

ERRATA TO FINAL EIR
OVERNIGHT SOLAR PROJECT
STATE CLEARINGHOUSE NO. 2024010434

ERRATA TO THE FINAL EIR

INTRODUCTION

San Bernardino County (County), as the Lead Agency under the California Environmental Quality Act (CEQA), has prepared this Errata to clarify and correct information in the Final Environmental Impact Report (Final EIR) for the Overnight Solar Facility Project (PROJ-2023-00087; proposed project), State Clearinghouse (SCH) No. 2024010434. This document, in conjunction with the Final EIR, published on May 19, 2025, and the Draft EIR, published on October 2, 2024, comprises the Final EIR for the project.

Pursuant to State CEQA Guidelines Section 15088.5, recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR. This Errata includes minor text edits, deletions in the language for alignment with California Department of Fish and Wildlife (CDFW) comments, and clarifications within the Mitigation Measures related to the Final EIR for the project. These subsequent revisions do not contain significant new information that alters the conclusions of the Final EIR, results in any new significant environmental impacts, or deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project.

County staff reviewed the information in this Errata and determined that it does not change any of the Findings or conclusions of the Final EIR and does not constitute “significant new information” pursuant to CEQA Guidelines section 15088.5. Accordingly, the County finds that recirculation of the Final EIR is not required.

MINOR MODIFICATIONS

Changes to the Final EIR are indicated below under the respective Final EIR section and Final EIR page number. Deletions are shown with ~~strike through~~ and additions are shown with double underline.

A summary of revisions to the Final EIR is shown below in Table 1: Errata – Revisions to the Final EIR.

Table 1: Errata - Revisions to the Final EIR

Final EIR Location	Final EIR Page #	Summary of Revision
Section 2, Comment Letters and Responses to Comments		
Letter B - California Department of Fish and Wildlife		
Response to Comment B-1	Page B-2	Delete language that CDFW would approve a licensed contractor for exclusionary fence repairs. CDFW does not approve licensed contractors.
Response to Comment B-1	Page B-2	Clarify that off-road travel shall be prohibited in all native habitats adjacent to the project during all phases of the project. Any off-road travel outside the project site would need CDFW review and approval.
Response to Comment B-2	Page B-4	Delete reference to predators moving carcasses of deceased desert tortoises.
Response to Comment B-3	Pages B-4 and B-7	Change the citation from CDFW to CDFG.
Response to Comment B-4	Page B-6	Correct spelling of Mohave ground squirrel; delete reference to statement of ongoing ITP application process; delete CDFW reference. Delete statement that acquired land to offset impacts may be less than necessary.
Response to Comment B-4	Pages B-6 and B-7	Clarified language that the Applicant shall acquire offsite compensatory mitigation land at a minimum 1:1 ratio and that mitigation land would be put into a permanent conservation easement, managed in perpetuity.

Final EIR Location	Final EIR Page #	Summary of Revision
Section 3, Minor Revisions to the Draft EIR		
3.3 Biological Resources		
Draft EIR Page 3.3-12	Page 3-5 and 3-6; Figure 3.3-5	Delete reference to “historic” burrowing owl signs. Delete “historic” designation symbolized by red triangle.
Draft EIR Page 3.3-26 through 3.3-27	Pages 3-8 through 3-10	Mitigation Measure BIO-4. Clarify that off-road travel shall be prohibited in all native habitats adjacent to the project during all phases of the project. Any off-road travel outside the project site would need CDFW review and approval.
Draft EIR Page 3.3-27	Page 3-10	Mitigation Measure BIO-5. Add mitigation ratio; delete reference to mitigation to be determined in the ITP.

SECTION 2.0, Comment Letters and Responses to Comments

LETTER B

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Response to Comment B-1

As proposed in **Mitigation Measure BIO-4** of the Draft EIR (page 3.3-25), the clearance survey for desert tortoise would be performed in accordance with Chapter 6 of the Desert Tortoise (Mojave Population) Field Manual (*Gopherus agassizii*) (USFWS 2009). This methodology prescribes two (2) consecutive clearance surveys, each requiring 100 percent coverage of the project area. The surveys will be conducted during the desert tortoise active season “immediately prior to surface disturbance at each site within the project area or following construction of a Desert Tortoise-proof fence or similar barrier...” and will involve walking transects less than or equal to 15 feet (5 meters) wide.

Desert tortoises may also occupy burrows created by other species, including those made by desert kit fox and American badger. In compliance with Chapter 6 of the Desert Tortoise (Mojave Population) Field Manual (*Gopherus agassizii*) (USFWS 2009), all suitable cover sites, including burrows made by other species, will be inspected for use and occupancy by desert tortoises. Per the survey protocols and CDFW comments, desert tortoise clearance surveys will be completed independently of other wildlife surveys. **Mitigation Measures BIO-4 and BIO-12** have been updated to reflect this change.

BIO-4 Desert tortoise exclusionary fencing shall be installed around the facility, in conjunction with the security fence, according to the specifications provided by the USFWS Desert Tortoise Field Manual (2009) and applicable permits. The installation of desert tortoise exclusionary fencing will precede any ground-disturbing construction activities associated with construction of the solar facility. Installation of desert tortoise exclusionary fencing will be supervised by a Designated Biologist.

Once the installation is complete, Designated Biologists and Biological Monitors shall perform a clearance survey for desert tortoise within the exclusionary perimeter fencing, in accordance with the Chapter 6 of the USFWS 2009 Desert Tortoise (Mojave Population) Field Manual (*Gopherus agassizii*). If the species is determined present within the project site, individual(s)

will be relocated, per a translocation plan reviewed and approved by USFWS and CDFW, by a Designated Biologist that is authorized to relocate desert tortoise by USFWS and CDFW.

Disturbance activities shall be monitored, as follows:

- Environmental awareness training (see **BIO-2**) shall include education on desert tortoise and Mohave ground squirrel, protective status, and avoidance measures to be implemented by all personnel, including looking under vehicles and equipment prior to moving. If desert tortoises or other protected species are encountered, such vehicles shall not be moved until they have voluntarily moved away from the vehicle and out of harm's way, or a qualified biologist has moved them.
- If a desert tortoise is present, a Designated Biologist shall be present during all disturbance activities in the vicinity of exclusionary fencing (if required) and shall have the authority to stop work as needed to avoid direct impacts to desert tortoises. Daily inspections of the fence's perimeter and maintenance shall be conducted during the construction period to ensure the integrity of exclusionary fencing (if required). Work may proceed within the excluded area when the Designated Biologist confirms all desert tortoises have left the excluded area.
- Should desert tortoises be found during construction activities, the Designated Biologist and/or Biological Monitor shall have the authority to stop work as needed to avoid direct impacts to tortoises, and further consultations with the USFWS and CDFW shall take place prior to relocating the desert tortoises.

Prior to grading and occupancy of the Pproject, a Designated Biologist shall inspect the existing Mojave desert tortoise exclusionary fencing along Harper Lake Road and record any existing damage. Damage to the exclusionary fencing determined to be a result of Pproject construction activities will be repaired by a licensed contractor ~~approved by the CDFW~~. Project-related repairs will be paid for by the Applicant.

Speed limits on the Pproject Ssite shall be posted and will be limited to 15 miles per hour.

Off-road travels shall be prohibited in all native habitats adjacent to the Pproject Ssite during construction and operation, and decommissioning. Any off-road or overland travel outside of the project site would need CDFW review and approval, except when required for relocating species under the preapproved translocation plans for Mohave ground squirrel (*Xerospermophilus mohavensis*) (see BIO-6) and desert tortoise (*Gopherus agassizii*). Prohibited areas shall be posted prior to initiation of construction. Parking areas for the construction crews shall be designated and clearly marked (i.e., equipment staging area).

Trash and food items shall be contained in closed containers and removed daily to reduce attractiveness to opportunistic predators of desert tortoise (e.g., ravens, coyotes, feral dogs).

Employees shall not bring pets to the construction site.

Response to Comment B-2

No living desert tortoises have been identified within the final proposed project footprint during any project surveys, but seven live desert tortoises were observed within the survey area (outside of the project footprint) as shown in Figure 3.3-3 of Section 3.3, Biological Resources, of the Draft EIR. The locations of these observations has been clarified in **Section 3.0, Minor Revisions to the Draft EIR**, of the Final EIR.

As discussed in Section 4.3.1, Solar Layout Northwestern Corner (Original Project Footprint), of the Draft EIR, the Applicant removed approximately 40 acres of the planned solar array development in the northwest corner of the project parcel based on early consultation with CDFW beginning November 2023 to avoid potential impacts to desert tortoise, including sightings and signs. See also Section 5.3, Mitigation Measures and Design Considerations, of Appendix D, Biological Resources Technical Report, of the Draft EIR. ~~As stated on page 3.3-11 of Section 3.3, Biological Resources, of the Draft EIR, carcasses of deceased desert tortoises found on site~~

~~showed evidence of predation and therefore transport to and or around the area by carnivores (domesticated, unattended dogs have been encountered on site). This creates uncertainty as to the original inhabited area of the deceased desert tortoises.~~ The Applicant is committed to avoiding impacts to biological resources first and foremost, and has updated **Mitigation Measure BIO-4** (see Response to Comment B-1), as suggested by the CDFW, with a revision to reference the 2009 USFWS Desert Tortoise Field Manual clearance survey protocol instead of the 2019 USFWS protocol survey guidance. See **Section 3.0, Minor Revisions to the Draft EIR**, of the Final EIR.

Response to Comment B-3

The Applicant submitted an application for authorized take of ~~W~~western ~~B~~urrowing ~~O~~wl through the issuance of a California Endangered Species Act (CESA) Incidental Take Permit (ITP) on August 30, 2024. The Applicant's consultation with CDFW has been ongoing with bi-weekly meetings since November 2023. CDFW recommends removing the specifics regarding the Applicant's Burrowing Owl Exclusion Plan or Passive Relocation Plan from **Mitigation Measure BIO-7** of the EIR (pages 3.3-26 to 3.3-27), while noting that passive relocation performed according to the Staff Report on Burrowing Owl Mitigation (CDFW 2012) may be authorized through the ITP as a minimization measure. Accordingly, this suggestion has been incorporated into the Final EIR.

Response to Comment B-4

Mitigation Measure BIO-5 of the Draft EIR (page 3.3-26) includes the acquisition of offsite compensatory mitigation land to offset impacts to Mojave ground squirrel, desert tortoise, and ~~W~~western ~~B~~urrowing ~~O~~wl and to reduce impacts to these species to a less than significant level under Impact 3.3-1. **Mitigation Measure BIO-5** has been updated to reflect that the Applicant shall acquire compensatory mitigation land, ~~the amount of which will be determined as part of Overnight Solar's ongoing ITP application process with CDFW.~~ This will reduce project impacts to a less than significant level as discussed under Impact 3.3-1 of the EIR (pages 3.3-19 through 3.3-30).

As described in Section 3.3, Biological Resources, of the Draft EIR, the proposed project site is sparsely vegetated, with no trees and few individual cacti being recorded. These results are typical for the region in areas, such as the project site, that have experienced trespassed commercial grazing, agricultural impacts, and illegal dumping. As noted in Response to Comment B-2 above, there have been no living desert tortoise, Mojave ground squirrel, or ~~W~~western ~~B~~urrowing ~~O~~wl sightings on the proposed project site during the various surveys (see pages 43 through 45 of Appendix D of the Draft EIR). Living desert tortoise and burrowing owl were only observed within the survey area outside of the proposed project footprint, and no Mojave ground squirrel (living or dead) were observed at all (see pages 44 and 45 of Appendix D of the Draft EIR; however, the Applicant is assuming presence of Mojave ground squirrel based on habitat suitability, historical records within proximity to the project, and because 131 acres of designated Core Population Area overlap with the project boundary. Therefore, the required amount of compensatory mitigation shall be determined as part of Overnight Solar's ongoing ITP application review process with CDFW and will be sufficient to mitigate for the desert tortoise, Mojave ground squirrel, and ~~W~~western ~~B~~urrowing ~~O~~wl habitat that will potentially be impacted by the project. The Applicant has proactively modified the project boundary based on CDFW's primary interest of avoiding impacts rather than mitigating them. Refer to Response to Comment B-2 above. **Mitigation Measure BIO-5** has been updated, as shown in **Section 3.0, Minor Revisions to the Draft EIR**, to include a compensatory mitigation land acquisition, the required amount of which will be determined as part of Overnight Solar's ongoing ITP application review process with CDFW.

~~CDFW incorrectly asserts that the acquired land meant to offset impacts may be less than necessary for adequate mitigation of project impacts.~~ The Applicant has not yet acquired mitigation lands and will ensure that such mitigation lands are sufficient to meet the required amount set forth by CDFW through Overnight Solar's ongoing ITP application review process.

- BIO-5** The Applicant shall acquire offsite compensatory mitigation land at a minimum of 1:1 mitigation ratio (1 acre of compensatory mitigation land per 1 acre of project impact) to offset impacts to Mojave desert tortoise, Mojave ground squirrel, and ~~W~~western ~~B~~urrowing ~~O~~wl. If additional

compensatory mitigation is required to fully mitigate the species under CESA, the Applicant will coordinate with CDFW through issuance of an Incidental Take Permit (ITP). The required amount of compensatory mitigation shall be determined as part of Overnight Solar's ongoing ITP application review process with CDFW. This determination shall be finalized prior to the issuance of a grading permit from San Bernardino County. The Applicant shall also follow any regulations pertaining to applicable agency permits and agency coordination, such as Incidental Take Permits (ITPs) for all three species. As applicable and as required and approved by USFWS and CDFW, offsite compensatory mitigation land shall be permanently put into a conservation easement and managed in perpetuity with the goal of providing suitable habitat, prohibiting activities incompatible with species' use, and ensuring long-term protection for these species.

The compensatory mitigation land shall be occupied by the species, contiguous with other protected habitat and/or of higher quality than the habitat being destroyed by the project.

In addition, permanent impacts to Western Burrowing Owl habitat will be mitigated with (a) permanent conservation of similar vegetation communities (grassland, scrublands, desert, urban, and agriculture) and the Applicant may provide for burrowing owl nesting, foraging, wintering, and dispersal (i.e., during breeding and non-breeding seasons) comparable to or better than that of the impact area, and (b) sufficiently large acreage, and presence of fossorial mammals.

Selection of acquired mitigation lands should consider the potential human and wildlife conflicts or incompatibility, including but not limited to human foot and vehicle traffic; predation by cats, loose dogs, and urban-adapted wildlife; and incompatible species management. The acquired mitigation lands may require habitat enhancements including enhancement or expansion of burrows for breeding, shelter and dispersal opportunity, and removal or control of population stressors. Acquired mitigation lands should be on, adjacent, or proximate to the impact site where possible and where habitat is sufficient to support burrowing owls present. Where there is insufficient habitat on, adjacent to, or near project sites where Western Burrowing Owl will be excluded, the Applicant may acquire mitigation lands with burrowing owl habitat away from the project site. The selection of mitigation lands should then focus on consolidating and enlarging conservation areas located outside of urban and planned growth areas, within foraging distance of other conserved lands. If mitigation lands are not available adjacent to other conserved lands, mitigation land acreage requirements may be increased, in coordination with the County.

SECTION 3, Minor Revisions to the Final EIR

3.3 BIOLOGICAL RESOURCES

Page 3.3-12

Initial burrowing owl surveys were conducted during peak breeding season in 2023 (April 15 to July 15), with two biologists walking 10-meter belt transects across the original survey area. Biologists examined natural and artificial substrates for occupation by Western Burrowing Owl, and recorded signs of use (i.e., feathers, pellets, burrows, whitewash, egg fragments, live animals/breeding pairs, and live birds). Biologists marked all occupied and suitable burrowing owl burrows during this effort. During May 2023, April 2024, and March 2025, all suitable Western Burrowing Owl burrows were revisited in an effort to determine occupancy and site use. Additional Western Burrowing Owl focused surveys were performed in May, June, and July 2024, within the current project site and a 150-meter buffer. The proposed gen-tie corridor was surveyed for burrowing owl on March 26, 2025. Signs of burrowing owl use were considered "historic" if detected within 2023 or 2024 and "active" if detected within 2025. Three historic signs and five active signs of burrowing owl use have been observed within the current project footprint, one active sign of burrowing owl use has been observed northwest of the project footprint, and one active sign of burrowing owl use has been observed within

the Mojave Solar Facility (**Figure 3.3-5**). The occupied burrowing owl burrow within the 150-meter buffer of the current project footprint within the existing Mojave Solar Facility, was detected more than 875 meters from the proposed project gen-tie located in the facility (**Figure 3.3-5**). However, no signs of burrowing owl use were observed along the proposed gen-tie corridor within Mojave Solar Facility during the 2025 surveys. For these reasons, Western Burrowing Owl is determined to be present within and around the project footprint.

Page 3.3-20

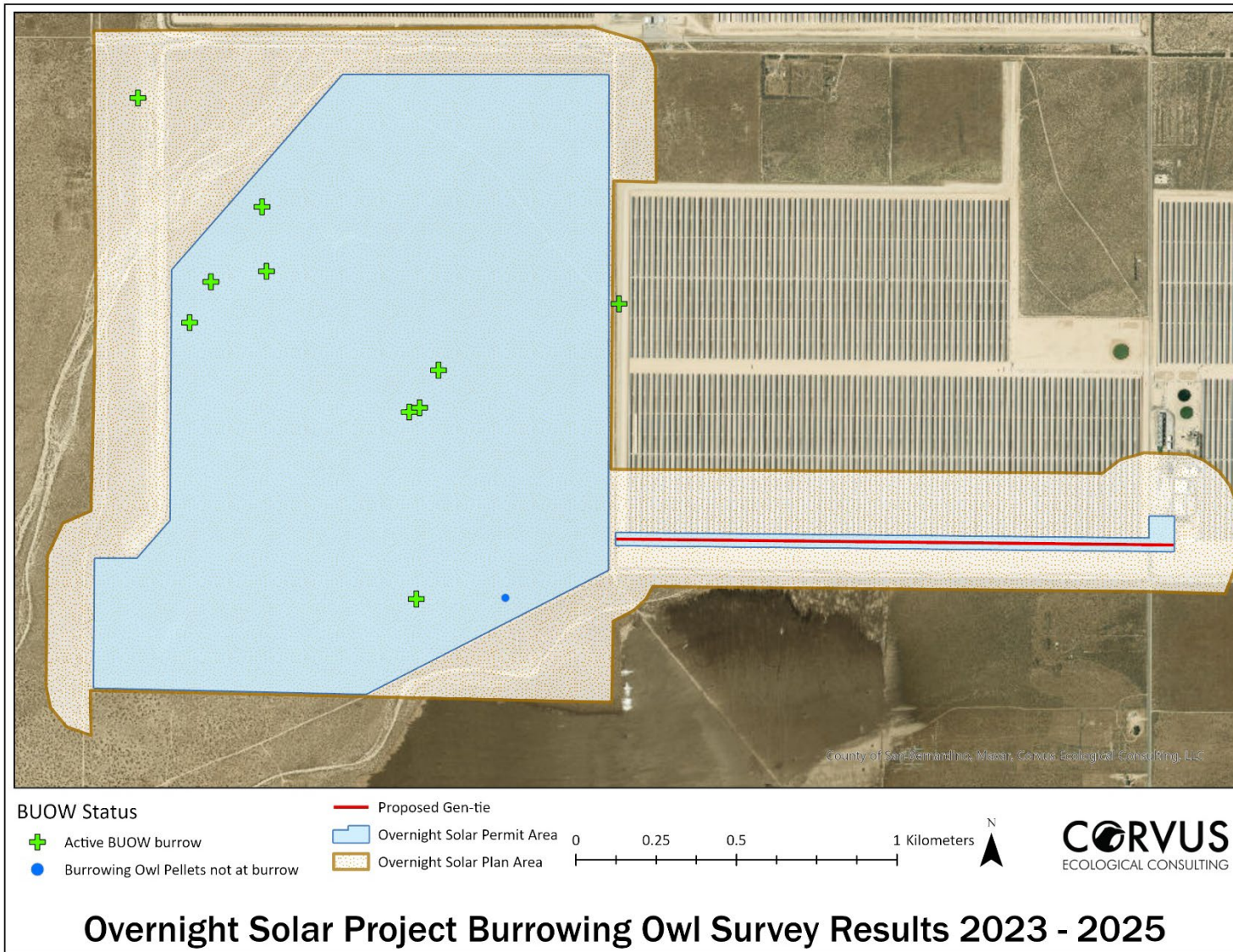


Figure 3.3-5. Burrowing Owl Survey Results

Page 3.3-26 through 3.3-27

BIO-4 Desert tortoise exclusionary fencing shall be installed around the facility, in conjunction with the security fence, according to the specifications provided by the USFWS Desert Tortoise Field Manual (2009) and applicable permits. The installation of desert tortoise exclusionary fencing will precede any ground-disturbing construction activities associated with construction of the solar facility. Installation of desert tortoise exclusionary fencing will be supervised by a Designated Biologist.

Once the installation is complete, Designated Biologists and Biological Monitors shall perform a clearance survey for desert tortoise within the exclusionary perimeter fencing, in accordance with the Chapter 6 of the USFWS 2009 Desert Tortoise (Mojave Population) Field Manual (*Gopherus agassizii*). If the species is determined present within the project site, individual(s) will be relocated, per a translocation plan reviewed and approved by USFWS and CDFW, by a Designated Biologist that is authorized to relocate desert tortoise by USFWS and CDFW.

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BIO-5 The Applicant shall acquire offsite compensatory mitigation land at a minimum of 1:1 mitigation ratio (1 acre of compensatory mitigation land per 1 acre of project impact) to offset impacts to Mojave desert tortoise, Mohave ground squirrel, and ~~W~~Western Burrowing Owl. If additional compensatory mitigation is required to fully mitigate the species under CESA, the Applicant will coordinate with CDFW through issuance of an Incidental Take Permit (ITP). The required amount of compensatory mitigation shall be determined as part of Overnight Solar's ongoing ITP application review process with CDFW. This determination shall be finalized prior to the issuance of a grading permit from San Bernardino County. The Applicant shall also follow any regulations pertaining to applicable agency permits and agency coordination, ~~such as Incidental Take Permits (ITPs) for all three species.~~ As applicable and as required and approved by USFWS and CDFW, offsite compensatory mitigation land shall be permanently put into a conservation easement and managed in perpetuity with the goal of providing suitable habitat, prohibiting activities incompatible with species' use, and ensuring long-term protection for these species.

The compensatory mitigation land shall be occupied by the species, contiguous with other protected habitat and/or of higher quality than the habitat being destroyed by the project.

In addition, permanent impacts to Western Burrowing Owl habitat will be mitigated with (a) permanent conservation of similar vegetation communities (grassland, scrublands, desert, urban, and agriculture) and the Applicant may provide for burrowing owl nesting, foraging, wintering, and dispersal (i.e., during breeding and non-breeding seasons) comparable to or better than that of the impact area, and (b) sufficiently large acreage, and presence of fossorial mammals.

Selection of acquired mitigation lands should consider the potential human and wildlife conflicts or incompatibility, including but not limited to, human foot and vehicle traffic, and predation by cats, loose dogs and urban-adapted wildlife, and incompatible species management. The acquired mitigation lands may require habitat enhancements including enhancement or expansion of burrows for breeding, shelter and dispersal opportunity, and removal or control of population stressors. Acquired mitigation lands should be on, adjacent, or proximate to the impact site where possible and where habitat is sufficient to support burrowing owls present. Where there is insufficient habitat on, adjacent to, or near project sites where Western Burrowing Owl will be excluded, the Applicant may acquire mitigation lands with burrowing owl habitat away from the project site. The selection of mitigation lands should then focus on consolidating and enlarging conservation areas located outside of urban and planned growth areas, within foraging distance of other conserved lands. If mitigation lands are not available adjacent to other conserved lands, mitigation land acreage requirements may be increased, in coordination with the County.