

## DOCKETED

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# BIOLOGICAL RESOURCES

Supplemental Testimony of Carol Watson and Jon Hilliard

## INTRODUCTION

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On March 10, 2017, the Committee issued its “Committee Orders for Additional Evidence and Briefing Following Evidentiary Hearings” (TN # 216505) (Committee Order). Among other things, the Committee Order directed the applicant to provide results from focused biological resources surveys of the “proposed project site” for five specified special-status wildlife and plant species. The Committee Order directed the applicant to file a survey plan for party and public comment and invite and allow for the participation of California Energy Commission staff, California Coastal Commission (CCC) staff, and California Department of Fish and Wildlife (CDFW) staff in the design and conduct of the biological resources surveys.

On March 21, 2017, interveners filed a “Joint Motion To Modify The California Energy Commission’s Committee Orders For Additional Evidence And Briefing Following Evidentiary Hearings” (March 21, 2017, TN #216641) (Interveners’ Motion). Interveners’ Motion requested modifications to the Committee Order related to the biological resources surveys, including expansion of the biological study area (BSA), inclusion of surveys for additional species not identified in the Committee Order, and expansion of the time period over which the surveys are to be conducted. On March 27, 2017, the applicant filed its Proposed Survey Methodology (TN #216641). The Proposed Survey Methodology responded to the requests in Interveners’ Motion by including all of the species identified in both the Committee Order and the Interveners’ Motion, and expanding the BSA to include both the project site as well as the areas potentially affected by removal of the existing outfall structure.

Comments on the Proposed Survey Methodology were docketed by Energy Commission staff (TN #216886), CDFW staff (TN #216901), CCC staff (TN #216908), and interveners Environmental Defense Center, Sierra Club Los Padres Chapter, Ventura County Environmental Coalition, and Center for Biological Diversity (TN #216914). On April 10, 2017, the applicant filed “Responses to Comments on Proposed Biological Resources Survey Methodology and Final Biological Resources Survey Methodology” (TN #216937) (Final Survey Methodology). Certain elements of the comments were adapted into the survey schedule, including performing a complete breeding season survey for burrowing owl, enhanced survey efforts for globose dune beetle, increasing avian surveys from weekly visits during April 2017 to five visits separated by one week each, an expanded BSA, and an additional special-status plant survey.

Additionally, during the February 9, 2017 Evidentiary Hearing, staff entered direct testimony into the record (TN #216593). This direct testimony included corrections of information included in Biological Resources Table 3, “Special-status Species Known to Occur or Potentially Occurring in the Project Area,” in the Final Staff Assessment (FSA). Staff has included the corrected language in this filing for the Committee’s convenience.

## ANALYSIS

This section of this document provides staff’s analysis of potential impacts to biological resources from the construction and operation of the proposed project, using updated survey information as provided in the applicant’s July 23, 2017 filing (TN #219898)(PPP2017a). This analysis addresses potential impacts to special-status plant and wildlife species, as directed by the March 10, 2017 Committee Order. This document includes a description of the applicant’s spring 2017 Final Survey Methodology and results, an analysis of potential impacts to biological resources and, where necessary, specifies revised mitigation measures (in the form of conditions of certification) to reduce impacts to below the level of significance.

## SPECIAL-STATUS SPECIES

**Biological Resources Table 3** identifies the nearest occurrences of special-status species reported in the California Natural Diversity Database and California Native Plant Society’s Inventory of Rare and Endangered Plants. As identified during the evidentiary hearings, staff has made several corrections to the table below for Ventura marsh milk-vetch, western snowy plover, California least tern, least Bell’s vireo, and to the footnotes under “Potential Occurrence.” Changes to globose dune beetle and silvery legless lizard have been made based on applicant’s updated survey results and intervenors’ information. Corrections are shown in ~~strikeout~~ and **bold/underline**.

**Corrected FSA Biological Resources Table 3  
Special-status Species Known to Occur or Potentially Occurring in the Project Area**

Common Name ( <i>Scientific Name</i> )	Status Fed/State/CRPR/ G-Rank/S-Rank	Potential for Occurrence in Project Impact Area*
<b>PLANTS</b>		
<b>Ventura Marsh Milk-Vetch</b> ( <i>Astragalus pycnostachyus</i> var. <i>lanosissimus</i> )	<del>FE</del> / <del>SE</del> /1B.1/ G2T1/S1	<del>Low</del> <b>Moderate</b> . The iceplant and coyote brush on the project site are not suitable habitats for the species. Species was not observed during botanical surveys. Nearest documented occurrences were across the road from McGrath State Beach, the mouth of the Santa Clara River, northeast of the intersection of Harbor Boulevard and West 5th Street near McGrath State Beach, and Mandalay Beach.
<b>Coulter’s Saltbush</b> ( <i>Atriplex</i> <i>coulteri</i> )	<del>___</del> / <del>___</del> /1B.2/G2/S 2	<b>Low</b> . The remnant dunes on the site are marginally suitable habitat, but species was not detected during botanical surveys. The nearest documented occurrence was on a Coastal Bluff 1.5 miles west of the Ventura River.
<b>South Coast Saltscale</b> ( <i>Atriplex pacifica</i> )	<del>___</del> / <del>___</del> /1B.2/G3G4 /S2	<b>Moderate</b> . The remnant dunes on the site are marginally suitable habitat, but species was not detected during botanical surveys. The nearest documented occurrence was 1.5 miles west of the Ventura River.
<b>Davidson’s Saltscale</b> ( <i>Atriplex</i> <i>serenana</i> var. <i>davidsonii</i> )	<del>___</del> / <del>___</del> /1B.2/G5T1/ S1	<b>Moderate</b> . This species might occur along the road edges and in other unvegetated parts of the site.

Common Name (Scientific Name)	Status Fed/State/CRPR/ G-Rank/S-Rank	Potential for Occurrence in Project Impact Area*
		Species was not detected during botanical surveys. The nearest documented occurrence was on the roadside of Ventura Boulevard north of Highway 101.
<b>Salt Marsh Bird's Beak</b> ( <i>Chloropyron maritimum</i> )	FE/SE/ 1B.2/G4T1/S1	<b>Low.</b> This species occurs in natural wetlands and alkali flats. Species was not detected during botanical surveys. The nearest documented occurrences were near the mouth of the Santa Clara River, near McGrath State Beach, and Ormond Beach alkali flats.
<b>Mexican Malacothrix</b> ( <i>Malacothrix similis</i> )	__/_/2A/G2G3/S H	<b>Low.</b> Suitable habitat is not present on the site. Species was not detected during botanical surveys. The nearest documented occurrence was in the vicinity of Port Hueneme Beach Park in 1925. Likely extirpated.
<b>Woolly Seablite</b> ( <i>Suaeda taxifolia</i> )	__/_/4.2/G/S4	<b>High.</b> Species was detected on-site during botanical surveys.
<b>Red (Sticky) Sand Verbena</b> ( <i>Abronia maritima</i> )	__/_/4.2/G4/S2 S4	<b>Low.</b> The only marginally suitable habitat on-site is the loose sand along the edge of the road near the northern perimeter of the site, but species was not detected during floristic surveys. The nearest documented occurrences are at Mandalay Beach and McGrath State Beach.
<b>Dunedelion</b> ( <i>Malacothrix incana</i> )	__/_/4.3/G4/S4	<b>High.</b> The species might occur in dunes adjacent to the site, but was not observed during site botanical surveys. The nearest documented occurrence was in the project vicinity.
<b>Aphanisma</b> ( <i>Aphanisma blitoides</i> )	__/_/1B.2/G3G4 /S2	<b>Low.</b> Suitable habitat is not present on the site. Species was not detected during botanical surveys.
<b>Coulter's Goldfields</b> ( <i>Lasthenia glabrata</i> ssp. <i>Coulter</i> )	__/_/1B.1/G4T2/ S2	<b>Low.</b> Suitable habitat is not present on the site. Species was not detected during botanical surveys.
<b>Estuary Seablite</b> ( <i>Suaeda esteroa</i> )	__/_/1B.2/G3/S 2	<b>Low.</b> Suitable habitat is not present on the site. Species was not detected during botanical surveys.
<b>WILDLIFE</b>		
<b>Sandy Beach Tiger Beetle</b> ( <i>Cicindela hirticollis grvida</i> )	__/_/__/G5T2/S 1	<b>Low.</b> Suitable habitat is not present on the site. The nearest documented occurrence was McGrath State Beach just south of the mouth of the Santa Clara River.
<b>Globose Dune Beetle</b> ( <i>Coelus globosus</i> )	__/_/__/G1G2/S 1S2	<b>Moderate-High.</b> The remnant dunes <del>on the site</del> <b>at the ocean outfall, access road, and project buffer area</b> are support this species. The nearest <b>offsite</b> documented occurrences were near Point Mugu Naval Air Station, Ventura, Hueneme, and Ormond Beach.
<b>Tidewater Goby</b> ( <i>Eucyclogobius newberryi</i> )	FE/__/__/G3/S3	<b>Low.</b> Suitable aquatic habitat is not present on the site. The nearest documented occurrences are Santa Clara River estuary, Oxnard drain (J Street canal), Ormond Beach Area, and southeast of Port Hueneme.
<b>Western Pond Turtle</b> ( <i>Actinemys marmorata</i> )	__/_/__/G3G4/S 3	<b>Moderate.</b> Suitable habitat is not present on the site. The nearest documented occurrences include McGrath Lake and the Santa Clara River Estuary. The species may disperse through the site or

Common Name (Scientific Name)	Status Fed/State/CRPR/ G-Rank/S-Rank	Potential for Occurrence in Project Impact Area*
		occasionally cross the Edison Canal.
<b>Silvery Legless Lizard</b> ( <i>Anniella pulchra</i> or <i>A. stebbinsi</i> )	__/_/CSC/__/G3G4 T3T4Q/S3	<b>Moderate-High.</b> Sparsely vegetated sandy soils <b>at the ocean outfall, access road, and project site buffer area</b> could support this species. Most of the site is not suitable habitat. <del>This species was not detected during wildlife surveys.</del> The nearest <b>offsite</b> documented occurrences were north of the MGS and east of McGrath Lake, and in loose sandy soils at the northern and southern boundaries of McGrath Lake (L. Hunt, unpub. data)
<b>Coastal Whiptail</b> ( <i>Aspidoscelis tigris stejnegeri</i> )	__/_/__/G5T3T4 /S2S3	<b>Low.</b> Could occur in the coyote brush scrub.
<b>Blainville's (Coast) Horned Lizard</b> ( <i>Phrynosoma blainvillii</i> )	__/_/__/G3G4/S 3S4	<b>Moderate.</b> Sparsely vegetated sandy soils could support this species. Most of the site is not suitable habitat. Species was not detected during wildlife surveys. The nearest documented occurrences were south of the Santa Clara River and southwest of intersection of Leland St./Auto Center Dr./Ventura Road; also within dune habitat north, east, and south of the project site (L. Hunt, unpub. Data).
<b>Two-striped Garter Snake</b> ( <i>Thamnophis hammondi</i> )	__/_/__/G4/S3S 4	<b>Moderate.</b> Shrub habitats could support this species. Most of the site is not suitable habitat. Species was not detected during wildlife surveys. The nearest documented occurrence was 0.28 mile west of the Ventura River, and this species may forage around McGrath Lake (L. Hunt, unpub data).
<b>Tri-colored Blackbird</b> ( <i>Agelaius tricolor</i> )	__/_/__/G2G3/S 1S2	<b>Low.</b> Suitable habitat is not present on the site. Emergent vegetation surrounding McGrath Lake could be suitable, but biology of this area has been monitored heavily with no records of tricolored blackbird.
<b>Burrowing Owl</b> ( <i>Athene cunicularia</i> )	__/_/__/G4/S3	<b>Low.</b> Open, grassy areas and edges of dunes could support this species. Most of the site is not suitable habitat. Species was not detected during wildlife surveys. The nearest documented occurrences were 500 feet south of McGrath State Beach campgrounds, a burrow at the edge of gravel pile at end of service road, and Point Mugu Naval Air Station.
<b>Ferruginous Hawk</b> ( <i>Buteo regalis</i> )	__/_/__/G4/S3S 4	<b>Low.</b> Open, grassy areas could support this species. No suitable habitat on-site. Species was not detected during wildlife surveys.
<b>Western Snowy Plover</b> ( <i>Charadrius nivosus nivosus</i> )	FT/__/__/G3T3/S 2	<b>LowModerate.</b> Suitable habitat is not present on the site. The nearest documented occurrences were Mandalay State Beach, McGrath State Beach, Ormond Beach, Oxnard Beach, Ventura Beach, and the mouth of the Santa Clara River.
<b>Western yellow-billed Cuckoo</b> ( <i>Coccyzus americanus occidentalis</i> )	FT/SE/__/G5T2T 3/S1	<b>Low.</b> Suitable habitat is not present on-site.
<b>California Horned Lark</b> ( <i>Eremophila alpestris</i> )	__/_/__/G5T3Q/ S3	<b>Low.</b> Suitable habitat is not present on the site. Species was not detected during wildlife surveys.

Common Name (Scientific Name)	Status Fed/State/CRPR/ G-Rank/S-Rank	Potential for Occurrence in Project Impact Area*
<b>Belding's Savannah Sparrow</b> ( <i>Passerculus sandwichensis beldingi</i> )	_/SE/_/G5T3/S3	<b>Low.</b> Suitable habitat is not present on-site.
<b>California Brown Pelican</b> ( <i>Pelecanus occidentalis californicus</i> )	D/D/_/G4T3/S3	<b>Low.</b> Suitable habitat is not present on-site.
<b>Light-footed Ridgeway's Clapper Rail</b> ( <i>Rallus obsoletus levipes</i> )	FE/SE/_/G5T1T2/S1	<b>Low.</b> Suitable habitat is not present on-site.
<b>Southwestern Willow Flycatcher</b> ( <i>Empidonax traillii extimus</i> )	FE/SE/_/G5T2/S1	<b>Low.</b> Suitable habitat is not present on the site. Species was not detected during wildlife surveys.
<b>Bank Swallow</b> ( <i>Riparia riparia</i> )	_/ST/_/G5/S2	<b>Low.</b> Suitable habitat is not present on the site. Species was not detected during wildlife surveys.
<b>California Least Tern</b> ( <i>Sterna antillarum browni</i> )	FE/SE/ <b>SFP</b> _/G4T2T3Q/S2	<b>LowModerate.</b> Suitable habitat is not present on the site. The nearest documented occurrences were the Santa Clara River mouth, McGrath Lake, and Ormond Beach between Ormond Beach Generating Station and Perkins Road.
<b>California Black Rail</b> ( <i>Laterallus jamaicensis coturniculus</i> )	_/ST/_/G3G4T1/S1	<b>Low.</b> Suitable habitat is not present on the site. The nearest documented occurrence was the mouth of the Santa Clara River.
<b>Least Bell's Vireo</b> ( <i>Vireo bellii pusillus</i> )	F3/SE/_/G5T2/S2	<b>LowModerate.</b> Suitable habitat is not present on-site.
<b>Pallid Bat</b> ( <i>Antrozous pallidus</i> )	_/_/_/G5/S3	<b>Low.</b> Suitable habitat is not present on-site.
<b>Mexican Long-tongued Bat</b> ( <i>Choeronycteris Mexicana</i> )	_/_/_/G4/S1	<b>Low.</b> Suitable habitat is not present on-site.
<b>Western Mastiff Bat</b> ( <i>Eumops perotis</i> )	_/_/_/G5T4/S3S4	<b>Low.</b> Suitable habitat is not present on-site.
<b>South Coast Marsh Vole</b> ( <i>Microtus californicus Stephensi</i> )	_/_/_/G5T1T1/S1S2	<b>Low.</b> Suitable habitat is not present on-site.

Biological Resources Table 2 – Notes

\*The project impact area includes areas that could be affected directly or indirectly by project impacts.

**STATUS CODES:**

**State**

CSC: California Species of Special Concern. Species of concern to CDFW because of declining population levels, limited ranges, and/or continuing threats have made them vulnerable to extinction.

SE: State listed as endangered

ST: State listed as threatened

SFP: Fully protected

D: Delisted taxon that is considered recovered

SA: Special Animal. Species is tracked in the CNDDDB (due to rarity, limited distribution in California, declining throughout the range, etc.) but holds no other special status at the state or federal level.

**Federal**

FE: Federally listed endangered: species in danger of extinction throughout a significant portion of its range

FT: Federally listed, threatened: species likely to become endangered within the foreseeable future

BCC: Fish and Wildlife Service: Birds of Conservation Concern: Identifies migratory and non-migratory bird species (beyond those already designated as federally threatened or endangered) that represent highest conservation priorities

<http://www.fws.gov/migratorybirds/NewReportsPublications/SpecialTopics/BCC2008/BCC2008.pdf>

**California Rare Plant Ranking (CRPR)**

1A Presumed extirpated in California and either rare or extinct elsewhere

Common Name (Scientific Name)	Status Fed/State/CRPR/ G-Rank/S-Rank	Potential for Occurrence in Project Impact Area*
<p>1B: Rare or endangered in California and elsewhere            2A: Presumed extirpated in California but more common elsewhere            2B: Rare or endangered in California but more common elsewhere            3: Plants for which we need more information- Review list            4: Plants of limited distribution – Watch list            0.1: Seriously threatened in California (over 80 of occurrences threatened/high degree and immediacy of threat)            0.2: Moderately threatened in California (20-80% of occurrence threatened/moderate degree and immediacy of threat)            0.3: Not very threatened in California (&lt;20% of occurrence threatened/low degree and immediacy of threats or no current threats known)</p> <p><b>Global Rank/State Rank</b>  <b>Global rank (G-rank)</b> is a reflection of the overall condition of an element throughout its global range. Subspecies are denoted by a T-Rank; multiple rankings indicate a range of values            G1 = <b>Critically Imperiled</b> – At very high risk of extinction due to extreme rarity (often 5 or fewer populations), very steep declines or other factors.            G2 = <b>Imperiled</b>- At high risk of extinction due to very restricted range, very few populations (often 20 or fewer), steep declines or other factors. G3 = <b>Vulnerable</b> - At moderate risk of extinction due to very restricted range, relatively few populations (often 80 or fewer), recent and widespread declines or other factors.            G4 = <b>Apparently Secure</b>- Uncommon but not rare; some cause for long-term concern due to declines other factors. G5 = <b>Secure-Common</b>; widespread and abundant.  <b>State rank (S-rank)</b> is assigned much the same way as the global rank, except state ranks in California often also contain the imperilment status only within California's state boundaries            S1 = <b>Critically Imperiled</b> in state because of extreme rarity (often 5 or fewer populations) or because of other factors such as deep declines making it extremely vulnerable to extirpation from state.            S2 = <b>Imperiled</b> in the state because of rarity due to very restricted range, few populations (often 20 or fewer), steep declines, or other factors making it vulnerable to extirpation from state.            S3 = <b>Vulnerable</b> in state due to restricted range, relatively few populations (often 80 or fewer), recent and widespread declines, or other factors making it vulnerable to extirpation from the state.            S4 = <b>Apparently secure</b> – Unknown but not rare in the state; some cause for long-term concern due to declines or other factors.            S5 = <b>Secure</b> – Common, widespread, and abundant in the state.</p> <p><b>Potential Occurrence:</b>  <b>High</b> – Suitable habitat is present within or near the proposed site; occurrence records exist for species in proximity to the site; species expected to occur on or near site <u>within area of affect, or areas experiencing direct or indirect effects.</u>  <b>Moderate</b> – Low quality habitat is present within or near the proposed site; species was not identified during reconnaissance surveys of the site; species may occur on or near site <u>area of affect.</u>  <b>Low</b> – Marginal habitat is present on or adjacent to site; no recent records within 40 miles of the site <u>the area of affect.</u>  <b>Not Likely to Occur</b> – No recent records within 10 miles; no suitable habitat occurs on or near site</p>		

Of the special-status species listed above, the Committee Order requested that the applicant perform focused surveys for five species. The Intervenor's Motion requested the applicant add another nine species to the list.

### Species Subject to Enhanced/Protocol Surveys

Species	Included in Committee Order	Included in Intervenor Motion
Ventura marsh milkvetch	yes	no
Salt marsh birds-beak	no	yes
Orcutt's pincushion	no	yes
Globose dune beetle	yes	no
Two-striped garter snake	yes	no
California legless lizard	yes	no
Blainville's horned lizard	yes	no
Western snowy plover	no	yes
California least tern	no	yes
Least Bell's vireo	no	yes
Burrowing owl	no	yes

White-tailed kite	no	yes
Northern harrier	no	yes
California black rail	no	yes

For an accounting of the life history of these species, please refer to the Final Staff Assessment (TN #214712) and the applicant's final survey methodology (TN #216937)(CEC 2016ac).

## **SURVEY RESULTS**

Survey results are taken from the applicant's June 23, 2017 filing (TN #219898). Energy Commission staff visited the site on four separate days during the performance of focused surveys, specifically May 2 and 3, and May 10 and 11, 2017. Staff from the Coastal Commission attended the site visit on May 3, 2017. Complete survey methodology is available in applicant's Final Survey Methodology.

### **Ventura Marsh Milkvetch**

The applicant performed four surveys for the Ventura marsh milkvetch, as well as visited two reference populations of this species in order to see the plant and form a search image for it. Although reference populations were known to have grown and bloomed this spring, no specimens were detected during protocol-level surveys of the BSA. No individuals of Ventura marsh milkvetch have been detected on the project site or at the outfall structure, and no impacts to this species from the proposed project are expected.

### **Salt Marsh Birds-beak**

The applicant performed four surveys for the salt marsh birds-beak, as well as conducted three visits to reference populations of this species in order to see the plant and form a search image for it. Although reference populations were known to have grown this spring, no specimens were detected during protocol-level surveys of the BSA. No individuals of salt marsh birds-beak have been detected on the project site or at the outfall structure, and no impacts to this species are expected.

### **Orcutt's Pincushion**

The applicant performed four surveys for Orcutt's pincushion, as well as visited reference populations of this species in order to see the plant and form a search image for it. Although reference populations were known to have grown this spring, no specimens were detected during protocol-level surveys of the BSA. No individuals of Orcutt's pincushion have been detected on the project site or at the outfall structure, and no impacts to this species are expected.

### **Globose Dune Beetle**

The applicant performed multiple surveys for the globose dune beetle, including two early daytime surveys in April and in May, two nighttime surveys in April and May, two nights of pitfall array trapping in April, and two nights of pitfall array trapping in May. Globose dune beetle were discovered at the location of the ocean outfall and access



road/buffer during transect surveys. During pit fall trapping, globose dune beetles were discovered at the project site buffer and also at the ocean outfall and access road.

This species is listed as having a state rank of S1/S2, or, within the state of California, as imperiled/critically imperiled. To avoid impacts such as crushing or burying by construction equipment this species, staff has modified Condition of Certification **BIO-10**<sup>1</sup> proposed in the FSA to include a translocation plan. The translocation plan would ensure that all adult and larval individuals of the species are located and moved to a suitable dune location, out of the way of the outfall removal work. Implementation of this measure, in conjunction with conditions **BIO-1** through **BIO-4**, which dictate the selection and duties of a designated biologist and biological monitor(s) to oversee mitigation and perform monitoring of sensitive resources, and **BIO-7**, which confines work to delineated areas and controls invasive weeds, would avoid, minimize, and reduce any impacts to the species to below the level of significance.

### **Two-striped Garter Snake**

Coverboards were placed on the site, and checked once weekly throughout the months of April and May, for a total of four visits. Additionally, four visual surveys were performed throughout the BSA. No two-striped garter snakes have been detected within the BSA, and no impacts to this species are expected.

### **California Silvery Legless Lizard**

The applicant performed four visual surveys for the California legless lizard, and also placed coverboards to artificially collect this species. The coverboards were checked weekly for a span of four weeks (from April into May, 2017). Although the applicant's surveys yielded negative results, the intervenors Environmental Defense Center, Sierra Club, and Environmental Coalition of Ventura County filed a record of having detected two silvery legless lizards within the vicinity of the BSA (TN #217571, Figure 1)(ECVC/SC/ED 2017aa). One lizard was detected during raking surveys to the northeast of the project site, and another lizard was detected, also during raking surveys, immediately north of the ocean outfall, along the access road (TN #217571).

This CDFW species of special concern may experience adverse impacts such as crushing during removal of the outfall structure and appurtenant facilities. To avoid impacts to this species, staff has modified **BIO-10** to include a translocation plan. The translocation plan would ensure that individuals of the species are located and moved to a suitable dune location, out of the way of the outfall removal work. Implementation of this measure, in conjunction with conditions **BIO-1** through **BIO-4**, which dictate the selection and duties of a designated biologist and biological monitor(s) to oversee mitigation and perform monitoring of sensitive resources, and **BIO-7**, which confines work to delineated areas and controls invasive weeds, would avoid, minimize, and reduce any impacts to the species to below the level of significance.

### **Blainville's Horned Lizard**

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<sup>1</sup> Staff's proposed Condition of Certification **BIO-10** would require preconstruction surveys and flagging to avoid special-status plants and wildlife.

The applicant performed four visual surveys for the Blainville's horned lizard, and also placed coverboards to artificially collect this species. The coverboards were checked weekly for a span of four weeks (or from April into May, 2017). The applicant also performed harvester ant mound surveys (harvester ants are a preferred prey item of the Blainville's horned lizard). No Blainville's horned lizards have been detected within the BSA, and no impacts to this species are expected.

### **California Least Tern**

The applicant performed five surveys, weekly, from April into May, 2017, over the BSA. No California least tern have been detected within the BSA, and no impacts to this species are expected.

### **Least Bell's Vireo**

The applicant performed five surveys, weekly, from April into May, 2017, over the BSA. No least Bell's vireo were detected within the BSA, and no impacts to this species are expected.

### **Burrowing Owl**

The applicant conducted four surveys total, three during April and May, and one on June 16, 2017. No burrowing owl, or burrowing owl sign, was detected. According to the 2012 CDFW guidance on burrowing owl, it is possible that breeding season surveys might miss overwintering owls, and in this area of southern California, owls are known to occasionally overwinter. Signs of overwintering owls, such as whitewash, may be washed away by rains, and therefore rendered undetectable. However, the presence of suitable burrows may be detected during the breeding season survey protocol, and the presence of burrowing owl, a conspicuous species, has not been reported by onsite applicant staff or biologists. To ensure that any overwintering owls are avoided, staff recommends that preconstruction surveys (Condition of Certification **BIO-8**) be performed. Staff's recommended conditions **BIO-1** through **BIO-10** would ensure that any adverse effects to this species are mitigated to below the level of significance.

### **White-tailed Kite**

The applicant performed five surveys, weekly, from April into May, 2017, over the BSA. No white-tailed kite have been detected within the BSA, and no impacts to this species are expected.

### **Northern Harrier**

The applicant performed five surveys, weekly, from April into May, 2017, over the BSA. No northern harrier have been detected within the BSA, and no impacts to this species are expected.

### **California Black Rail**

The applicant performed five surveys, weekly, from April into May, 2017, over the BSA. No California black rail have been detected within the BSA, and no impacts to this species are expected.

## Western Snowy Plover

The applicant performed five surveys, weekly, from April into May, 2017, over the BSA. No western snowy plover have been detected within the BSA, and no impacts to this species are expected.

## CONCLUSIONS

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The results of the applicant's focused surveys do not change staff's opinion with respect to the significance of the impacts of the project. Staff concludes that the project site does not constitute an Environmentally Sensitive Habitat Area, as no sensitive species were detected on the project site. With implementation of Conditions of Certification **BIO-1** through **BIO-10** (as modified herein), staff concludes that all impacts of the project would be mitigated to below the level of significance.

## REVISED CONDITION OF CERTIFICATION

Staff is proposing additional language for Condition of Certification **BIO-10**, to account for the findings of the most recent surveys and species detections. Language that is different from the version of **BIO-10** that appeared in the Final Staff Assessment is shown in ~~strikeout~~ and **bold/underline**.

## OUTFALL REMOVAL IMPACTS AVOIDANCE PLAN

**BIO-10** Prior to initiation of outfall removal activities or any associated ground-disturbing activities, the project owner shall prepare an Outfall Removal Impacts Avoidance Plan. The Plan shall be developed in consultation with the Designated Biologist; and at a minimum, the plan shall detail the following avoidance and minimization measures, **and contain a Special-Status Species Translocation Plan:**

1. Pre-construction surveys for special-status plants shall be conducted in all impact areas and within 500 feet of said areas. If special-status species are found onsite or within 500 feet of the site, all individuals of these species shall be avoided.
2. Pre-construction surveys for special-status wildlife shall be conducted in all impact areas and within 500 feet of said areas. If special-status species are found onsite or within 500 feet of the site, all individuals of these species shall be avoided **or relocated (BIO-10 #8A and #8B)**.
3. Vegetation in the construction area shall be removed prior to March 1 (the beginning of the bird-nesting season) to avoid conflicts with nesting birds during the nesting season. Pre-construction surveys for nesting birds that are listed (including California least tern and western snowy plover) and all non-listed bird species shall be conducted in all areas within 500 feet of the perimeter of the project site. Construction during the breeding season (generally March 1 – August 30) is not allowed.

4. During demolition activities, exclusionary fencing shall be installed around the outfall structure demolition area **and access road** to prevent marine mammals from using the area.
5. Prior to each day, pre-construction/demolition surveys for marine mammals shall be conducted within 500 feet of the outfall structure. If a marine mammal is sighted within or is about to enter the demolition area, work shall be halted until the animal leaves the area. Alternately, an approved biologist may immediately notify the Channel Islands Marine Resource Institute (the local approved National Marine Fisheries Service) to make every reasonable effort to rescue such an animal.
6. Protective silt fencing shall be erected around patches of sand dune mats, and inspected daily by the Designated Biologist or Biological Monitor, to ensure that no animals are entrapped, and that the fencing is in good repair. Fencing repairs shall occur within 1 business day of detection of damage.
7. Heavy equipment used during the demolition of the outfall structure shall use a soft-start (i.e. ramp-up) technique at the beginning of activities each day, or following an equipment shut-down, to allow any marine mammal that may be in the immediate area to leave before the sound source reaches full energy.

**8. Special Status Species Translocation Plan (Translocation Plan)**

**The Translocation Plan shall describe in detail the monitoring and detection, animal husbandry techniques, and proposed translocation sites for silvery legless lizard and globose dune beetle and its larvae. Proposed translocation sites shall be subject to a habitat assessment by the Designated Biologist, and described in the Translocation Plan. The Translocation Plan shall require approval by the CPM, in consultation with CDFW.**

**A. For the silvery legless lizard, the Translocation Plan shall describe the undertaking of medium-intensity raking surveys, to occur no more than seven days before the onset of any ground disturbing activity at the outfall structure. All suitable habitat within the ocean outfall and associated access road shall be raked to a depth of 18 inches. Biological Monitors/Designated Biologist shall accompany each piece of vegetation clearing equipment and will inspect disturbed soils and spoils piles for silvery legless lizards. Captured legless lizards shall be held in sterile containers filled with sand and leaf litter, and held in the shade. Translocation should only take place during suitable weather, as determined in consultation with CDFW, the Designated Biologist, and any other biological experts deemed necessary by the CPM. Captured legless lizards shall be**

spritzed with fresh water prior to translocation to suitable dune habitat to the immediate north or south of the ocean outfall. The Translocation Plan should include photographs and description of the proposed translocation site.

GPS coordinates and photographs of the translocation sites shall be recorded, and a Final Report prepared by the Designated Biologist at the conclusion of the removal of the ocean outfall. The Final Report shall be submitted to the CPM, and at a minimum shall detail detection methodologies used, weather conditions, the number and location of silvery legless lizards removed, data at the translocation site such as GPS coordinates and photographs, any modifications made to the Translocation Plan, and any proposed new methodology or lessons learned during the course of the translocation efforts.

B. For the globose dune beetle, the Translocation Plan shall describe the undertaking of a combination of pitfall traps and pedestrian transect surveys, to occur no more than seven days before the onset of any ground disturbing activity at the outfall structure. Surveys for the globose dune beetle shall be timed to occur before raking for the silvery legless lizard, which would significantly disrupt any potential dune beetle habitat. All suitable habitat at the outfall and associated access road shall be subject to surveys and capture of globose dune beetles. The Translocation Plan shall outline husbandry methods, such as keeping beetles in sterile containers with sand and leaf litter, during identification and translocation efforts. The project owner shall translocate globose dune beetles and unidentified beetles of the *Coelus* genera to suitable dune habitat immediately north or south of the ocean outfall. A Final Report, including GPS-recorded locations of translocated specimens, will be prepared as per #8A, above.

**Verification:** The project owner shall submit the Outfall Removal Impacts Avoidance Plan to the CPM for approval at least 30 days prior to the start of ground disturbing activities associated with the outfall removal. All impact avoidance and minimization measures related to the outfall removal **and Special-Status Species Translocation Plan** shall be included in the BRMIMP and implemented. Implementation of the measures shall be reported on the MCRs by the Designated Biologist. At the conclusion of the demolition of the outfall, the Designated Biologist shall prepare a final report detailing observations of any special status plants or wildlife, a table of common species observed, a description of any adaptive management or mitigation strategies implemented, and a discussion of the efficacy of said measures. **The Designated Biologist will also prepare a final report on the Translocation Plan.**

## **REFERENCES**

- CEC 2016ac                      Puente Power Project Final Staff Assessment, Part 1 of 2.  
CEC/ Dockets December 8, 2016 (TN #214712).
- ECVC/SC/ED 2017aa            Submission of Additional Evidence of Rare Species.  
Intervenors EDC. Sierra Club and Environmental Coalition of  
Ventura County May 12, 2017 (TN #217571).
- PPP 2017a                        Expert Declaration of Julie Love in Response to March 10,  
2017 Committee Orders, Attachment B – Biological  
Resources Survey Report. Latham-Watkins/ Dockets June  
23, 2017 (TN# 219898).