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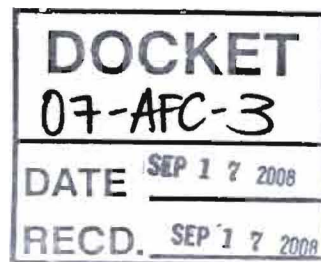
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September 16, 2008

File No. 030137-0012

VIA FEDEX

CALIFORNIA ENERGY COMMISSION
Attn: Docket No. 07-AFC-3
1516 Ninth Street, MS-4
Sacramento, California 95814-5512



Re: CPV Sentinel Energy Project: Docket No. 07-AFC-3

Dear Sir/Madam:

Pursuant to California Code of Regulations, title 20, sections 1209, 1209.5, and 1210, enclosed herewith for filing please find Applicant's Comments on the Preliminary Staff Assessment (2).

Please note that the enclosed submittal was also filed today via electronic mail to your attention.

Very truly yours,

A handwritten signature in blue ink that reads "Paul E. Kihm".

Paul E. Kihm
Senior Paralegal

Enclosure

cc: CEC 07-AFC-3 Proof of Service List (w/encl. via e-mail)
Michael J. Carroll, Esq. (w/ encl.)

Comments on the Preliminary Staff Assessment (2)

Application for Certification (07-AFC-3) for CPV Sentinel Energy Project Riverside County, California

September 16, 2008



Prepared for:

CPV Sentinel, LLC

Prepared by:

URS

**Comments on the Preliminary Staff Assessment (2)
CPV Sentinel Energy Project
September 16, 2008**

Comment Number	PSA Section	Page Number	PSA Statement	Comments to CEC
Section 4.2, Biological Resources				
1.	BIO-5 Verification	4.2.-28	<p>At least 60 days prior to the start of any site (or related facilities) mobilization, the project owner shall provide to the CPM the proposed WEAP and all supporting written materials and electronic media prepared or reviewed by the Designated Biologist and a resume of the person(s) administering the program.</p> <p>The project owner shall provide in the Monthly Compliance Report the number of persons who have completed the training in the prior month and a running total of all persons who have completed the training to date. At least 10 days prior to site and related facilities mobilization submit two copies of the CPM-approved materials.</p>	<p>Applicant suggests adding “for review and approval” to clarify the CPM’s role and responsibility, as identified in underline below:</p> <p><i>“At least 60 days prior to the start of any site (or related facilities) mobilization, the project owner shall provide to the CPM <u>(for review and approval)</u> the proposed WEAP and all supporting written materials and electronic media prepared or reviewed by the Designated Biologist and a resume of the person(s) administering the program. The project owner shall provide in the Monthly Compliance Report the number of persons who have completed the training in the prior month and a running total of all persons who have completed the training to date. At least 10 days prior to site and related facilities mobilization submit two copies of the CPM-approved materials.”</i></p>
2.	BIO-7.5	4.2.-31	<p>Install silt fencing buried 1-foot deep and attached to a chain-link fence prior to construction to keep burrowing animals from easily tunneling into the site. Examine the fencing at least once a week and repair when necessary. Maintain the fencing until construction is complete (modified from applicant’s Mitigation Measure Bio-10)</p>	<p>Applicant suggests adding “around project site” to the conditions to clarify that silt fence and chain link fence should be installed only around project site and not around the laydown area and linears. Suggested change is identified in underline below:</p> <p><i>“5. Install silt fencing buried 1-foot deep and attached to a chain-link fence <u>around project site</u> prior to construction to keep burrowing animals from easily tunneling into the site. Examine the fencing at least once a week and repair when necessary. Maintain the fencing until construction is complete (modified from applicant’s Mitigation Measure Bio-10);”</i></p>

Comment Number	PSA Section	Page Number	PSA Statement	Comments to CEC
3.	BIO-7.6	4.2-31	6. Conduct small mammal trapping for five nights in order to capture and relocate as many small mammals from within the project are as possible. Set traps near sign, burrows, or tracks at dusk each day and check at midnight or no later than dawn the next day to ensure no unnecessary deaths occur (modified from applicant's Mitigation Measure Bio-11);	<p>Applicant suggests adding "Following installation of silt fence and prior to ground disturbance," to clarify the timing of BIO-7.5 to BIO-7.6. Suggested change is identified in underline below:</p> <p><i>"6. <u>Following installation of silt fence and prior to ground disturbance, conduct small mammal trapping for five nights in order to capture and relocate as many small mammals from within the project are as possible. Set traps near sign, burrows, or tracks at dusk each day and check at midnight or no later than dawn the next day to ensure no unnecessary deaths occur (modified from applicant's Mitigation Measure Bio-11);"</u></i></p>
4.	BIO-9.1A	4.2-33	<p>The project owner shall conduct protocol-level surveys to determine the presence or absence of the desert tortoise and implement the appropriate measures to minimize impacts if detected:</p> <p>I. A qualified (permitted) biologist shall conduct protocol surveys for desert tortoise in the project area, including the power plant site and the linear facilities (e.g. natural gas and potable water lines). The survey should be conducted at least 30 days prior to the start of initial ground disturbance activities and should follow the Field Survey Protocol for any Federal Action that may Occur within the Range of the Desert Tortoise (USFWS 1992) including:</p> <p>A. Complete a Presence-Absence Survey during March 25 to May 31. This survey window is based on the activity period for the desert tortoise throughout its range during a typical year and equates to the period of time when a tortoise is not brumating or aestivating. During dry years this activity period may be shorter.</p>	<p>Applicant suggests the changes identified below since protocol desert tortoise surveys have already been conducted covering 100 percent of the site and surrounding "zone of influence" where access was obtained May 7 through 10, 2007 and March 25 and 26, 2008. The May 2007 results are summarized in AFC Section 7.2 and Appendix J-1, and the March 2008 survey results are summarized in Response to Data Requests 67. It is felt that these previous surveys fulfilled the need for presence/absence surveys for adults (and presumably juveniles). Juvenile tortoises are the individuals most likely to have been missed during surveys, but they are likely to be active in January. Surveys at this time along with excavating potential burrows should ensure that all individual tortoises in the area will be found prior to ground disturbance.</p> <p>It is requested that text be added to allow "USFWS approved" biologist to conduct the surveys for desert tortoise, since many qualified desert tortoise biologists do not have their own 10a1A permit.</p> <p>Further, it is suggested that a "modified" field survey protocol be conducted, since the burrow scope is not included in the protocol surveys and the timing is geared for juveniles (since adult surveys were conducted in 2007 and 2008).</p> <p>Below are the suggested changes in underline and strikeout:</p>

Comment Number	PSA Section	Page Number	PSA Statement	Comments to CEC
				<p><i>"The project owner shall conduct protocol level follow-up surveys in January 2008 to augment determine the presence or absence of the desert tortoise and the protocol level surveys conducted in 2007 and 2008 by Xeric Specialties and implement the appropriate measures to minimize impacts if detected.</i></p> <p><i>1. A Qualified (permitted or USFWS approved) biologist(s) shall conduct protocol additional surveys for desert tortoise in the project area, including the power plant site and the linear facilities (e.g. natural gas and potable water lines). The survey should be conducted at least approximately 30 days prior to the start of initial ground disturbance activities and should would follow the modified Field Survey Protocol for any Federal Action that may Occur within the Range of the Desert Tortoise (USFWS 1992) including:"</i></p> <p><i>A. Complete a Presence Absence Survey during March 25-May 31. This survey window is based on the activity period for the desert tortoise throughout its range during a typical year and equates to the period of time when a tortoise is not brumating or aestivating. During dry years this activity period may be shorter.</i></p>
5.	BIO-9.1B and C	4.2-33	<p>B. The survey should identify the number and location of all tortoises and tortoise sign that occur within a given project area and if any tortoises occur in adjacent areas whose home range may overlap into the project area and thus be lost or harassed by the proposed action.</p> <p>C. Surveys should only be conducted during daylight hours and should include the entire project area (100 percent coverage) using 10 meters wide (30 feet) belt transects.</p>	<p>With the deletion of A identified above, B would then become A. Applicant also suggests adding a new C as identified below:</p> <p><i>"C. All burrows will be visually examined using a "burrow scope" to ensure there are no brumating or aestivating individuals. All burrows will be hand excavated to ensure the contents of the burrow are definitively identified."</i></p>

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6.	BIO-9.2	4.2-33	<p>2. If no evidence of desert tortoise use is detected during the Presence-Absence survey then it will be assumed the site is unoccupied and no Incidental Take Permits from USFWS or CDFG are required for construction.</p>	<p>Applicant suggests removing “Present-Absence” reference, since it is felt that previous surveys conducted on the site fulfilled this requirement. The suggested change is identified in strikeout below:</p> <p><i>“2. If no evidence of desert tortoise use is detected during the Presence-Absence survey then it will be assumed the site is unoccupied and no Incidental Take Permits from USFWS or CDFG are required for construction.”</i></p>
7.	BIO-9.3	4.2-33	<p>3. If evidence of the desert tortoise or another federally or State listed reptile species is detected in the project area then the project owner shall be required to obtain a Biological Opinion (ESA Section 10) and/or a CESA Section 2081 Letter of Concurrence to determine appropriate mitigation for impacts which may include the following:</p> <p>A. Capture and relocate animals to an approved location.</p> <p>B. Purchase of lands offsite and establishment of an endowment for management of the lands.</p> <p>Verification: The project owner shall report to the CPM the results of the surveys and whether a Biological Opinion (ESA Section 10) and/or a CESA Section 2081 Letter of Concurrence are required as soon as possible. At least 60 days prior to start of any project-related ground disturbance activities, the project owner shall provide the CPM with the final version of the BRMIMP, which includes desert tortoise survey results to date and any necessary impact avoidance measures. Results for all protocol surveys conducted after the final version of the BRMIMP is complete will be submitted as a supplement to the CPM. All modifications to the approved BRMIMP must be made only after</p>	<p>Applicant suggests adding language to reference coverage under the Coachella Valley Multi-Species Habitat Conservation Plan, which is designed to give protection under the ESA/CESA and is faster and more straight forward than a Section 10 consultation or 2018 letter.</p> <p>Further, it is felt that the monthly compliance report required as part of BIO-2.8 would be an ideal tool for tracking survey results and documenting them to the CEC.</p> <p>Suggested changes are identified in underline and strikeout below:</p> <p><i>“3. If evidence of the desert tortoise or another federally or State listed reptile species is detected in the project area then the project owner shall be required to <u>show coverage under the CVMSHCP</u> or obtain a Biological Opinion (ESA Section 10) and/or a CESA Section 2081 Letter of Concurrence to determine appropriate mitigation for impacts which may include the following:</i></p> <p><i>A. Capture and relocate animals to an approved location.</i></p> <p><i>B. Purchase of lands offsite and establishment of an endowment for management of the lands.</i></p> <p><i>Verification: The project owner shall report to the CPM the results of the surveys and whether <u>coverage under the CVMSHCP</u> or a Biological Opinion (ESA Section 10) and/or a CESA Section 2081 Letter of Concurrence are required as soon as possible. At least 60 days prior to start of any project-related</i></p>

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			<p>consultation with the CPM and other appropriate agencies. The project owner shall notify the CPM five working days before implementing any modifications to the BRMIMP.</p>	<p><i>ground disturbance activities, the project owner shall provide the CPM with the final version of the BRMIMP, which includes desert tortoise survey results to date and any necessary impact avoidance measures. Results for all protocol surveys conducted after the final version of the BRMIMP is complete will be submitted as a supplement to the CPM in the Monthly Compliance Report and summarized in the Annual Compliance Report. All modifications to the approved BRMIMP must be made only after consultation with the CPM and other appropriate agencies. The project owner shall notify the CPM five working days before implementing any modifications to the BRMIMP."</i></p>
8.	BIO-10		<p>3. If either target species or another federally or State listed reptile species is detected in the project area then the project owner shall be required to obtain a Biological Opinion (ESA Section 10) and/or a CESA Section 2081 Letter of Concurrence to determine appropriate mitigation for impacts which may include the following:</p> <p>A. Capture and relocate species to an approved location.</p> <p>B. Purchase of lands offsite and establishment of an endowment for management of the lands.</p> <p>Verification: The project owner shall report to the CPM the results of the surveys and whether a Biological Opinion (ESA Section 10) and/or a CESA Section 2081 Letter of Concurrence are required as soon as possible. At least 60 days prior to start of any project-related ground disturbance activities, the project owner shall provide the CPM with the final version of the BRMIMP, which includes listed reptile survey results to date and any necessary impact avoidance measures. Results for all protocol</p>	<p>Applicant suggests adding language to reference coverage under the Coachella Valley Multi-Species Habitat Conservation Plan, which is designed to give protection under the ESA/CESA and is faster and more straightforward than a Section 10 consultation or 2018 letter.</p> <p>Further, it is felt that a monthly compliance report would be an ideal tool for tracking survey results and documenting them to the CEC.</p> <p>Suggested change is identified in underline below:</p> <p><i>"3. If either target species or another federally or State listed reptile species is detected in the project area then the project owner shall be required to <u>show coverage under the CVMSHCP</u> or obtain a Biological Opinion (ESA Section 10) and/or a CESA Section 2081 Letter of Concurrence to determine appropriate mitigation for impacts which may include the following:</i></p> <p><i>A. Capture and relocate species to an approved location.</i></p> <p><i>B. Purchase of lands offsite and establishment of an endowment for management of the lands.</i></p> <p>Verification: The project owner shall report to the CPM the results of the surveys and whether <u>coverage under the CVMSHCP</u> or a Biological Opinion (ESA Section 10) and/or a</p>

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			<p>surveys conducted after the final version of the BRMIMP is complete will be submitted as a supplement to the CPM. All modifications to the approved BRMIMP must be made only after consultation with the CPM and CDFG. The project owner shall notify the CPM five working days before implementing any modifications to the BRMIMP.</p>	<p><i>CESA Section 2081 Letter of Concurrence are required as soon as possible. At least 60 days prior to start of any project-related ground disturbance activities, the project owner shall provide the CPM with the final version of the BRMIMP, which includes listed reptile survey results to date and any necessary impact avoidance measures. Results for all protocol surveys conducted after the final version of the BRMIMP is complete will be submitted as a supplement to the CPM in the Monthly Compliance Report and summarized in the Annual Compliance Report. All modifications to the approved BRMIMP must be made only after consultation with the CPM and CDFG. The project owner shall notify the CPM five working days before implementing any modifications to the BRMIMP."</i></p>
9.	BIO-11	4.2-35	<p>The project owner shall conduct protocol level surveys to determine the presence of the Coachella Valley milk-vetch and the Triple-ribbed milk-vetch and implement the appropriate measures to minimize impacts if detected:</p> <p>1. A qualified biologist shall conduct protocol surveys for both Coachella Valley milk-vetch and triple-ribbed milk-vetch in the project area, including the power plant site and the linear facilities (e.g. natural gas lines). The survey should be conducted at least 30 days prior to the start of initial ground disturbance activities and should follow the CNPS Botanical Survey Guidelines (1983), Guidelines for Conducting and reporting Botanical inventories for Federally Listed, Proposed and Candidate Species (USFWS 2000), and Guidelines for Assessing the Effects of Proposed Projects on Rare, Threatened, and Endangered Plants and Natural Communities (CDFG 1983) including:</p> <p>A. Conduct surveys at the appropriate times of year when the target species are present and</p>	<p>Surveys for all sensitive plants, including the milk-vetches, have already been conducted in May 7 through 10, 2007 and March 24, 2008 (See AFC Appendix J-1 and Response to Data Request 66). No sensitive milk-vetches were found during these surveys and none are expected based off of the habitat and two negative surveys. Further, waiting until February and March would unnecessarily delay construction, (which is scheduled to commence at the beginning of February 2009) since these plants can be identified prior to the blooming period, and. However, if plants are found that cannot be identified to species, the area will be protected until the individual plant(s) can be properly identified.</p> <p>Applicant also suggests adding language to reference coverage under the Coachella Valley Multi-Species Habitat Conservation Plan, which is designed to give protection under the ESA/CESA and is faster and more straight forward than a Section 10 consultation or 2018 letter.</p> <p>Suggested changes are identified below in underline and strikeout:</p> <p><i>"The project owner shall conduct protocol level <u>follow-up surveys to the protocol level surveys conducted in 2007 and 2008 by Xeric Specialties to determine the presence of the</u></i></p>

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			<p>identifiable. Estimated blooming season for both species occurs between February and May (CNPS 2007).</p> <p>B. If available, use a regional or local reference population to confirm that the plants are identifiable at the time of the survey as well as to obtain a visual image of target species and the associated habitat.</p> <p>C. Compile a comprehensive list of plants observed on site, identified to the lowest taxonomic level applicable to allow for rarity to be determined.</p> <p>D. Conduct surveys using systematic field techniques to ensure thorough coverage of the project area and any surrounding suitable habitat.</p> <p>E. If a special status species is observed, including the two target species, a California Native Species Field Survey Form should be completed, along with the appropriate 7.5 minute topographical map with the occurrence mapped. Accurate population boundaries should be mapped along with an estimate of the number of individuals within the population.</p> <p>F. Multiple visits are recommended during the growing season in particular due to the ongoing drought conditions in Southern California which may result in late or early emergent's as well unsuccessful blooming.</p> <p>2. If either target species or another federally or State listed plant species is detected in the project area then the project owner shall be required to obtain a Biological Opinion (ESA Section 10) and/or a CESA Section 2081 Letter</p>	<p><i>Coachella Valley milk-vetch and the Triple-ribbed milk-vetch and implement the appropriate measures to minimize impacts if detected:</i></p> <p><i>1. A qualified biologist shall conduct protect surveys for both Coachella Valley milk-vetch and triple-ribbed milk-vetch in the project area, including the power plant site and the linear facilities (e.g. natural gas lines). The survey should be conducted at least 30 days prior to the start of initial ground disturbance activities and should follow the CNPS Botanical Survey Guidelines (1983), Guidelines for Conducting and reporting Botanical inventories for Federally Listed, Proposed and Candidate Species (USFWS 2000), and Guidelines for Assessing the Effects of Proposed Projects on Rare, Threatened, and Endangered Plants and Natural Communities (CDFG 1983) including:</i></p> <p><i>A. Conduct surveys at the appropriate times of year when the target species are present and identifiable. <u>If milk-vetch are detected that cannot be identified to species, follow-up surveys will be conducted during the blooming season to confirm the species.</u> Estimated blooming season for both species occurs between February and May (CNPS 2007).</i></p> <p><i>B. If available, use a regional or local reference population to confirm that the plants are identifiable at the time of the survey as well as to obtain a visual image of target species and the associated habitat.</i></p> <p><i>C. Compile a comprehensive list of plants observed on site, identified to the lowest taxonomic level applicable to allow for rarity to be determined.</i></p> <p><i>D. Conduct surveys using systematic field techniques to ensure thorough coverage of the project area and any surrounding suitable habitat.</i></p> <p><i>E. If a special status species is observed, including the two target species, a California Native Species Field Survey Form should be completed, along with the appropriate 7.5 minute</i></p>

Comment Number	PSA Section	Page Number	PSA Statement	Comments to CEC
			<p>of Concurrence to determine appropriate mitigation for impacts which may include the following:</p> <p>A. Complete avoidance of populations of sensitive plants through project modification.</p> <p>B. Complete avoidance by flagging and mapping the population prior to construction to avoid direct impacts.</p> <p>C. Relocate plants and/or collect seeds from existing populations that would be impacted and then plant/seed these plants in adjacent suitable habitat that would not be affected by proposed project and then monitor for 5 years.</p> <p>D. If available, purchase of in-kind habitat acreage in a mitigation bank at a ratio to be determined by the appropriate regulatory agency.</p> <p>E. Off-site mitigation including restoration and enhancement as determined by the appropriate regulatory agency.</p> <p>Verification: The project owner shall report to the CPM the results of the surveys and whether a Biological Opinion (ESA Section 10) and/or a CESA Section 2081 Letter of Concurrence are required as soon as possible. At least 60 days prior to start of any project-related ground disturbance activities, the project owner shall provide the CPM with the final version of the BRMIMP, which includes rare/listed plant survey results to date and any necessary impact avoidance measures. Results for all protocol surveys conducted after the final version of the BRMIMP is complete will be submitted as a supplement to the CPM. All modifications to</p>	<p><i>topographical map with the occurrence mapped. Accurate population boundaries should be mapped along with an estimate of the number of individuals within the population. <u>A copy of the CNDDDB form will be included in the monthly compliance report.</u></i></p> <p><i>F. Multiple visits are recommended during the growing season in particular due to the ongoing drought conditions in Southern California which may result in late or early emergent's as well unsuccessful blooming.</i></p> <p><i>2. If either target species or another federally or State listed plant species is detected in the project area then the project owner shall be required to <u>show coverage under the CVMSHCP or obtain a Biological Opinion (ESA Section 10) and/or a CESA Section 2081 Letter of Concurrence to determine appropriate mitigation for impacts which may include the following:</u></i></p> <p><i>A. Complete avoidance of populations of sensitive plants through project modification.</i></p> <p><i>B. Complete avoidance by flagging and mapping the population prior to construction to avoid direct impacts.</i></p> <p><i>C. Relocate plants and/or collect seeds from existing populations that would be impacted and then plant/seed these plants in adjacent suitable habitat that would not be affected by proposed project and then monitor for 5 years.</i></p> <p><i>D. If available, purchase of in-kind habitat acreage in a mitigation bank at a ratio to be determined by the appropriate regulatory agency.</i></p> <p><i>E. Off-site mitigation including restoration and enhancement as determined by the appropriate regulatory agency.</i></p> <p><i>Verification: The project owner shall report to the CPM the results of the surveys and whether <u>coverage under the CVMSHCP or a Biological Opinion (ESA Section 10) and/or a CESA Section 2081 Letter of Concurrence are required as soon</u></i></p>

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			<p>the approved BRMIMP must be made only after consultation with the CPM and CDFG. The project owner shall notify the CPM five working days before implementing any modifications to the BRMIMP.</p>	<p><i>as possible. At least 60 days prior to start of any project-related ground disturbance activities, the project owner shall provide the CPM with the final version of the BRMIMP, which includes rare/listed plant survey results to date and any necessary impact avoidance measures. Results for all protocol surveys conducted after the final version of the BRMIMP is complete will be submitted as a supplement to the CPM in the Monthly Compliance Report and summarized in the Annual Compliance Report. All modifications to the approved BRMIMP must be made only after consultation with the CPM and CDFG. The project owner shall notify the CPM five working days before implementing any modifications to the BRMIMP."</i></p>
10.	BIO-12	4.2-37	<p>The project owner shall implement the following measures to identify the presence and avoid or minimize impacts to burrowing owls and other nesting birds:</p> <p>1. A qualified biologist (permitted, if necessary) shall conduct protocol survey for burrowing owl activities in the project area, including the power plant site, the linear facilities (e.g. natural gas lines), and a 150 meter (approximately 500 ft.) buffer (where possible and appropriate based on the habitat). The survey should follow the protocol outlined in the CDFG Staff Report on Burrowing Owl Mitigation (1995) including:</p> <p>A. One (1) winter (December 1 to January 31) and one (1) breeding season (April 15 to July 15) survey no less than 30 days prior to the start of initial ground disturbance activities.</p> <p>B. Conduct surveys from two hours before to one hour after sunset or from one hour before to two hours after sunrise.</p> <p>C. Identify all active and historical burrows (natural or artificial) as well as suitable habitat</p>	<p>BIO-12.2C does not distinguish between temporary and permanent impacts. Also, burrowing owls in this area can be year round residents, breeders that migrate during winter, winter residents that migrate elsewhere to breed or transient individuals that pass through the area. The surveys to date (Xeric Specialties and URS) in 2007 and 2008, should have detected any breeding burrowing owls within the project site and along the linears. No suitable breeding burrows were detected. Impacts to owls that are found breeding in the area would be protected and/or mitigated through either the CVMSHCP or land conservation.</p> <p>Currently there are no permits required to survey for burrowing owls.</p> <p>BIO-12.3 implies that all activity must await a spring breeding bird survey and does not allow for work to start in the non-breeding season. The suggested changes below would still require a pre-construction survey for initial ground disturbance during the breeding season, but allow for ground disturbance in the non-breeding season (since construction for the project is scheduled to commence in the beginning of February 2009).</p> <p>Further, changes to BIO-12.4 are suggested in order to use visual barriers and sound buffers if active, occupied nests are found. These barriers worked successfully at Mountain View in</p>

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			<p>within the entire project area including the 150 meter buffer (accounts for impacts from noise and vibration impacts).</p> <p>D. Space transects to allow for 100 percent visual coverage (maximum 30 meters from centerline).</p> <p>E. Surveyors should avoid owls and occupied burrows by a minimum 50 meters where practical.</p> <p>2. If burrowing owls are present within 500 feet of the power plant site or linear facilities (e.g. natural gas line), then the project owner will contact CDFG and implement the CDFG burrowing owl guidelines (1995) to include:</p> <p>A. Mitigation should consist of passive relocation with a one-way door to avoid direct impacts to the burrowing owls on site. Passive relocation should be conducted during the non-breeding season (September 1–January 31) to ensure that active nests are not lost as a result of owl exclusion. The methodology for owl relocation should follow the guidelines set forth in the CDFG Staff Report on Burrowing Owl Mitigation (CDFG 1995).</p> <p>B. Occupied burrows shall not be disturbed during the nesting season (February 1–August 31) unless a qualified biologist approved by CDFG verifies through noninvasive methods that either: (1) the birds have not begun egg laying and incubation; or (2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.</p> <p>C. If impacts to foraging and burrow habitat are</p>	<p>2005 and 2006.</p> <p>Suggested changes are identified below in underline and strikeout:</p> <p><i>“The project owner shall implement the following measures to identify the presence and avoid or minimize impacts <u>conduct follow-up surveys to the surveys conducted in 2007 and 2008 by Xeric Specialties and URS to identify the presence and avoid or minimize impacts</u> to burrowing owls and other nesting birds:</i></p> <p><i>1. A qualified biologist (permitted, if necessary) shall conduct protect survey for burrowing owl activities in the project area, including the power plant site, the linear facilities (e.g. natural gas lines), and a 150 meter (approximately 500 ft.) buffer (where possible and appropriate based on the habitat). The survey should follow the protocol outlined in the CDFG Staff Report on Burrowing Owl Mitigation (1995) including:</i></p> <p><i>A. One (1) winter (December 1 to January 31) and one (1) breeding season (April 15 to July 15) survey no less than 30 days prior to the start of initial ground disturbance activities.</i></p> <p><i>B. Conduct surveys from two hours before to one hour after sunset or from one hour before to two hours after sunrise.</i></p> <p><i>C. Identify all active and historical burrows (natural or artificial) as well as suitable habitat within the entire project area including the 150 meter buffer (accounts for impacts from noise and vibration impacts).</i></p> <p><i>D. Space transects to allow for 100 percent visual coverage (maximum 30 meters from centerline).</i></p> <p><i>E. Surveyors should avoid owls and occupied burrows by a minimum 50 meters where practical.</i></p> <p><i>2. If burrowing owls are present within 500 feet of the power plant site or linear facilities (e.g. natural gas line), then the project owner will contact CDFG and implement the CDFG burrowing owl guidelines (1995) to include:</i></p>

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			<p>unavoidable, the project owner must acquire, permanently protect and enhance a minimum of 6.5 acres of foraging habitat per pair or unpaired resident bird.</p> <p>3. Complete a pre-construction survey for nesting birds on the project site and linear facilities in the spring and no less than 30 days prior to the start of initial ground disturbance activities. This survey can occur in conjunction with the burrowing owl surveys.</p> <p>4. If active, occupied nests are found, schedule work during non-nesting periods or prohibit work within 500 feet of raptor nests or 200 feet of other species' nests.</p> <p>Verification: At least 60 days prior to start of any project-related ground disturbance activities, the project owner shall provide the CPM with the final version of the BRMIMP, which includes burrowing owl/nesting bird survey results to date and any necessary impact avoidance measures. Results for all protocol surveys conducted after the final version of the BRMIMP is complete will be submitted as a supplement to the CPM. All modifications to the approved BRMIMP must be made only after consultation with the CPM and other appropriate agencies. The project owner shall notify the CPM five working days before implementing any modifications to the BRMIMP.</p>	<p><i>A. Mitigation should consist of passive relocation with a one-way door to avoid direct impacts to the burrowing owls on site. Passive relocation should be conducted during the non-breeding season (September 1– January 31) to ensure that active nests are not lost as a result of owl exclusion. The methodology for owl relocation should follow the guidelines set forth in the CDFG Staff Report on Burrowing Owl Mitigation (CDFG 1995).</i></p> <p><i>B. Occupied burrows shall not be disturbed during the nesting season (February 1–August 31) unless a qualified biologist approved by CDFG verifies through noninvasive methods that either: (1) the birds have not begun egg laying and incubation; or (2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.</i></p> <p><i>C. If impacts to foraging and burrow habitat are unavoidable, the project owner must acquire, permanently protect and enhance a minimum of 6.5 acres of foraging habitat per pair or unpaired resident bird. If permanent impacts to documented breeding habitat are unavoidable, the project owner must either acquire, permanently protect and enhance a minimum of 6.5 acres of suitable habitat per pair of breeding burrowing owl; or submit evidence of inclusion to the CVMSHCP to the CPM.</i></p> <p><i>3. If initial ground disturbance is to occur during the breeding season, complete a pre-construction survey for nesting birds on the project site and/or linear facilities in the spring and no less than 30 days prior to the start of initial ground disturbance activities. This survey can occur in conjunction with the burrowing owl surveys.</i></p> <p><i>4. If active, occupied nests are found, schedule work during non-nesting periods or prohibit work within 500 feet of raptor nests or 200 feet of other species' nests. <u>With CPM approval, visual barriers and sound buffers may be used to reduce these buffers.</u></i></p>

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				<p><i>Verification: At least 60 days prior to start of any project-related ground disturbance activities, the project owner shall provide the CPM with the final version of the BRMIMP, which includes burrowing owl/nesting bird survey results to date and any necessary impact avoidance measures. Results for all protocol surveys conducted after the final version of the BRMIMP is complete will be submitted as a supplement to the CPM in the Monthly Compliance Report and summarized in the Annual Compliance Report. All modifications to the approved BRMIMP must be made only after consultation with the CPM and other appropriate agencies. The project owner shall notify the CPM five working days before implementing any modifications to the BRMIMP."</i></p>
11.	BIO-13	4.2-38	<p>The applicant shall coordinate with USFWS to become a Participating Special Entity to receive coverage under the CVMSHCP.</p> <p>Verification: At least 30 days prior to the start of any site or related facilities mobilization activities, the CPVS project owner shall submit to the CPM a signed copy of the CVMSCHP Certificate of Inclusion.</p>	<p>Based on recent conversations with USFWS, it is anticipated that it will not be necessary for the Applicant to obtain incidental take authorization, and that proposed Condition of Certification BIO-13 will not be required.</p>
Section 5.2, Geology and Paleontology				
12.	PALEO-4	5.2-25	<p>"Worker training shall consist of an initial in-person PRS training during project kick-off, for those mentioned above. Following initial training, a CPM-approved video or in-person training may be used for new employees"</p>	<p>Applicant suggests the requirement that the initial WEAP training be conducted by the PRS in-person be eliminated. Rather, it is requested that the condition give the alternative of providing initial training. This change is consistent with the Humboldt Final Staff Assessment PAL-4. The suggested language is identified below:</p> <p>"A CPM-approved video or in-person training may be used for new employees."</p>

**STATE OF CALIFORNIA
ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION**

In the Matter of:)	Docket No. 07-AFC-3
)	
Application for Certification, for the CPV SENTINEL ENERGY PROJECT)	ELECTRONIC PROOF OF SERVICE LIST
)	
)	(July 24, 2008]
)	

Transmission via electronic mail and by depositing one original signed document with FedEx overnight mail delivery service at Costa Mesa, California with delivery fees thereon fully prepaid and addressed to the following:

DOCKET UNIT

CALIFORNIA ENERGY COMMISSION

Attn: DOCKET NO. 07-AFC-3
1516 Ninth Street, MS-15
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CPV SENTINEL ENERGY PROJECT
CEC Docket No. 07-AFC-3

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DECLARATION OF SERVICE

I, Paul Kihm, declare that on September 16, 2008, I deposited a copy of the attached:

COMMENTS ON THE PRELIMINARY STAFF ASSESSMENT (2)

with FedEx overnight mail delivery service at Costa Mesa, California with delivery fees thereon fully prepaid and addressed to the California Energy Commission. I further declare that transmission via electronic mail was consistent with the requirements of California Code of Regulations, title 20, sections 1209, 1209.5, and 1210. All electronic copies were sent to all those identified on the Proof of Service List above.

I declare under penalty of perjury that the foregoing is true and correct. Executed on September 16, 2008, at Costa Mesa, California.



Paul Kihm