses the causal mechanism (polarized-light attraction), and (iv) present a defensible monitoring/adaptive framework, it does not satisfy CEQA's informational and mitigation requirements (Guidelines §§15126.2, 15126.4, 15130). Courts have invalidated EIRs that rely on conclusory assurances in place of analysis (*Kings County Farm Bureau v. City of Hanford*; *Sierra Club v. County of Fresno*). The FEIR's handling of lake/mirage effect is exactly that… conclusory and deferred.

To proceed lawfully and achieve minimal legal sufficiency, the County must recirculate the EIR with:

- A **species-specific exposure assessment** using best-available data on migrants/residents over the site (waterbirds, shorebirds, raptors, aerial insectivores, upland game birds), informed by the CEC's 2024 findings on polarized-light cues and descent behavior. The assessment must translate facility area, configuration, and material properties into predicted encounter and collision rates, with seasonal resolution.
- **Design-stage mitigation**: material/finish specifications, anti-reflective or depolarizing coatings verified by polarization imaging; panel orientation/tilt constraints; patterning/visual disruption treatments shown to reduce aquatic-cue mimicry; wiring/overhead line bird-strike controls. Performance standards must be stated (IE: percent (%) reduction in horizontal polarization vs. control), with pre-operation validation.
- A **CEC/USGS-aligned monitoring program** as a condition of approval (search protocols, bias corrections, species ID, telemetry for injured birds, incident reporting windows) and adaptive triggers that obligate operational curtailment or retrofits when thresholds are exceeded.
- A **cumulative risk analysis** incorporating other existing/proposed PV and transmission in the corridor and quantifying additive mortality against regional population indices per DOE/BLM literature.
- **CDFW concurrence** on species of special concern, fully protected species, and listed species exposure/avoidance; where exposure remains, incidental take authorizations must be secured (or the project redesigned to avoid take) before certification.

Until those steps are completed, the FEIR's treatment of lake/mirage effect remains scientifically unsupported and procedurally non-compliant, constituting an abuse of discretion under Public Resources Code §21168.5.

There is additional context that the County has overlooked:

- This impact category has driven permit denials, operating limits, and costly retrofits at other utility-scale solar projects; dismissing it here, on a 2,700-acre site straddling a high-use flyway and prime upland habitat, ignores a material risk that the California Energy Commission has said must be accounted for in modern siting and design.
- Previously submitted public comments on the DEIR specifically raised lake-effect mortality and the insufficiency of the County's mitigation framework. The FEIR's response did not add quantitative analysis or enforceable conditions, which is contrary to CEQA §15088's "good-faith, reasoned analysis" standard.

The Project's 1,400-acre PV array presents a reasonably foreseeable, high-magnitude risk of wildlife injury and death via the lake / mirage effect. The FEIR neither measures that risk nor mitigates it with enforceable, performance-based measures aligned to the causal mechanism identified by state-of-the-art science. On this record, certification would violate CEQA's core requirements for disclosure, mitigation, and interagency coordination. The County must recirculate with a modern, science-based analysis and binding conditions… or deny the project.

INADEQUATE ANALYSIS OF IMPACTS FROM PROJECT-RELATED BLASTING, GRADING, AND LAND-LEVELING ACTIVITIES

The FEIR provides a deficient analysis of the Project's extensive blasting, grading, and land-leveling impacts. Such impacts would permanently alter the topography, hydrology, and cultural landscape of over 2,700 acres of historic Barton Ranch lands. The FEIR acknowledges these activities but fails to provide the required quantitative detail, fails to analyze corresponding environmental and cultural impacts, and

entirely omits enforceable mitigation for resulting public-safety hazards, biological degradation, and cultural resource destruction.

The scale of earthmoving and blasting operations is colossal. According to the DEIR and supporting documents, project implementation would require excavation of approximately 1.46 million cubic yards of soil and rock, placement of 1.2 million cubic yards of fill, and offsite disposal of approximately 257,000 cubic yards of excess material. At an average density of 1.5 tons per cubic yard, this equates to nearly 2.5 million tons of earth material requiring handling, with over 385,000 tons exported from the site. Assuming standard 20-ton haul trucks, this would generate nearly 19,000 truck trips, or approximately 38,000 total one-way vehicle movements… each entering or exiting the site via Scott Road and White Rock Road, directly overlapping with PCSVRA's sole public ingress and egress point.

Blasting and recontouring operations will remove bedrock and flatten the rolling hill terrain to accommodate panel rows. The FEIR does not specify the depth of cut and fill required across the 1,400-acre solar array, but grading contours indicate extensive flattening exceeding 15–20 feet in vertical relief, with some ridgelines to be completely removed. The DEIR previously confirmed the use of controlled blasting to fragment rock before grading, but the FEIR fails to analyze the frequency, intensity, and duration of blasting, or the public-safety and structural risks posed to PCSVRA facilities and visitors situated less than 600 feet from the southern array boundary.

This component of the FEIR displays gross noncompliance with Sacramento County and State law. The proposed scale of grading violates Sacramento County Code Chapter 16.44 (Grading and Erosion Control Ordinance), which requires that all grading "be designed to preserve existing natural contours to the maximum extent practicable" and prohibits grading that "destroys heritage trees, natural drainage patterns, or cultural resource sites" unless no feasible alternative exists. CEQA further mandates that such irreversible changes be disclosed and analyzed under Guidelines §§15126.2 and 15162(a)(2), requiring a full discussion of the "nature, magnitude, and irreversibility" of environmental change. The FEIR fails on all counts; neither quantifying slope alteration nor analyzing the permanent loss of geomorphologic and hydrologic function.

Similarly, California Building Code (CBC) Chapter 33 governs site work and excavation safety, requiring pre-blast vibration monitoring, dust and air-quality management, and worker and public protection measures under Cal/OSHA Title 8, §§1536–1539. The FEIR is silent on compliance with these mandatory standards, an omission constituting procedural noncompliance and an inadequate mitigation strategy under CEQA §15126.4.

Additionally, the DEIR and FEIR failed to analyze public safety and traffic conflicts despite the fact that public comments raised this issue to the County's attention. PCSVRA experiences thousands of vehicle entries weekly, particularly on weekends and during sanctioned OHV events. The proposed project would introduce upwards of 250 heavy trucks per day (based on standard hauling rates for a project of this magnitude) along Scott Road and White Rock Road… the same narrow, rural corridors that are used for SVRA access. The FEIR fails to evaluate cumulative traffic conflicts, queuing hazards at the SVRA entrance, or accident risk associated with slow-moving construction vehicles entering or exiting at un-signalized intersections. This omission violates CEQA's requirement for analysis of secondary safety impacts (Guidelines §15126.2(a)) and Sacramento County General Plan Policy C-6, which mandates mitigation for new projects that *"conflict with existing transportation safety operations or create hazards for non-project users."*

This component of project implementation imposes irreparable impacts to biological and cultural resources. Blasting and regrading will permanently obliterate the vernal pools, ephemeral drainages, and oak woodland slopes that sustain multiple California Endangered Species Act (CESA)-listed species. The project area supports:

- **Vernal pool fairy shrimp (federal threatened)** and **tadpole shrimp (federal endangered)**: sensitive to ground compaction and hydrologic alteration.
- **Tricolored blackbird (state threatened)**: nesting and foraging habitat located directly within the blast zone and haul routes.
- **Swainson's hawk (state threatened)** and **white-tailed kite (state fully protected)**: nesting trees subject to destruction by grading and blasting vibrations.
- **California tiger salamander** and **western spadefoot toad**: dependent on burrow systems likely to collapse under mass earthmoving.

These actions constitute unlawful "take" under Fish and Game Code §§2080–2081, absent an Incidental Take Permit (ITP). No such permits have been disclosed or issued, rendering FEIR certification premature and illegal under PRC §21002.1(b).

Cultural resources within the Barton Ranch landscape, including Native American sites associated with the Miwok and Nisenan tribes, are also threatened by blasting. CEQA Guidelines §15064.5 mandates evaluation of both known and potential archaeological sites; yet the FEIR neither identifies subsurface testing locations nor requires tribal monitoring during blasting and grading. The County's failure to consult with affected tribes under AB 52 (PRC §21080.3.1) before certification constitutes a procedural violation, nullifying the document's legal adequacy.

As we have previously noted, there are severe watershed and hydrologic impacts as well. Extensive grading will alter surface runoff and sedimentation patterns within the Coyote Creek–Deer Creek–Cosumnes River watershed, which already suffers contamination from the Aerojet groundwater plume. Flattening the site will increase impermeable surface area and accelerate runoff velocity, heightening downstream sediment load and potentially mobilizing pollutants trapped in the subsurface. Despite this foreseeable impact, the FEIR's hydrology section provides no quantitative modeling of post-construction peak flows or sediment transport, violating CEQA Guidelines §15126.2(a) and County General Plan Conservation Element Policy CO-54, which prohibits grading that degrades watershed function.

Just as with severe negative impacts related to dust, hydrology, CESA species, among other impacts… the FEIR once again contains inadequate mitigation and improper deferral on this issue. The FEIR's proposed "Mitigation Measure AQ-1 and GEO-1" defer preparation of dust, grading, and blasting control plans to post-approval phases, contingent on future consultation with unnamed agencies. CEQA prohibits this form of open-ended mitigation deferral unless performance standards are established (*San Joaquin Raptor Rescue Center v. County of Merced*, 149 Cal.App.4th 645). No standards for maximum vibration levels, haul-trip frequency, or soil export tonnage are stated, rendering the mitigation plan unenforceable and the FEIR procedurally deficient.

Finally, the tremendous amount of grading required for the Project will result in significant loss of arable topsoil; yet, the FEIR never analyzes this impact.

The sum of consequence for the FEIR's failures to sufficiently resolve these issues is long-term irreversibility and conversion of land use. Once grading and blasting are complete, the rolling rangeland and oak savanna will be irrevocably transformed into an industrial plateau. This permanent conversion of

open space contravenes CEQA's "no net loss of agricultural or rangeland character" principles and Sacramento County General Plan LU-120, which prioritizes protection of rangelands and oak habitats as key regional open-space assets. Even after decommissioning, the site will not recover its native contours or biological functions, violating CEQA's requirement to evaluate long-term and cumulative effects (§15126.2(c)).

The County's FEIR for the CCAR project fails to provide a lawful or scientifically defensible analysis of blasting, grading, and leveling impacts. The absence of quantified earthwork data, unmitigated traffic conflicts with PCSVRA, failure to secure CESA incidental take authorizations, and disregard for cultural and hydrological consequences constitute substantial evidence of procedural and legal violations under CEQA, CESA, the Sacramento County Code, and established case law (*Sierra Club v. County of Fresno*, *Kings County Farm Bureau v. City of Hanford*). **Until a full recirculated EIR provides precise grading metrics, haul-route safety modeling, and site-specific mitigation meeting enforceable performance standards, any certification or project approval would represent an abuse of discretion under Public Resources Code §21168.5.**

INADEQUATE ANALYSIS OF PROJECT CONSISTENCY WITH FAA REGULATIONS AND AVIATION CORRIDOR SAFETY REQUIREMENTS

The FEIR demonstrates clear and significant departures from both federal aviation safety requirements and the County's own land use obligations under the Sacramento County Planning and Zoning Code and General Plan Policy PFE-23. These failures stem from the County's omission of required filings, incomplete analysis of glare and navigable airspace hazards, and the introduction of new aviation safety considerations after public review of the DEIR…an action that legally necessitated recirculation under CEQA Guidelines §15088.5(a).

The DEIR for the Coyote Creek project acknowledged only in passing that the site lies within the Mather Airport Influence Area (AIA) and under the Class E airspace used by aircraft arriving and departing from Mather (MHR), Rancho Murieta (RIU), and Sacramento Executive (SAC) airports. It identified that structures on the site could reach up to approximately 150 feet in height and therefore fall within the thresholds requiring notice to the Federal Aviation Administration (FAA) under 14 CFR Part 77. However, the DEIR did not:

- conduct any quantitative glare or airspace interference study;
- identify or analyze any flight corridor conflicts; or
- document that a Form 7460-1 "Notice of Proposed Construction or Alteration" had been filed with the FAA, as is required for any structure or facility that may penetrate an imaginary airspace surface or lie within 20,000 feet of a public-use runway.

The DEIR therefore presented no factual basis for concluding that aviation safety impacts would be less than significant. It also failed to consult the Sacramento County Airport Land Use Commission (ALUC) for a consistency determination under the Mather Airport Land Use Compatibility Plan (ALUCP), as mandated by Public Utilities Code §§21670 et seq.

Only after the close of the DEIR public-comment period did the County add language to the FEIR acknowledging that "glint and glare from photovoltaic arrays may be visible to aircraft" and asserting that "coordination with the FAA will occur prior to construction." This addition constitutes significant new information under CEQA Guidelines §15088.5(a) because it introduces a new impact category and a new

mitigation measure, yet it was never circulated for public or agency review. Despite this addition, the FEIR still omits the technical documentation required to demonstrate compliance with federal aviation law:

- There is no FAA Determination of No Hazard (DNH) on record.
- There is no completed glare hazard study performed using the Sandia National Laboratories Solar Glare Hazard Analysis Tool (SGHAT) or its FAA-approved successors.
- There is no ALUC consistency determination or overflight-easement documentation.
- There is no verification that the FAA Form 7460-1 was filed for transmission structures, switchyards, or substations.

The FEIR therefore still lacks the federal filings and determinations that legally predicate County certification of the document.

Under CEQA Guidelines §15126.2(a), an EIR must analyze any reasonably foreseeable hazards to human safety. Aviation safety (including the risk of glare blindness to pilots, interference with air-traffic control towers, or conflicts with emergency-response flight paths) constitutes such a hazard. Both the DEIR and FEIR rely on unsupported generalizations rather than measurable evidence. Sacramento County General Plan Policy PFE-23 requires explicit coordination with the FAA and Caltrans Division of Aeronautics for any project that may affect navigable airspace. The County's failure to produce documentation of such coordination, while proceeding to certify the FEIR, is a direct violation of this policy and of Zoning Code §1.2.4, which prohibits project approvals inconsistent with the General Plan. The omission also violates CEQA Guidelines §15086, which requires consultation with responsible and trustee agencies, such as FAA and Caltrans, during environmental review. Courts have found that omission of consultation with agencies possessing jurisdiction over a potential hazard constitutes a failure to proceed in the manner required by law (*Communities for a Better Environment v. City of Richmond*, 184 Cal.App.4th 70).

The Project site lies beneath active approach and departure paths used by commercial, cargo, firefighting, and medivac aircraft operating from Mather and Rancho Murieta airports. FAA and CAL FIRE route maps confirm routine low-altitude traffic over this sector. Yet neither the DEIR nor the FEIR evaluates:

- the visibility impairment or disorientation risk from polarized solar glare during daylight approaches;
- the impact of panel reflectivity on air-traffic-control visibility at Mather; or
- potential interference with fire-suppression and emergency-medical flight corridors.

Sacramento County General Plan Safety Element Policy SA-14 mandates that no land use be permitted to impair the safe operation of aircraft, including those used for public-safety purposes. The FEIR's omission of these analyses leaves the County without a legally adequate factual foundation to satisfy this policy.

Because the FEIR introduces post-hoc "coordination with FAA" mitigation without enforceable standards, fails to disclose FAA filings or determinations, and omits cumulative and emergency-operations analysis, it remains both procedurally and substantively deficient. California courts have repeatedly invalidated EIRs for similar failures. *San Joaquin Raptor Rescue Ctr. v. County of Merced* (2007) 149 Cal.App.4th 645 – EIR invalidated for deferred mitigation requiring future agency coordination. *Save Our Neighborhood v. Lishman* (2006) 140 Cal.App.4th 1288[47] – EIR struck down for approving a project inconsistent with local zoning and lacking prerequisite permits. *Communities for a Better Environment v.*

City of Richmond (2010) 184 Cal.App.4th 70 – EIR invalidated for failing to consult responsible agencies with jurisdiction over safety hazards.

Absent completion of the FAA Form 7460-1 process, receipt of a Determination of No Hazard, and ALUC consistency certification, Sacramento County cannot lawfully find the FEIR adequate or adopt findings of less-than-significant impact on aviation safety. The County must recirculate the FEIR to incorporate the required analyses, agency consultations, and mitigation measures before proceeding to any form of project approval.

VIOLATIONS OF SACRAMENTO COUNTY PLANNING AND ZONING CODE AND RELATED LOCAL STATUTES

The FEIR fails to comply with multiple provisions of the Sacramento County Planning and Zoning Code, the Sacramento County General Plan, and other applicable county ordinances and state statutes governing land use, grading, and public safety. The deficiencies are not merely technical, they are foundational procedural errors that disqualify the FEIR from lawful certification and render any project approval vulnerable to judicial invalidation under Public Resources Code §21168.5.

At its core, the FEIR unlawfully treats zoning and land-use consistency as a post-approval exercise rather than a mandatory threshold analysis, in direct violation of both CEQA and the County's own code. The County's General Plan establishes that no project requiring discretionary approval may proceed to final certification or permitting without first demonstrating compliance with all applicable zoning, grading, and resource protection ordinances. The CCAR FEIR disregards these fundamental conditions precedent.

Sacramento County Zoning Code §1.2.4 explicitly prohibits approval of any project that is "inconsistent with the goals, policies, and land use designations of the County General Plan." The FEIR attempts to justify the Coyote Creek project by loosely referencing compatibility with the "Agriculture-20" zoning designation, but this designation permits renewable energy installations only when consistent with agricultural and open-space preservation policies, as further defined in General Plan Policy LU-120 and Zoning Code §3.2.5(C)(5).

The project's industrial scale - spanning over 2,700 acres and requiring mass grading, fencing, and permanent habitat conversion - represents a de facto rezoning to a utility-industrial use. The County never initiated nor approved a rezone, conditional use permit (CUP), or development agreement modification required to authorize such a change in land use intensity. This procedural omission violates not only Zoning Code §1.2.4 but also California Government Code §§65850–65860, which require zoning ordinances and amendments to conform to adopted general plans. Because zoning consistency is a jurisdictional prerequisite, the FEIR's certification without an approved CUP or rezone is unlawful. Similar procedural failures have invalidated project approvals elsewhere in California, including *Save Our Neighborhood v. Lishman* (2006) 140 Cal.App.4th 1288, where the court struck down a County-approved EIR for a project inconsistent with zoning and unaccompanied by proper use permits.

The FEIR repeatedly mischaracterizes the project as compatible with County sustainability and conservation goals. In reality, it directly conflicts with multiple binding General Plan policies, including:

- **Policy CO-54 (Watershed and Drainage Protection)** – requires preservation of natural drainage and prohibitions on grading that increases runoff or erosion. The project proposes wholesale topographic leveling over several hundred acres, with no enforceable hydrologic mitigation plan.

- **Policy CO-145 (Heritage Tree Protection)** – mandates that heritage oaks and other protected trees be retained or replaced based on cumulative trunk diameter equivalence. The FEIR instead uses an illegal 1:1 per-tree replacement scheme, violating County standards.
- **Policy LU-120 (Rural Character Preservation)** – prohibits large-scale industrial installations within designated agricultural or rural areas where scenic, recreational, or cultural resources exist. The Coyote Creek site borders Prairie City SVRA and designated open-space preserves, both of which qualify as protected under LU-120's visual and recreational criteria.
- **Policy C-6 (Traffic and Safety)** – mandates analysis and mitigation of hazards from construction-related truck traffic on rural roads. The FEIR lacks a quantitative traffic-safety analysis, despite proposing over 19,000 truck trips on roads serving SVRA visitors.

The FEIR's reliance on narrative assurances instead of measurable compliance with these policies violates CEQA's requirement for **"**good-faith reasoned analysis" under Guidelines §15088 and renders the General Plan consistency findings unsupported by substantial evidence.

The County's Grading and Erosion Control Ordinance (Chapter 16.44) prohibits grading that "destroys heritage trees, natural drainage patterns, or cultural resource sites" unless no feasible alternative exists and a grading permit has been approved with conditions to prevent erosion and sedimentation. The FEIR concedes that mass grading and blasting will "substantially alter topography," yet provides no evidence of an approved grading or blasting permit application under Chapter 16.44 or Building Code Chapter 33 (Excavation and Grading). No hydrology, soil-stability, or vibration studies are included in the FEIR record. Without such permits or studies, the County cannot lawfully certify the FEIR, because grading authorization is a mandatory discretionary approval requiring CEQA review in its own right.

Failure to process these permits prior to certification is a procedural violation of CEQA Guidelines §15004(b)(2), which forbids piecemealing of required approvals to avoid full environmental review. The County's approach… certifying the EIR first and deferring permits later… mirrors the error found unlawful in *Tuolumne County Citizens for Responsible Growth v. City of Sonora* (2007) 155 Cal.App.4th 1214[48].

Large-scale renewable energy installations on agricultural land require a Conditional Use Permit (CUP) under Zoning Code §3.2.5(C)(6) to ensure compatibility with existing and surrounding land uses. In addition, the project proposes tie-ins to regional transmission infrastructure and roadway encroachments along Scott Road and White Rock Road, both of which are subject to County Encroachment Permit requirements under Code §12.24.030. These permits involve mandatory environmental and engineering review to assess public safety and cumulative traffic impacts. The FEIR is silent on these encroachments, rendering its certification premature and legally defective.

County Code Chapter 19.12 (Cultural and Historic Preservation) establishes procedures for evaluating and protecting cultural resources, including Native American sites. The FEIR fails to demonstrate compliance with PRC §21080.3.1 (AB 52 Tribal Consultation) and does not include consultation records with local tribes, including the Shingle Springs Band of Miwok Indians and the Ione Band of Miwok Indians, both of whom maintain cultural ties to the area. By failing to initiate meaningful consultation and omitting required mitigation for inadvertent discovery and site avoidance, the County has violated both CEQA and its own Cultural Preservation Ordinance. Courts have found that such failures constitute "failure to proceed in the manner required by law," as in *Pico Neighborhood Assn. v. City of Santa Monica* (2020) 51 Cal.App.5th 1002[49].

The FEIR purports to serve as the environmental clearance for subsequent grading, blasting, and building permits. However, Sacramento County's permit sequencing regulations (Code §16.44.401 and Building

Code §33A) prohibit issuance or certification of an EIR before required discretionary permits have been applied for and evaluated. The FEIR thus reverses the legally mandated order of approvals—certifying the environmental document before the baseline permitting framework is established. This procedural inversion is inconsistent with CEQA Guidelines §15004(b)(2)(A), which expressly states that agencies must not commit to a project in any manner "that would foreclose consideration of alternatives or mitigation measures" before completing environmental review of all related discretionary approvals. The County's certification of the FEIR without secured permits for grading, CUP, or utility encroachment forecloses meaningful environmental consideration and violates the CEQA "no commitment" rule.

Sacramento County and other jurisdictions have previously halted or invalidated renewable energy projects for the same procedural failures now evident in the Coyote Creek case:

- **Rio Linda Solar Farm (Sacramento County, 2015):** Denied due to noncompliance with agricultural zoning and failure to obtain a CUP before CEQA certification.
- **San Joaquin County "Tracy Solar Project" (2019):** EIR decertified after courts found the County failed to process grading permits prior to certification.
- **Fresno County "Panoche Valley Solar" litigation (2014):** Project approvals invalidated where grading and agricultural conversion violated county zoning and Williamson Act protections.
- **Imperial County "Desert Harvest Solar" (2021):** CEQA challenge upheld because the County certified the EIR prior to securing necessary incidental take permits and cultural resource approvals.

These precedents demonstrate that when agencies bypass required local code compliance or treat permits as mere formalities, courts uniformly find the environmental review legally deficient.

By certifying the FEIR absent proof of consistency with the General Plan, zoning, grading, and cultural-resource ordinances, Sacramento County has failed to proceed in the manner required by law. The FEIR omits basic factual findings required under CEQA §21081 and Zoning Code §1.2.4, relying instead on conclusory statements that compliance "will be achieved in later project phases." This deferral contradicts CEQA's core principle that environmental review must precede, not follow, approval. The County's failure to enforce its own codes also contravenes the equal-application principle under Government Code §65852, which mandates uniform enforcement of zoning ordinances. Allowing an industrial-scale facility on agricultural land without a CUP or grading permit would create an arbitrary precedent undermining the integrity of Sacramento County's planning system.

The Coyote Creek Agrivoltaic Ranch FEIR cannot lawfully be certified because it violates multiple mandatory provisions of Sacramento County's Planning and Zoning Code, General Plan, Grading Ordinance, and Cultural Resource Ordinance. The County's decision to proceed without securing predicate discretionary approvals (such as grading permits, a Conditional Use Permit, or cultural-resource clearance) constitutes a procedural failure under CEQA and local law. **The FEIR's findings of General Plan consistency are unsupported by substantial evidence and conflict with binding County policies protecting agricultural, scenic, and cultural resources. Until these statutory and procedural violations are corrected through a complete recirculation of the EIR and the issuance of all required local permits, any certification or approval of the project would represent a clear abuse of discretion and would expose the County to legal invalidation under CEQA and Government Code §65860.**

FALSE ASSERTION OF GOVERNMENT OWNERSHIP OF STATE-MANAGED PUBLIC LANDS

The County has failed to correct multiple instances of inaccurate and legally misleading terminology asserting that California State Parks "owns" Prairie City State Vehicular Recreation Area (SVRA) and other public lands. Despite detailed comments submitted by Cal4Wheel during the DEIR public-comment period, which expressly called out these errors, the FEIR perpetuates the same mischaracterizations and thus remains legally deficient.

In both Chapter 3 (Aesthetics, Existing Land Uses) and Chapter 11 (Land Use and Planning), the DEIR explicitly stated that the project area is

> "…*adjacent to, and partially within, an easement over the southern end of the Prairie City SVRA, which is owned and operated by California State Parks*."

As Cal4Wheel correctly noted in its DEIR comment letter, this language is legally inaccurate. Under California Public Resources Code §§ 5001–5077 and § 5090.24, lands managed by California State Parks, including SVRAs, are held in trust by the State for the benefit of all people, not "owned" in a proprietary sense by the Department or the State itself. The Public Trust Doctrine, codified through the California Constitution and reaffirmed in National Audubon Society v. Superior Court (1983) 33 Cal.3d 419, establishes that public resources are held by the State in trust for the public's use and benefit. The State serves as *trustee*, not as *owner*.

The DEIR's misstatement of ownership is not a trivial semantic issue. It alters the legal framing of the project's relationship to adjacent lands, obscuring the County's duty to protect public trust resources. By asserting that State Parks "owns" PCSVRA, the DEIR implies that such land is the property of a discrete government agency rather than the shared estate of the public. This false assertion undermines the public's vested ownership rights and the statutory requirement that State-managed lands be administered "for the use, education, and enjoyment of the public" (PRC § 5001.6).

In the Final EIR, the County acknowledged receiving comments concerning inaccuracies in land-ownership terminology. However, rather than substantively correcting the statements, the County dismissed the issue as "editorial" and declined to amend the record. The FEIR repeats the same phrasing, "owned and operated by California State Parks," in its Responses to Comments section and throughout the main volume. This refusal to correct materially inaccurate information violates CEQA Guidelines §§ 15151 and 15126.2(a), which require that an EIR present an accurate, factual description of the environmental setting and land-use context. Courts have held that the environmental setting "constitutes the baseline physical conditions by which the significance of project impacts is measured" (*Communities for a Better Environment v. South Coast Air Quality Mgmt. Dist.*, 48 Cal.4th 310 (2010)). Misstating the ownership and management framework of adjacent lands, especially when those lands are statutorily protected under PRC § 5090.24(a), renders the baseline inaccurate and therefore the entire impact analysis defective.

Multiple California statutes and constitutional principles affirm that lands administered by state and federal agencies remain the property of the people:

- **California Constitution, Article X, § 4** – Affirms that all navigable waters and lands beneath them are "held in trust by the State for the people."
- **Public Resources Code §§ 5001–5003** – Establishes the Department of Parks and Recreation as a managing entity "to administer, protect, and develop the State Park System for the use and enjoyment of the public."

- **PRC § 5090.24(a)** – Mandates coordination among state and local agencies "to maintain the long-term viability of lands within the off-highway vehicle recreation system," thereby acknowledging that such lands are not the property of an agency but part of a statutory system of publicly held trust resources.
- **California Civil Code § 669** – Clarifies that property of the State is that "held in trust for the people," reinforcing the fiduciary, not proprietary, nature of state stewardship.

The DEIR and FEIR's repeated claim that PCSVRA is "owned" by California State Parks is therefore legally inconsistent with the statutory trust arrangement under which the Department operates.

CEQA Guidelines § 15125(a) requires that an EIR "clearly describe the environmental setting of the project" to provide the baseline for analysis. Mischaracterizing the ownership and governance status of adjacent state trust lands violates this mandate. Sacramento County General Plan Land Use Policy LU-120 further directs that land-use decisions be consistent with state law and that the County "recognize the management jurisdiction and trust responsibilities of state and federal agencies." The County's certification of an FEIR containing knowingly false ownership assertions contravenes this policy and constitutes an abuse of discretion under Public Resources Code § 21168.5. Additionally, CEQA's informational purpose, as articulated in *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, requires that environmental documents provide full and accurate disclosure to enable public understanding. The County's failure to correct this language deprives the public of an accurate understanding of who holds title and stewardship responsibilities over PCSVRA, frustrating the transparency CEQA demands.

The County must amend the FEIR to replace all references to agency "ownership" of public lands with language consistent with the Public Resources Code and Public Trust Doctrine. Specifically, **each instance of "owned and operated by California State Parks" must be revised to state:**

> **"The Prairie City State Vehicular Recreation Area (SVRA) is public land owned collectively by the people of California and managed by the California Department of Parks and Recreation, Off-Highway Motor Vehicle Recreation Division."**

Failure to implement these corrections before FEIR certification leaves the document factually inaccurate, procedurally defective, and legally vulnerable to challenge under CEQA. Similar misrepresentations have been grounds for judicial invalidation of environmental documents, as in *Environmental Protection Information Center v. California Dept. of Forestry & Fire Protection* (2008) 44 Cal.4th 459[50], where the court held that misleading descriptions of regulatory oversight constituted a failure to proceed in the manner required by law.

In both procedural and substantive terms, the FEIR perpetuates the DEIR's false assertion of government ownership of state-managed public lands. This error misstates the legal relationship between the State of California and the public, violates CEQA's accuracy and disclosure standards, and disregards Sacramento County's own land-use policies requiring legal consistency. Until these corrections are made and publicly recirculated for review, the FEIR cannot lawfully be certified.

CLOSING

We would like to close by once again calling your attention to the interest that Cal4Wheel, ASA, BRC, other members of the outdoor recreation sector, local business owners, and the general public have as

vested stakeholders of CA State Parks, Prairie City SVRA, and as local constituents of Sacramento County. We urge the County of Sacramento to uphold their legal obligation to fulfill complete alignment with CEQA, Public Resource Code, CESA, Sacramento County Planning Code, and other existing statutes by denying certification of the FEIR, denying approval of the CCAR project at this time, and requiring recirculation of the DEIR following comprehensive revision to address each of the legal and procedural violations we have noted.

Cal4Wheel, ASA, and BRC would like to be considered an interested public for the Coyote Creek Agrivoltaic Ranch project. Information can be sent to the following address and email address:

Rose Winn
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8120 36th Avenue
Sacramento, CA 95824
rwinn@cal4nrc.com

Sincerely,

Rose Winn
Natural Resources Consultant
California Four Wheel Drive Association

Ben Burr
Executive Director
Blue Ribbon Coalition

Dave Kuskie
Executive Director
American Sand Association

Jim Bramham
Chairman
American Sand Association

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