

DOCKETED

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Memorandum

Date: April 7, 2017
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From: California Energy Commission – Shawn Pittard
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Subject: **STAFF’S COMMENTS ON THE APPLICANT’S BIOLOGICAL RESOURCES SURVEY
METHODOLOGY**

On March 10, 2017, the California Energy Commission Committee (Committee) assigned to conduct proceedings on the Application for Certification (AFC) for the Puente Power Project (Puente) filed “Committee Orders for Additional Evidence and Briefing Following Evidentiary Hearings” (TN #216505). The Order directs the applicant to file a survey plan for party and public comment and invite and allow for the participation of Energy Commission staff, the California Coastal Commission (CCC), and the California Department of Fish and Wildlife (CDFW), in the design and conduct of additional biological resources surveys to determine the likelihood of the presence of certain specified species on the project site.

On March 21, 2017, Intervenor Environmental Defense Center, Sierra Club, Environmental Coalition of Ventura County, City of Oxnard, California Environmental Justice Alliance, Fighting for Informed Environmentally Responsible Clean Energy, and the Center for Biological Diversity (collectively, Intervenor) filed a joint motion (TN #216641) requesting modifications to the Order that, in part, would expand the list of specified species to be surveyed on the project site.

On March 27, 2017, the applicant filed a survey plan (Plan) (TN #216716) incorporating survey methodologies for all of the specific plant and animal species contained in both the Order and the Intervenor joint motion. On March 31, 2017, the applicant filed “Applicant’s Proposed Revised Schedule” (TN #216776) of key milestones for the remainder of the proceedings. This schedule did not change the previously proposed timing for the surveys, nor the deadline for the final survey report.

Staff has reviewed the Plan as well as the proposed schedule, and both solicited and facilitated agency review (CCC, U.S. Fish and Wildlife Service, and CDFW). Specific comments are listed below in Table 1, Survey Methodology and Staff’s Comments. In general, staff notes that any detections of special status wildlife should also be submitted to CDFW’s California Natural Diversity Database.

Effects on Proposed Schedules

In general, staff’s comments in Table 1 are specific to survey methodology and do not change the schedule as proposed by the applicant or staff (Staff’s Proposed Timetable for the Puente

Power Project and Status Report 12, TN #216809). However, staff notes that changes to the schedule may be necessary should the Committee desire CDFW-approved protocol survey methods to be implemented for the burrowing owl during the breeding season. Under this scenario, there could be an approximate two-week delay to applicant's final survey report and staff's final comments on applicant's survey results.

Table 1: Survey Methodology and Staff's Comments

Summary of the Number and Timing of Proposed Surveys+			Energy Commission Staff's Comments
	Survey Type	Timing	
Globose Dune Beetle	2 nights trapping surveys	April (prior/after to below activity)	Please ensure that daytime surveys are conducted during early morning hours; focused under native plants.
	Daytime Survey	April	
	Nighttime Survey	April	
Two-Striped Garter Snake/ Blainville's Horned Lizard	Visual Survey	April	No comments.
	Visual Survey	April (2 weeks later)	
	Coverboard Placement	Week of March 27	
	Coverboard Surveys	Once per week through April	
California Legless Lizard	Raking Survey	April	Please ensure that any coverboards placed over iceplant mats have solid contact with the ground, to maximize attraction of legless lizard. Please dig (rake out) deeper than 6 inches, as lizards may be found as deep as 18-22 inches. Please also take care not to disturb habitat which may contain special status plants or the globose dune beetle; the initial survey for special status plants would optimally take place before any soil disruption occurs.
	Raking Survey	April (2 weeks later)	
	Coverboard Placement	Week of March 27	
	Coverboard surveys	Once per week through April	
Western Snowy Plover/ California Least Tern/ Least Bell's Vireo/White Tailed Kite/ Northern Harrier/ California Black Rail/ Burrowing Owl	Avian Surveys	Once per week through April	With regard to timing, the Staff Report for Burrowing Owl Mitigation (CDFW 2012) recommends four surveys take place during breeding season, from between April 15 and July 15, 2017, with at least one visit after June 15, 2017. Currently, the applicant's proposed methodology follows the "nonbreeding season" agency guidelines (CDFW 2012); extending only through May. The Committee did not specifically ask for more survey data on the burrowing owl (TN #216505, Committee Orders for Additional Evidence and Briefing Following Evidentiary Hearings); rather, these species were proposed to be the subject of focused surveys by Interveners' joint motion (TN #216641). Staff believes the currently proposed methodology, in conjunction with applicant's previously performed survey work, would yield substantive information as to the presence or absence of burrowing owls. However, should the Committee desire agency-approved protocol-level surveys to be conducted for the burrowing owl during the breeding season, then the applicant's proposed survey timing would need to be extended to accommodate a final survey after June 15, 2017. This would delay the final survey report to after June 15, 2017. The applicant's final survey report is currently proposed to be issued on May 31, 2017.
Ventura Marsh	Initial survey	April	Staff appreciates that the applicant lists California Natural Resources Agency, 2009, as a guide for conducting rare plant surveys. Please also adhere to federal guidelines for rare plant surveys (USFWS 1996).

Summary of the Number and Timing of Proposed Surveys+			Energy Commission Staff's Comments
	Survey Type	Timing	
Milkvetch/ Salt Marsh Birds-beak/ Orcutt's Pincushion	First Reference Population Survey (for Ventura Marsh Milkvetch, Salt Marsh Birds-beak, and Orcutt's Pincushion)	Within 2 days of initial survey	It is most likely that Ventura marsh milkvetch plants onsite would be seedlings or small juveniles that germinated this year, possibly from seeds that perhaps were distributed by wildlife. All known milkvetch populations are on private land or in restricted areas without public access. So it may not be feasible to visit reference sites. CDFW reports seedlings this year 100 feet north of the project site fence. (Meyer 2017, personal communication).
			Orcutt's pincushion is near the Los Angeles Airport only, and this year's blooms are uncertain in temporal or spatial scope (Meyer 2017, personal communication). Attending a reference population may be difficult to achieve.
	Second Survey	April (2 weeks later)	
	Second Reference Population Survey for Ventura Marsh (Milkvetch)	Within 2 days of second survey	
Third Survey	Early to Mid-May		
Second Reference Population Survey for Salt Marsh Birds-beak/Orcutt's Pincushion	Within 2 days of third survey		

+ Table taken from applicant's survey plan methodology, TN #216716.

References Cited

- California Department of Fish and Wildlife (CDFW). 2012. Staff Report on Burrowing Owl Mitigation. March 7, 2012.
- California Natural Resources Agency. 2009. Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities. Department of Fish and Game.
- Meyer, Mary. 2017. Personal communication via email and telephone. April, 2017. With Carol Watson, Energy Commission Staff, Sacramento, California.
- U.S. Fish and Wildlife Service (USFWS). 1996. Guidelines for conducting and reporting botanical inventories for federally listed, proposed, and candidate plants. Sacramento, California. 2 pp.