

Docket No. 08-AFC-10—Lodi Energy Center (LEC) Project Comments on the Presiding Member’s Proposed Decision (PMPD) for Biological Resources by Joy Nishida, LEC Project Biologist, California Energy Commission.

From page 213 of the PMPD, a correction proposed below in ~~red/strikeout~~ as the stricken sentence is incorrect:

White-tailed kite is a California Fully Protected species that is a yearlong resident of the Central Valley, coastal range, and foothills. ~~The evidence indicates that there are no records of the presence of white-tailed kite within a five-mile radius of the project.~~ A white-tailed kite nest was observed on the side of Laydown Area D of the LEC Project site during a survey conducted on April 30, 2008. The parties agree and we find that Conditions of Certification **BIO-4, BIO-5, BIO-6, BIO-7, BIO-8, and BIO-12** will ensure that impacts to white-tailed kite are mitigated to less than significant levels. Mitigation includes preconstruction surveys within 30 days prior to the start of construction and postponement of clearing and construction within 100 feet of an active nest identified in the survey until the nest is vacated and the juveniles have fledged. (Ex. 300, pp. 4.2-18 to 4.2-19.)

From page 217 of the PMPD, a correction proposed below in ~~red/strikeout~~ as the NCPA participated in the SJMSCP for the purpose of project approval:

6. LORS Compliance

The SJMSCP provides guidance for protection of sensitive wildlife and plant communities in the San Joaquin County region. NCPA ~~will~~ has participated d in the SJMSCP for ~~the entire life of the LEC Project.~~

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