

DOCKETED	
Docket Number:	22-SPPE-02
Project Title:	San Jose Data Center 04
TN #:	266905
Document Title:	SCVHA Record of Conversation
Description:	Record of Conversation between Carol Watson_CEC and Gerry Haas_ Santa Clara Valley Habitat
Filer:	susan fleming
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	10/29/2025 1:04:40 PM
Docketed Date:	10/29/2025

CALIFORNIA ENERGY COMMISSION

REPORT OF CONVERSATION

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*Siting, Transmission and
Environmental Protection
Division*

FILE: Docket

**PROJECT TITLE: San Jose Data
Center 04**

**Docket: 22-SPPE-
02**

TECHNICAL AREA(S): Biological Resources

☐ **Telephone**

Emails

☐ **Meeting Location:** Emails

NAME:

Carol Watson, Staff Biologist,
California Energy Commission
(CEC)

DATE:

August 8 to
August 15,
2023

TIME:
Various

WITH:

Gerry Haas, Principal Conservation Planner, Santa Clara Valley Habitat Agency

SUBJECT:

Santa Clara Valley Habitat Plan and the proposed San Jose 04 Data Center

COMMENTS:

Carol Watson, CEC, corresponded via email with representatives from the Santa Clara Valley Habitat Agency between August 8 and 15, 2023. The following responses are based on the request for input regarding burrowing owl impacts and fees associated with the proposed San Jose Data Center Campus project.

From: Gerry Haas <gerry.haas@scv-habitatagency.org>

Sent on: Tuesday, August 15, 2023 9:37:04 PM

To: Watson, Carol@Energy <Carol.Watson@energy.ca.gov>; Garrison, Kristin@Wildl <Kristin.Garrison@wildlife.ca.gov>

CC: Worrall, Lisa@Energy <Lisa.Worrall@energy.ca.gov>; Hilliard, Jon@Energy <jon.hilliard@energy.ca.gov>

Subject: RE: Burrowing owl question on a project in the City of San Jose

Follow up: Follow up

Start date: Wednesday, August 16, 2023 12:00:00 AM

Due date: Wednesday, August 16, 2023 12:00:00 AM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Carol,

The Geobrowser is not always accurate, and larger undeveloped parcels are often swept into the "urban" area land cover. Because the site is over ten acres in size and is undeveloped, it should be Fee Zone B.



You are right that compliance with Condition 15 will include a pre-con survey and avoidance measures. I don't believe baseline surveys would be required because the species is now covered by the Habitat Plan and not by a mitigation agreement. But I would like Kristin to confirm that.

Cheers,

Gerry

From: Watson, Carol@Energy <Carol.Watson@energy.ca.gov>

Sent: Friday, August 11, 2023 11:29 AM

To: Gerry Haas <gerry.haas@scv-habitatagency.org>; Kristin Garrison <Kristin.Garrison@wildlife.ca.gov>

Cc: Worrall, Lisa@Energy <Lisa.Worrall@energy.ca.gov>; Hilliard, Jon@Energy <jon.hilliard@energy.ca.gov>

Subject: RE: Burrowing owl question on a project in the City of San Jose

Thank you Gerry, this is tremendously helpful.

Based on my review of the GeoBrowser, the 2 site APN's are currently within zone "Urban Areas (No Land cover fee)"(APN #101-02-020 and 101-02-019).

To be crystal clear: As far as Condition 15 of the SCVHP, I understand that the applicant needs to: perform preconstruction surveys, perform other prescribed avoidance, monitoring, and passive relocation.

But they are not required to perform baseline surveys, as per the CDFG mitigation agreement, and because it is not "modeled occupied habitat", as described on page 6-62, Section 6.6.1 of SCHVP. Is this correct? [Applicant most recently performed owl surveys in June 2020, September 2020, and July 2022]

Thank you again for your time,

Best,

Carol

Carol Watson
Staff Biologist
Siting, Transmission & Environmental Protection Division
California Energy Commission
715 P Street
Sacramento, CA 95814





From: Gerry Haas <gerry.haas@scv-habitatagency.org>
Sent: Thursday, August 10, 2023 3:40 PM
To: Watson, Carol@Energy <Carol.Watson@energy.ca.gov>; Garrison, Kristin@Wildlife <Kristin.Garrison@wildlife.ca.gov>
Cc: Worrall, Lisa@Energy <Lisa.Worrall@energy.ca.gov>; Hilliard, Jon@Energy <jon.hilliard@energy.ca.gov>
Subject: RE: Burrowing owl question on a project in the City of San Jose

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Hello Carol,

Regardless of whether the project has previously mitigated impacts to burrowing owls, this project site is outside the current Burrowing Owl Fee Zone, meaning it is not known to be occupied by breeding burrowing owls. Therefore, no mitigation for burrowing owl impacts would be necessary under either scenario. You are correct that because the project is covered by the Habitat Plan, it must comply with Condition 15 to avoid and minimize impacts to burrowing owls. So, we would still need to see survey results prior to construction and the surveys should be submitted with the Habitat Plan application.

Beside the Burrowing Owl Fee, which I have confirmed is not applicable, the project is still required to pay the base land cover fees. These fees mitigate the impacts associated with the loss of any habitat through development within the Plan area, and they apply to all covered projects.

Regards,

Gerry Haas

Santa Clara Valley Habitat Agency | gerry.haas@scv-habitatagency.org | Office: 669.253.6127
| Mobile: 530.401.0721

From: Watson, Carol@Energy <Carol.Watson@energy.ca.gov>
Sent: Tuesday, August 8, 2023 4:45 PM
To: Kristin Garrison <Kristin.Garrison@wildlife.ca.gov>; Gerry Haas <gerry.haas@scv-habitatagency.org>
Cc: Worrall, Lisa@Energy <Lisa.Worrall@energy.ca.gov>; Hilliard, Jon@Energy <jon.hilliard@energy.ca.gov>
Subject: FW: Burrowing owl question on a project in the City of San Jose

Hi, Kristin and Gerry:

The Energy Commission has another project seeking a permit to construct a Data Center in the City of San Jose (San Jose 04 project). I'm looking for your guidance on how to treat burrowing owl per the Habitat Plan. As explained further in this excerpt of the attached application materials (pages 45 through 47 and 76 – 77 of the pdf):



"Although compensatory mitigation was provided in accordance with a CDFW mitigation agreement, that mitigation consisted of the purchase of credits in a conservation bank outside the South Bay, so that the mitigation did not directly benefit the South Bay burrowing owl population. As a result, these impacts were determined to be significant and unavoidable due to the absence of sufficient replacement habitat in the South Bay region to offset the cumulative loss of remaining burrowing owl habitat in the north San José area in combination with other projects in the region. Thus, when viewed in the context of the original project site as part of the North San José Development Policies Update Draft Program Environmental Impact Report (City of San José 2005) and Agilent Final EIR, the loss of 18.6 acres of burrowing owl habitat on the project site would remain significant under CEQA, as disclosed in those EIRs, due to the absence of sufficient replacement habitat to offset the cumulative loss of remaining burrowing owl habitat in the north San José area in combination with other projects in the region. However, feasible mitigation for this impact that will directly benefit the South Bay burrowing owl population has been made available since the preparation of the previous EIRs for the project site due to the adoption of the VHP, to which the City of San José is signatory. The implementation of Mitigation Measure BIO-4 below will reduce the project's cumulative impacts on burrowing owls to less-than-significant levels under CEQA."

- The CDFG concurrence letter dated 2012 is embedded on page 107 of the pdf. What I am trying to understand is the necessity for paying burrowing owl fees for the project to mitigate cumulative impacts. The CDFG letter would not seem to indicate that this is considered necessary, "DFG requires no additional mitigation." Can you please clarify if this is the case?
- Also, as it's annual grassland, and suitable habitat, preconstruction surveys must be performed per Condition 15 of the SCVHP, is this also true? Thank you for your assistance,

Best,
Carol

Carol Watson
Staff Biologist
Siting, Transmission & Environmental Protection Division
California Energy Commission
715 P Street
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cc: 	Date: 8/8/2025	Signed: Carol Watson
		Name: /s