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Bay Area birds since 1917*

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02Nov2020

Subject: Aramis Solar Energy Generation and Storage Project, Draft Environmental Impact Report, PLN2018-00117, Alameda County

Dear Mr. Young,

Please accept these comments from Golden Gate Audubon Society (GGAS) on the draft Environmental Impact Report (EIR) for Aramis Solar Energy Generation and Storage Project (Project). GGAS is a 103 year old Audubon chapter with over two thousand local members and many more national members who advocate for protection of native wild bird populations and their habitat. The application is for a Conditional Use Permit (CUP) for constructing a utility scale solar installation (up to 100 megawatts, or MW) with associated battery storage using photovoltaic panels over mainly contiguous 533- acres, of which 22 are in a Resource Management area, and 350 acres would be developed as part of the Project. The draft EIR evaluates specific environmental effects of the Project as proposed by IP Aramis, LLC, a subsidiary of Intersect Power, LLC (Aramis).

GGAS strongly supports regenerative and sustainable bird-safe and least conflict alternative energy, including solar energy. However, utility scale solar projects potentially cause serious direct, indirect, and cumulative impacts to native birds and permanently alter or destroy their habitats. The dEIR should carefully analyze and explain the potential for such impacts and effects on habitats and provide detailed descriptions for adequately monitoring and mitigating for such possible impacts.

The dEIR Biological Surveys Are Inadequate and Should Include More Detailed Observations for All Special Status Species

Under the California Environmental Quality Act (CEQA), The Project proposes a massive and permanent conversion of over 500 acres of habitat presently potentially supports nesting and/or foraging habitat for at least ten special status bird species, is foraging habitat for Golden eagles (*Aquila chrysaetos*), and offers potential nesting cavities for avian species, such as American kestrel (*Falco sparverius*) and oak titmouse (*Baeolophus inornatus*). White-tailed kite (*Elanus leucurus*) nesting was documented to have occurred within 5 miles of the project site. The dEIR reports on page 29 of Appendix E that, “On June 17, 2020 a pair of loggerhead shrikes were observed passing through the site and feeding recently fledged young.” Also, on page 29 of Appendix E, “On June 17, 2020 two juvenile burrowing owls (*Athene cunicularia*) were observed at a burrow just east of the project site and appear to be recently fledged owls.” No long-term bird surveys were included in this report and fewer than six one-day burrowing owl surveys over a period of two years. Given the minimal biological surveys, these reports indicate that the importance of this site for nesting and foraging activities in this project site may well be under-represented. Under CEQA §15125 (c), “Knowledge of the regional setting is critical to the assessment of

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environmental impacts. Special emphasis should be placed on environmental resources that are rare or unique to that region and would be affected by the project. The EIR must demonstrate that the significant environmental impacts of the proposed project were adequately investigated and discussed and it must permit the significant effects of the project to be considered in the full environmental context.”

For this project, the biological surveys should adequately investigate and discuss the use and occupancy of the special status bird species at and near the project site as a basis for understanding and fully considering significant effects on the native bird populations. This means that longer studies of use and occupancy of the ten special status bird species should be included in this dEIR.

### The dEIR Should Adequately Describe Measures for Avoiding and Minimizing High Avian and Bat Mortality at Utility Scale Solar Installations

Multiple studies have described direct impacts to birds and bats from utility scale solar projects.<sup>1</sup> such as high mortality due poorly understood phenomena, such as “lake effect.”<sup>2</sup> Measures for avoiding and minimizing on high fatalities to birds and bats from utility scale solar installation should be thoroughly analyzed and considered for this project. These studies

After just one year at Ivanpah, bird mortality was projected to be almost 30,000 fatalities. (Smallwood, 2020). After ten years at just this one installation, that means a total of 300,000 dead birds. Given that the National Audubon Society states that we have lost 42% of our grassland bird species and permanently lost 1/3 of all native wild birds that occupied North America from habitat loss and development and climate change, this kind of deadly impact to our native birds is in fact, unsustainable.<sup>34</sup>

Given how high bird and bat fatalities appear to be from utility scale solar installations, this raises a question about whether this kind of utility-scale solar energy as designed is sustainable.

### Utility Scale Solar Installations Have Unmitigatable Cumulative Impacts From Extreme Habitat loss

While the project proponents assert that raptors prefer foraging at solar installations, this assertion did not cite peer-reviewed scientific studies. Multiple studies report that the greatest cumulative impact to native bird populations is habitat loss. This solar installation will essentially permanently alter over 500 acres of

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<sup>1</sup> “The so-called “lake effect” associated with solar panels is one of many potential environmental impacts of large-scale renewable energy. As countries install more solar panels ...in diverse ... habitats, the need becomes more pressing to understand these impacts...”

Found at <https://eprijournal.com/renewables-birds-bats-waste-and-noise/>

<sup>2</sup> Smallwood, K.S. Comparison of Bird and Bat Fatality Rates Among Utility-Scale Solar Projects In California, 07oct2020. “[I]t would be helpful to know cause of death so that appropriate mitigation measures can be formulated and implemented. Listed below are candidate causal factors of fatalities other than those caused by habitat loss: 1. Collision with solar collectors, power block structures, project buildings, medium-voltage overhead lines, gen-tie lines, fencing (Photo 1), and automobiles; 1. Caused by the Lake Effect.”

<sup>3</sup> “[G]rassland species are among the most imperiled group of birds in the United States: Total populations have declined more than 40 percent since 1966...”

Found at <https://www.audubon.org/conservation/working-lands/grasslands-report>

<sup>4</sup> “[B]ird populations have continued to plummet in the past five decades, dropping by nearly three billion across North America—an overall decline of 29 percent from 1970.”

Found at <https://www.scientificamerican.com/article/silent-skies-billions-of-north-american-birds-have-vanished/#:~:text=But%20new%20research%20published%20Thursday.of%2029%20percent%20from%201970.>

critical habitat that includes ephemeral wetlands, vernal pools, and critical stream and creek bank biodiversity along Cayetano Creek. Over 90% of the valley's wetlands are permanently removed or damaged.<sup>5</sup> Not only is the project site critical to the ten avian species of special concern, it threatens to permanently harm precious wetlands in a valley that cannot sustain more loss of wetlands.

#### The dEIR Fails to Adequately Mitigate for Impacts

While this project recommends a 50 foot buffer to mitigate for impacts, science recommends at least a 50 meter buffer.<sup>6</sup> Here, the ephemeral wetlands, vernal pools, and creek bank all require strong mitigation that should prioritize for avoiding impacts.

#### The dEIR Fails to Consider That A Significant Portion of Cayetano Creek is a Proposed Mitigation Bank

A significant portion of Cayetano Creek was proposed as a mitigation bank for the Red-legged frog and Tiger salamander.<sup>7</sup> The research reported that, "There are multiple scour pools and seep features within both Cayetano and Collier Canyon creek channels which include patches of willow riparian habitat, in-stream wetland habitat, and abutting seasonal wetlands. The creeks and seasonal wetlands provide habitat for numerous special status animal and plant species [such as red-legged frogs and CA tiger salamander]." The dEIR should consider that the project site is high value habitat suitable as mitigation for rare fauna. The dEIR should adequately consider whether the project would negatively impact this proposed mitigation bank.

#### The dEIR Fails to Provide Suitable Alternatives

This site is critical forage, nesting, and ephemeral wetland habitat. Yet, the dEIR fails to adequately consider alternatives. CEQA requires that alternatives be carefully considered. "An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would...avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR ...must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation" (CEQA 2019, p 196 §15126.6 (a)) The dEIR should include a reasonable range of potentially feasible alternatives, especially an alternative site or alternative approach to this solar energy.

#### The dEIR May Conflict With the California Essential Habitat Connectivity Project

The dEIR states that "...the Project has been proposed to encroach over an estimated 23 acres at the northernmost portions of the northern two parcels designated as RM [resource

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<sup>5</sup> "[O]ver 90% of California's wetlands have disappeared, and by the 1980s Central Valley bird populations had plummeted to less than 15% of their historic numbers." Found at [https://www.waterboards.ca.gov/rwqcb5/board\\_decisions/tentative\\_orders/1504/2\\_5\\_wetlands/3\\_wet\\_savecalastwetlands.pdf](https://www.waterboards.ca.gov/rwqcb5/board_decisions/tentative_orders/1504/2_5_wetlands/3_wet_savecalastwetlands.pdf)

<sup>6</sup> "[Z]ones of protection for wetlands, both core habitat and aquatic buffer requirements are met within a 164-meter zone. An additional 50-meter buffer is recommended to protect core habitat."

Found at <https://polk.wateratlas.usf.edu/upload/documents/NWN%20Core%20Habitat%20Not%20Buffer%20Zone.pdf>  
<https://polk.wateratlas.usf.edu/upload/documents/NWN%20Core%20Habitat%20Not%20Buffer%20Zone.pdf>

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Found at <https://www.spn.usace.army.mil/Portals/68/docs/regulatory/publicnotices/2016/2012-00093prospectus.pdf>

management],”and "The area contains important plant and animal habitat, partly in association with Cayetano Creek, an intermittent waterway." Given these known impacts, the project alternatives should include assurances to consider and incorporate habitat connectivity consistent with the California Essential Habitat Connectivity Project<sup>8</sup>

GGAS Favors A Least-Conflict Areawide Solar Policy That Should Be Thoroughly Analyzed and Approved Prior to Approving This Project

Unlike neighboring counties, Alameda has no area-wide policy for solar energy installations. Alameda County should establish a policy for solar installation in Alameda County and especially in sensitive habitats such as north Livermore Valley. For example, the San Joaquin Valley produced in May 2016, their Least Conflict Solar PV policy.<sup>9</sup> The North Livermore Valley community deserves a full analysis and area-wide policy for least-conflict free solar in their region.

This Project Is Inconsistent With the Governor’s New Plan to Conserve Biodiversity

On Oct 7, 2020, Governor Newsome announced an ambitious statewide plan to conserve biodiversity by committing 30 percent of land to conservation.<sup>10</sup> This project, if approved, will permanently alter over 500 acres of high value habitat for at least 10 special status birds species and will destroy ecosystem services that Cayetano Creek and adjacent wetlands and habitat provide. It is, therefore, inconsistent with the Governor’s goal to preserve biodiversity and protect ecosystem services.

While GGAS strongly favors regenerative and sustainable energy including solar energy, GGAS urges that major projects be undertaken to avoid and minimize harmful impacts to wildlife and habitat. Least-conflict bird-safe solar energy is a preferred alternative.

Thank you for considering our comments.

Sincerely,



Pam Young  
Executive Director

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<sup>8</sup> “Restoring and enhancing connectivity for [special status] species, as well as for aquatic and riparian species, is a high conservation priority in the region.” The major conservation challenges of this region include high level of habitat loss and conversion and subsequent habitat fragmentation.” Found at <https://wildlife.ca.gov/conservation/planning/connectivity/CEHC>

<sup>9</sup> A Path Forward, Identifying Least-Conflict solar PV...May 2016  
Found at [https://sjvp.databasin.org/pages/least-conflict#:~:text=The%20San%20Joaquin%20Valley%20\(%E2%80%9CValley.by%202030%20from%20renewable%20sources.](https://sjvp.databasin.org/pages/least-conflict#:~:text=The%20San%20Joaquin%20Valley%20(%E2%80%9CValley.by%202030%20from%20renewable%20sources.)

<sup>10</sup> “Governor Gavin Newsom today advanced an executive order enlisting California’s vast network of natural and working lands – forests, rangelands, farms... The order also sets a first-in-the-nation goal to conserve 30 percent of the state’s land ... to fight species loss and ecosystem destruction.”  
Found at <https://www.gov.ca.gov/2020/10/07/governor-newsom-launches-innovative-strategies-to-use-california-land-to-fight-climate-change-protect-biodiversity-and-boost-climate-resilience/>