

## DOCKETED

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California Energy Commission Staff's Proposed Condition of Certification **BIO-26** for Discussion at the Palmdale Energy Project Prehearing Conference

Staff is providing this proposal for discussion purposes at the Prehearing Conference in the hopes of resolving the one remaining outstanding issue prior to evidentiary hearings. Staff will explain in more detail in Supplemental Testimony to be filed by March 15, 2017, but using impact metrics contained in the Desert Renewable Energy Conservation Plan or extrapolating from avian mortality monitoring done for the Sunrise Powerlink Transmission Line results in wide-ranging estimates of mortality impacts from a few willow flycatchers to several hundred over the life of the PEP transmission line. For this reason, staff is proposing a mitigation measure that uses a performance standard and will rely upon take estimates derived from the California Department of Fish and Wildlife's incidental take permitting process and best available scientific data.

**BIO-26** Prior to construction of the transmission line, the project owner shall provide to the CPM a copy of the Incidental Take Permit (ITP) per Section 2081 (b) of the California Endangered Species Act or Consistency Determination (CD) per Section 2080.1 of the California Endangered Species Act issued by the California Department of Fish and Wildlife (CDFW). The project owner shall secure compensatory lands to mitigate for the potential take of willow flycatcher and Southwestern willow flycatcher over the life of the project. The estimated take of the species will be determined through the ITP or CD issued by CDFW. Based on the mitigation ratios adopted for the Desert Renewable Energy Conservation Plan (Draft DRECP and EIS/EIR, Appendix H, Table H-7), the take of each bird death determined in the ITP/CD will require 5 acres of compensatory nesting habitat. All compensatory mitigation land needs to be within suitable breeding habitat within the California range of the willow flycatcher. The terms and conditions contained in the ITP or CD shall be incorporated into the project's Biological Resources Mitigation Implementation and Monitoring Plan (BRMIMP) and implemented by the project owner.

**Verification:** No less than 30 days prior to initial ground disturbance for the construction of the transmission line, the project owner shall provide to the CPM a copy of the ITP or CD issued by CDFW. Concurrently the project owner shall provide to the CPM for approval a copy of the revised BRMIMP that shall include the terms and conditions contained in the ITP or CD that must be implemented by the project owner. The CPM must approve the revised BRMIMP before construction activities can begin.