

**BIOLOGICAL RESOURCES****DESERT TORTOISE RELOCATION PLAN, CLEARANCE SURVEYS AND EXCLUSION FENCING****BIO-9**

The project owner shall undertake appropriate measures to manage construction at the plant site and linear facilities in a manner to avoid or minimize impacts to desert tortoise. Methods for clearance surveys, fence specifications and installation, tortoise handling, artificial burrow construction, egg handling and other procedures shall be consistent with those described in the current USFWS guidelines, the Desert Tortoise Field Manual (USFWS 2009) ([http://www.fws.gov/ventura/speciesinfo/protocols\\_guidelines](http://www.fws.gov/ventura/speciesinfo/protocols_guidelines)) or more current guidance provided by CDFG and USFWS. The project owner shall also implement terms and conditions developed as part of the Habitat Conservation Plan process with USFWS. These measures include, but are not limited to, the following:

1. Fence Installation. Prior to construction-related ground disturbance activities, the entire plant site shall be fenced with permanent desert tortoise-exclusion fence. To avoid impacts to desert tortoise during fence construction, the proposed fence alignment and limits of the fence-construction disturbance area shall be flagged and the alignment surveyed within 24 hours prior to fence construction. Surveys shall be conducted by the Designated Biologist using techniques approved by the USFWS and CDFG. Biological Monitors may assist the Designated Biologist under his or her supervision. These surveys shall provide 100 percent coverage of all areas to be disturbed during fence construction and an additional transect along both sides of the proposed fence line. Disturbance associated with fence construction shall not exceed 30 feet on either side of the proposed fence alignment. Prior to the surveys the project owner shall provide to the CPM, CDFG and USFWS a figure clearly depicting the limits of construction disturbance for the proposed fence installation. The fence line survey area shall be 90 feet wide centered on the fence alignment. Where construction disturbance for fence line installation can be limited to 15 feet on either side of the fence line, this fence line survey area may be reduced to transect shall cover an area approximately ~~60~~ 90 feet wide centered on the fence alignment. Transects shall be no greater than 15 feet apart. All desert tortoise burrows, and burrows constructed by other species that might be used by desert tortoises, shall be examined to assess occupancy of each burrow by desert tortoises and handled in accordance with USFWS-approved protocol.
  - a. Timing, Supervision of Fence Installation. The exclusion fencing shall be installed prior to the onset of site clearing and grubbing. The fence installation shall be supervised by the Designated Biologist and monitored by the Biological Monitors to ensure the safety of any tortoise present.
  - b. Fence Material and Installation. Tortoise exclusionary fencing shall be installed per USFWS specifications (USFWS 2009).
  - c. Security Gates. Security gates shall be designed with minimal ground clearance to deter ingress by tortoises, including gates that would exclude public access to the transmission line maintenance road at SR 14. The gates shall remain closed except during vehicle passage and may be electronically activated to open and close immediately after vehicle(s) have entered or exited to prevent extended periods with open gates, which might lead to a tortoise entering. Cattle grating designed to safely exclude desert tortoise shall be installed at the gated entries to discourage tortoises from gaining entry.
  - d. Utility Corridor Fencing. Utility corridors and tower locations shall be temporarily fenced with tortoise exclusion fencing to prevent desert tortoise entry during construction. Alternatively, site mobilization activities, construction-related ground

disturbance, grading, boring or trenching activities may occur at unfenced utility corridors and tower locations if the Designated Biologist is present at all times in the immediate vicinity of such activities.

- e. Fence Inspections. Following installation of the desert tortoise exclusion fencing and any temporary fencing in the utility corridors, the fencing shall be regularly inspected. Permanent fencing shall be inspected monthly and during/following all major rainfall events. Any damage to the fencing shall be temporarily repaired immediately to keep tortoises out of the site, and permanently repaired within two days of observing damage. Inspections of permanent site fencing shall occur for the life of the project. Temporary fencing must be inspected weekly and, where drainages intersect the fencing, during and immediately following major rainfall events. All temporary fencing shall be repaired immediately upon discovery and, if the fence may have permitted tortoise entry while damaged, the Designated Biologist shall inspect the utility corridor or tower site for tortoise.
2. Desert Tortoise Clearance Surveys. Following construction of the tortoise exclusionary fencing around the Plant Site, all fenced areas shall be cleared of tortoises by the Designated Biologist, who may be assisted by Biological Monitors under the supervision of the Designated Biologist. Clearance surveys shall adhere to the current USFWS clearance survey protocols described in the Desert Tortoise Field Manual (USFWS 2009).
3. Relocation for Desert Tortoise West of SR 14. If desert tortoises are detected during clearance surveys within the project impact area west of SR 14, the Designated Biologist shall move the tortoise the shortest possible distance, keeping it out of harm's way but still within its home range. Desert tortoise encountered during construction of any of the utility corridors shall be similarly treated in accordance with the Relocation Plan. Any relocation efforts shall be in accordance with techniques described in the *Guidelines for Handling Desert Tortoise during Construction Projects* (Desert Tortoise Council 1999) or more current guidance on the USFWS website.
4. Relocation/Translocation for Desert Tortoise East of SR-14. To address desert tortoise encountered during clearance surveys within the project impact area east of SR 14, the project owner shall develop and implement a desert tortoise Relocation/Translocation Plan. The Relocation/Translocation Plan shall be consistent with current USFWS approved guidelines (USFWS 2009), and shall be approved by Energy Commission staff in consultation with the USFWS and CDFG. The Relocation/Translocation Plan shall designate a relocation/translocation site as close as possible to the project impact area east of SR 14 that provides suitable conditions for long-term survival of the relocated/translocated desert tortoise.
5. Burrow Inspection. All potential desert tortoise burrows, including rodent burrows that may host juvenile tortoises, within the fenced area shall be searched for presence. In some cases, a fiber optic scope may be needed to determine presence or absence within a deep burrow. To prevent reentry by a tortoise or other wildlife, all burrows shall be collapsed once absence has been determined. Tortoises excavated from burrows shall be relocated/translocated to unoccupied natural or artificial burrows in accordance with procedures outlined in the Relocation/Translocation Plan and consistent with the most current USFWS guidelines (USFWS 2009).
6. Burrow Excavation. Burrows inhabited by tortoises shall be excavated by the Designated Biologist using hand tools, and then collapsed or blocked to prevent re-occupation. If excavated during May through July, the Designated Biologist shall search for desert tortoise nests/eggs. All desert tortoise handling and removal, and burrow excavations, including nests, shall be conducted by the Designated Biologist in accordance with the

USFWS-approved protocol (Desert Tortoise Council 1999) or more current guidance on the USFWS website.

7. Monitoring Following Clearing. Following desert tortoise clearance removal from the plant site, and relocation/translocation to a new site, heavy equipment shall be allowed to enter the project site to perform earth work such as clearing, grubbing, leveling, and trenching. A Designated Biologist, or Biological Monitor supervised by the Designated Biologist shall be onsite during initial clearing and grading activities. Should a tortoise be discovered, it shall be relocated/translocated as described above in accordance with the Relocation Plan.
8. Reporting. The Designated Biologist shall record the following information for any desert tortoises handled: a) the locations (narrative and maps) and dates of observation; b) general condition and health, including injuries, state of healing and whether desert tortoise voided their bladders; c) location moved from and location moved to (using GPS technology); d) gender, carapace length, and diagnostic markings (i.e., identification numbers or marked lateral scutes); e) ambient temperature when handled and released; and f) digital photograph of each handled desert tortoise as described in the paragraph below. Desert tortoise moved from within project areas shall be marked for future identification as described in *current USFWS guidelines, the Desert Tortoise Field Manual (USFWS 2009)* ([http://www.fws.gov/ventura/speciesinfo/protocols\\_guidelines](http://www.fws.gov/ventura/speciesinfo/protocols_guidelines)) or more current guidance on the USFWS website. Digital photographs of the carapace, plastron, and fourth costal scute shall be taken. Scutes shall not be notched for identification.

**Verification:** Within 90 days prior to start of any pre-construction site mobilization activities, the project owner shall submit to Energy Commission Staff, USFWS and CDFG a draft Desert Tortoise Relocation/Translocation Plan. At least 60 days prior to start of any construction-related ground disturbance activities, the project owner shall provide the CPM with the final version of a Relocation/Translocation Plan that has been approved by Energy Commission staff in consultation with USFWS and CDFG. The CPM will determine the plan's acceptability within 15 days of receipt of the final plan. All modifications to the approved Desert Tortoise Relocation/Translocation Plan must be made only after approval by the Energy Commission staff in consultation with USFWS and CDFG. The project owner shall notify the CPM no fewer than 5 working days before implementing any CPM-approved modifications to the Relocation/Translocation Plan.

Within 30 days after initiation of relocation/translocation activities, the Designated Biologist shall provide to the CPM for review and approval, a written report identifying which items of the Relocation/Translocation Plan have been completed, and a summary of all modifications to measures made during implementation.

Within 30 days of completion of desert tortoise clearance surveys the Designated Biologist shall submit a report to the CPM, USFWS, and CDFG describing how each of the mitigation measures described above has been satisfied. The report shall include the desert tortoise survey results, capture and release locations of any relocated desert tortoises, and any other information needed to demonstrate compliance with the measures described above.

## **DESERT TORTOISE AND MOHAVE GROUND SQUIRREL COMPENSATORY MITIGATION**

**BIO-11** To fully mitigate for habitat loss and potential take of desert tortoise and Mohave ground squirrel, the project owner shall acquire, in fee or in easement, no less than 115 acres of land suitable for these species and shall provide funding for the enhancement and long-term management of these compensation lands. The responsibilities for acquisition and management of the compensation lands may be delegated by written agreement to CDFG or to a third party, such as a non-governmental organization dedicated to Mojave Desert habitat conservation, subject to approval by the CPM, in consultation with CDFG and USFWS prior

to land acquisition or management activities. If habitat disturbance exceeds that described in this analysis, the project owner shall be responsible for acquisition and management of additional compensation lands or additional funds required to compensate for any additional habitat disturbances. Additional funds shall be based on the adjusted market value of compensation lands at the time of construction to acquire and manage habitat. The acquisition and management of compensation lands shall include the following elements:

1. Selection Criteria for Compensation Lands. The compensation lands selected for acquisition shall:
  - a. be in the western Mojave Desert;
  - b. provide moderate to good quality habitat for Mohave ground squirrel and desert tortoise with capacity to improve in quality and value for these species;
  - c. be a contiguous block of land (preferably) or located so they result in a contiguous block of protected habitat;
  - d. be adjacent to, or in close proximity to, larger blocks of lands that are already protected such that there is connectivity between the acquired lands and the protected lands;
  - e. be connected to, or in close proximity to, lands for which there is reasonable evidence (for example, recent (<15 years) CNDDDB occurrences on or immediately adjacent to the proposed lands) suggesting current occupation by desert tortoise and Mohave ground squirrel, ideally with populations that are stable, recovering, or likely to recover;
  - f. not have a history of intensive recreational use, grazing, or other disturbance that might make habitat recovery and restoration infeasible;
  - g. not be characterized by high densities of invasive species, either on or immediately adjacent to the parcels under consideration, that might jeopardize habitat recovery and restoration; and
  - h. not be encumbered by easements, subsurface rights, or uses that would preclude fencing of the site or preclude or unacceptably constrain management of the site for the primary benefit of the species and their habitat for which compensation lands were secured.
2. Review and Approval of Compensation Lands Prior to Acquisition. A minimum of three months prior to acquisition of the property, the project owner, or a third-party approved by the CPM, in consultation with CDFG and USFWS, shall submit a formal acquisition proposal to the CPM, CDFG, and USFWS describing the parcel(s) intended for purchase. This acquisition proposal shall discuss the suitability of the proposed parcel(s) as compensation lands for desert tortoise and Mohave ground squirrel in relation to the criteria listed above. Approval from the CPM, in consultation with USFWS and CDFG, shall be required for acquisition of all parcels comprising the 115.0 acres in advance of purchase.
3. Mitigation Security for Compensation Lands and Avoidance/Minimization Measures. The project owner or an approved third party shall complete acquisition of the proposed

compensation lands prior to initiating construction-related ground disturbance project activities. If Security is provided, the project owner, or an approved third party, shall complete the proposed compensation lands acquisition within 12 months of the start of construction-related ground disturbance activities. The project owner shall also provide financial assurances to the CPM, with copies of the document(s) to CDFG and USFWS, to guarantee that an adequate level of funding is available to implement all impact avoidance, minimization, and compensation measures described in Conditions of Certification BIO-9 through BIO-12. Financial assurance shall be provided to the CPM in the form of an irrevocable letter of credit or another form of security ("Security") approved by the CPM, prior to initiating construction-related ground disturbance activities. If necessary to draw on these funds, such funds shall be used solely for implementation of the measures associated with the project.

Prior to initiation of ground disturbance, the Security shall be provided by the project owner and approved by the CPM, in consultation with CDFG, to ensure funding in the amount of \$529,000.00. These Security amounts were calculated as follows and may be revised upon completion of a Property Analysis Record (PAR) or PAR-like analysis of the proposed compensation lands:

- a. land acquisition costs for compensation lands, calculated at \$3,000/acre for 115 acres: \$345,000.00;
  - b. costs of enhancing compensation lands, calculated at \$250/acre for 115 acres: \$28,750; and
  - c. costs of establishing an endowment for long-term management of compensation lands, calculated at \$1,350/acre for 115 acres: \$155,250.
4. Compensation Lands Acquisition Conditions. The project owner shall comply with the following conditions relating to acquisition of compensation lands after the CPM, in consultation with CDFG and USFWS, has approved the proposed compensation lands and received Security, if any, as described above.
- a. Preliminary Report: The project owner, or approved third party, shall provide a recent preliminary title report, initial hazardous materials survey report, biological analysis, and other necessary documents for the proposed 115 acres. All documents conveying or conserving compensation lands and all conditions of title/easement are subject to a field review and approval by the CPM, in consultation with CDFG and USFWS, California Department of General Services and, if applicable, the Fish and Game Commission and/or the Wildlife Conservation Board.
  - b. Title/Conveyance: The project owner shall transfer fee title or a conservation easement to the 115 acres of compensation lands to CDFG under terms approved by CDFG. Alternatively, a non-profit organization qualified to manage compensation lands (pursuant to California Government Code section 65965) and approved by CDFG and the CPM may hold fee title or a conservation easement over the compensation lands. If the approved non-profit organization holds title, a conservation easement shall be recorded in favor of CDFG in a form approved by CDFG. If the approved non-profit holds a conservation easement, CDFG shall be named a third party beneficiary. If a Security is provided, the project owner or an approved third party shall complete the proposed compensation lands acquisition within 12 months of the start of construction-related ground disturbance activities.
  - c. Enhancement Fund. The project owner shall fund the initial protection and enhancement of the 115 acres by providing the enhancement funds to the CDFG.

Alternatively, a non-profit organization may hold the enhancement funds if they are qualified to manage the compensation lands (pursuant to California Government Code section 65965) and if they meet the approval of CDFG and the CPM. If CDFG takes fee title to the compensation lands, the enhancement fund must go to CDFG where it will be held in the special deposit fund established for the purpose of enhancing the compensation lands, pursuant to California Government Code section 46370.

- d. Endowment Fund. Prior to construction-related ground disturbance activities, the project owner shall provide to CDFG a capital endowment in the amount determined through the Property Analysis Record (PAR) or PAR-like analysis that will be conducted for the 115 acres of compensation lands. Alternatively, a non-profit organization may hold the endowment fees if they are qualified to manage the compensation lands (pursuant to California Government Code section 65965) and if they meet the approval of CDFG and the CPM. If CDFG takes fee title to the compensation lands, the endowment must go to CDFG, where it will be held in the special deposit fund established for the purpose of managing the compensation lands, pursuant to California Government Code section 46370. If the special deposit fund is not used to manage the endowment, the California Wildlife Foundation shall manage the endowment for CDFG and with CDFG guidance.
  - a. The project owner and the CPM shall ensure that an agreement is in place with the endowment holder/manager to ensure the following conditions:
    - Interest. Interest generated from the initial capital endowment shall be available for reinvestment into the principal and for the long-term operation, management, and protection of the approved compensation lands, including reasonable administrative overhead, biological monitoring, improvements to carrying capacity, law enforcement measures, and any other action designed to protect or improve the habitat values of the compensation lands.
    - Withdrawal of Principal. The endowment principal shall not be drawn upon unless such withdrawal is deemed necessary by the CDFG or the approved third-party endowment manager to ensure the continued viability of the species on the 115 acres. If CDFG takes fee title to the compensation lands, monies received by CDFG pursuant to this provision shall be deposited in a special deposit fund established pursuant to Government Code section 16370. If the special deposit fund is not used to manage the endowment, the California Wildlife Foundation will manage the endowment for CDFG with CDFG guidance.
    - Pooling Endowment Funds. CDFG, or a CPM- and CDFG-approved non-profit organization qualified to hold endowments pursuant to California Government Code section 65965, may pool the endowment with other endowments for the operation, management, and protection of the 115 acres for local populations of desert tortoise and Mohave ground squirrel. However, for reporting purposes, the endowment fund must be tracked and reported individually.
  - e. Reimbursement Fund: The project owner shall provide reimbursement to the CDFG or approved third party for reasonable expenses incurred during title, easement, and documentation review; expenses incurred from other state agency reviews; and overhead related to providing compensation lands.

The project owner is responsible for all compensation lands acquisition/easement costs, including but not limited to, title and document review costs, as well as expenses incurred from other state agency reviews and overhead related to providing compensation lands to CDFG or an approved third party; escrow fees or costs; environmental contaminants clearance; and other site clean up measures.

**Verification:** No less than 90 days prior to acquisition of the property, the project owner, or a third-party approved by the CPM, in consultation with CDFG and USFWS, shall submit a formal acquisition proposal to the CPM, CDFG, and USFWS describing the parcel(s) intended for purchase.

Draft agreements to delegate compensation lands acquisition to CDFG or an approved third party and agreements to manage compensation lands shall be submitted to Energy Commission staff for review and approval (in consultation with CDFG) prior to compensation lands acquisition. Such agreements shall be mutually approved and executed at least 60 days prior to start of any construction related ground disturbance activities. The project owner shall provide written verification to the CPM that the compensation lands and/or conservation easements have been acquired and recorded in favor of the approved recipient(s). Alternatively, before beginning project ground-disturbing activities, the project owner shall provide Security in accordance with this condition. Within 90 days after the compensation lands purchase, as determined by the date on the title, the project owner shall provide the CPM with a management plan for review and approval, in consultation with CDFG, for the compensation lands and associated funds.

Within 90 days after completion of project construction, the project owner shall provide to the CPM verification that disturbance to Mojave creosote scrub habitat west of State Route 14 did not exceed 5.0 acres, and that construction activities at the plant site and along the gas pipeline alignment did not result in impacts to Mojave creosote scrub habitat adjacent to work areas.

## **DESERT TORTOISE AND MOHAVE GROUND SQUIRREL COMPLIANCE VERIFICATION**

**BIO-12** The project owner shall provide staff, CDFG, and USFWS with reasonable access to the project site and compensation lands under the control of the project owner and shall otherwise fully cooperate with the Energy Commission's efforts to verify the project owner's compliance with, or the effectiveness of, mitigation measures set forth in the conditions of certification. The project owner shall hold harmless the Designated Biologist, the Energy Commission and staff, and any other agencies with regulatory requirements addressed by the Energy Commission's sole permitting authority for any costs the project owner incurs in complying with the management measures, including stop work orders issued by the CPM or the Designated Biologist. The Designated Biologist shall do or supervise all of the following:

1. **Notification.** Notify the CPM, CDFG, and USFWS at least 14 calendar days before initiating construction-related ground disturbance activities. Immediately notify the CPM, CDFG, and USFWS in writing if the project owner is not in compliance with any conditions of certification, including but not limited to any actual or anticipated failure to implement mitigation measures within the time periods specified in the conditions of certification. CDFG shall be notified at their Central Region Headquarters Office, 1234 E. Shaw Avenue, Fresno, CA 93710; (559) 243-4005. USFWS shall be notified at their Ventura office at 2493 Portola Road, Suite B, Ventura, CA 93003; (805) 644-1766
2. **Monitoring During Grading.** Remain on site daily while grubbing and grading are taking place to avoid or minimize take of listed species, to check for compliance with all impact avoidance and minimization measures, and to check all exclusion zones to ensure that signs, stakes, and fencing are intact and that human activities are restricted in these protected zones.

3. Fence Monitoring. During construction maintain and check desert tortoise exclusion fences on a daily basis to ensure the integrity of the fence is maintained. The Designated Biologist shall be present on site to monitor construction and determine fence placement during fence installation. During operation of the project fence inspections shall occur at least once per month throughout the life of the project, and more frequently after storms or other events that might affect the integrity and function of desert tortoise exclusion fences. Fence repairs shall occur within two days (48 hours) of detecting problems that affect the functioning of the desert tortoise exclusion fencing.
4. Monthly Compliance Inspections. Conduct compliance inspections at a minimum of once per month after clearing, grubbing, and grading are completed and submit a monthly compliance report to the CPM, USFWS and CDFG during construction, as required under COMPLIANCE-6. All observations of listed species and their sign shall be reported to the Designated Biologist for inclusion in the monthly compliance report as required under COMPLIANCE-6.
5. Final Listed Species Mitigation Report. No later than 45 days after initiation of project operation provide the CPM a Final Listed Species Mitigation Report that shall include, at a minimum: 1) a copy of the table in the BRMIMP with notes showing when each of the mitigation measures was implemented; 2) all available information about project-related incidental take of listed species; 3) information about other project impacts on the listed species; 4) construction dates; 5) an assessment of the effectiveness of conditions of certification in minimizing and compensating for project impacts; 6) recommendations on how mitigation measures might be changed to more effectively minimize and mitigate the impacts of future projects on the listed species; and 7) any other pertinent information, including the level of take of the listed species associated with the project.
6. Notification of Injured, Dead, or Relocated Listed Species. In the event of a sighting in an active construction area (e.g., with equipment, vehicles, or workers), injury, kill, or relocation of any listed species, the CPM, CDFG, and USFWS shall be notified immediately by phone. Notification shall occur no later than noon on the business day following the event if it occurs outside normal business hours so that the agencies can determine if further actions are required to protect listed species. Written follow-up notification via FAX or electronic communication shall be submitted to these agencies within two calendar days of the incident and include the following information as relevant:
  - a. Injured Desert Tortoise. If a desert tortoise is injured as a result of project-related activities during construction, the Designated Biologist shall immediately take it to a CDFG-approved wildlife rehabilitation and/or veterinarian clinic. Any veterinarian bills for such injured animals shall be paid by the project owner. Following phone notification as required above, the CPM, CDFG, and USFWS shall determine the final disposition of the injured animal, if it recovers. Written notification shall include, at a minimum, the date, time, location, circumstances of the incident, and the name of the facility where the animal was taken.
  - b. Desert Tortoise/Mohave Ground Squirrel Fatality. If a desert tortoise or Mohave ground squirrel is killed by project-related activities during construction or operation, or if a desert tortoise or Mohave ground squirrel is otherwise found dead, submit a written report with the same information as an injury report. These desert tortoises shall be salvaged according to guidelines described in *Salvaging Injured, Recently Dead, Ill, and Dying Wild, Free-Roaming Desert Tortoise* (Berry 2001). The project owner shall pay to have the desert tortoises transported and necropsied. The report shall include the date and time of the finding or incident.
7. Stop Work Order. The CPM may issue the project owner a written stop work order to suspend any activity related to the construction or operation of the project to prevent or



remedy a violation of one or more conditions of certification (including but not limited to failure to comply with reporting, monitoring, or habitat acquisition obligations) or to prevent the illegal take of an endangered, threatened, or candidate species. The project owner shall comply with the stop work order immediately upon receipt thereof.

**Verification:** No later than two calendar days following the above-required notification of a sighting, kill, injury, or relocation of a listed species, the project owner shall deliver to the CPM, CDFG, and USFWS via FAX or electronic communication the written report from the Designated Biologist describing all reported incidents of the sighting, injury, kill, or relocation of a listed species, identifying who was notified and explaining when the incidents occurred. In the case of a sighting in an active construction area, the project owner shall, at the same time, submit a map (e.g., using Geographic Information Systems) depicting both the limits of construction and sighting location to the CPM, CDFG, and USFWS.

No later than January 31st of every year the BSEP facility is under construction or remains in operation the Designated Biologist shall provide the CPM, CDFG and USFWS an annual Listed Species Status Report, and a summary of desert tortoise exclusion fence inspections and repairs conducted in the course of the year. The Listed Species Status Report shall include, at a minimum: 1) a general description of the status of the project site and construction/operation activities, including actual or projected completion dates, if known; 2) a copy of the table in the BRMIMP with notes showing the current implementation status of each mitigation measure; 3) an assessment of the effectiveness of each completed or partially completed mitigation measure in minimizing and compensating for project impacts, and 4) recommendations on how effectiveness of mitigation measures might be improved. ~~The annual Listed Species Status Report shall be~~

#### **EVAPORATION POND NETTING AND MONITORING**

**BIO-14** The project owner shall cover the evaporation ponds prior to any discharge with 1.5-inch mesh netting designed to exclude birds and other wildlife from drinking or landing on the water of the ponds. Netting with mesh sizes other than 1.5-inches may be installed if approved by the CPM in consultation with CDFG and USFWS. The netted ponds shall be monitored regularly to verify that the netting remains intact, is fulfilling its function in excluding birds and other wildlife from the ponds, and does not pose an entanglement threat to birds and other wildlife. The ponds shall include a visual deterrent in addition to the netting, and the pond shall be designed such that the netting will never contact the water. Monitoring of the evaporation ponds shall include the following:

- The Designated Biologist or Biological Monitor shall regularly survey the ponds at least once per month starting with the first month of operation of the evaporation ponds. The purpose of the surveys shall be to determine if the netted ponds are effective in excluding birds, if the nets pose an entrapment hazard to birds and wildlife, and to assess the structural integrity of the nets. Surveys shall be of sufficient duration and intensity to provide an accurate assessment of bird and wildlife use of the ponds during all seasons. Surveyors shall be experienced with bird identification and survey techniques. Operations staff at the BSEP site shall also report finding any dead birds or other wildlife at the evaporation ponds to the Designated Biologist within one day of the detection of the carcass. The Designated Biologists shall report any bird or other wildlife deaths or entanglements within two days of the discovery to the CPM, CDFG, and USFWS.
- If dead or entangled birds are detected, the Designated Biologist shall take immediate action to correct the source of mortality or entanglement. The Designated Biologist shall make immediate efforts to contact and consult the CPM, CDFG, and USFWS by phone and electronic communications prior to taking remedial action upon detection of the problem, but the inability to reach these parties shall not delay taking action that would, in the judgment of the Designated Biologist, prevent further mortality of birds or other wildlife at the evaporation ponds.

- If after 12 consecutive monthly site visits no bird or wildlife deaths or entanglements are detected by or reported to the Designated Biologist, monitoring can be reduced to quarterly visits.
- If after 12 consecutive quarterly site visits no bird or wildlife deaths or entanglements are detected by or reported to the Designated Biologist, and with approval from the CPM, USFWS and CDFG, future surveys can be ~~conducted by the Environmental Compliance Manager and the site visits can be~~ reduced to two surveys per years, during the spring nesting season and during fall migration. If approved by the CPM, USFWS, and CDFG, monitoring outside the nesting season may be conducted by the Environmental Compliance Manager.
- Without respect to the above requirements the project owner, CDFG or USFWS may submit to the CPM a request for modifications to the evaporation pond monitoring program based on information acquired during monitoring, and may also suggest adaptive management measures to remedy any problems that are detected during monitoring or modifications if bird impacts are not observed. Modifications to the evaporation pond monitoring described above and implementation of adaptive management measures shall be made only after approval from the CPM, in consultation with USFWS and CDFG.

## **BURROWING OWL IMPACT AVOIDANCE, MINIMIZATION, AND COMPENSATION MEASURES**

**BIO-17** The project owner shall implement the following measures to avoid and offset impacts to burrowing owls:

1. Pre-Construction Surveys. The Designated Biologist shall conduct pre-construction surveys for burrowing owls within the project site and along all linear facilities in accordance with CDFG guidelines (CDFG 1995). If burrowing owls are detected within the impact area or within 500 feet of any proposed construction activities, the Designated Biologist shall prepare a Burrowing Owl Monitoring and Mitigation Plan in consultation with CDFG, USFWS, and Energy Commission staff. This plan shall include detailed measures to avoid and minimize impacts to burrowing owls in and near the construction areas and shall be consistent with CDFG guidance (CDFG 1995).
2. Artificial Burrow Installation. Prior to any ground-disturbing activities, the project owner shall install no less than four artificial burrows, or at least two burrows for each owl displaced by the project, in the proposed relocation area immediately north of the project site, a 6-acre area within the 14.39-acre parcel owned by Beacon Solar, LLC, (APN 469-14-011). Design of the artificial burrows shall be consistent with CDFG guidelines (CDFG 1995). The Designated Biologist shall survey the site selected for artificial burrow construction to verify that such construction will not affect desert tortoise or Mohave ground squirrel. The design of the burrows shall be approved by the CPM in consultation with CDFG and USFWS.
3. Surveys of Relocation Area. The Designated Biologist shall survey the relocation area during the nesting season to assess use of the artificial burrows by owls using methods consistent with Phase II and Phase III Burrowing Owl Consortium Guideline protocols (CBOC 1993). Surveys shall start upon completion of artificial burrow construction and shall continue for a period of five years. If survey results indicate burrowing owls are not nesting on the relocation area, site conditions shall be assessed for conditions that may be preventing owls from nesting there and, if necessary, remedial actions shall be developed and implemented in consultation with the CPM, CDFG and USFWS to correct conditions at the site that might be preventing owls from nesting there.

4. Protect and Manage 6-Acre Relocation Area. The project owner shall provide a mechanism to protect 6 acres of the 14.39-acre relocation area in perpetuity as habitat for burrowing owls, either in fee title, or as a permanent deed restriction. The project owners shall prepare a draft Burrowing Owl Relocation Area Management Plan for review and approval by the CPM in consultation with CDFG. The overall objective of the plan shall be to manage the 6-acre relocation parcel for the benefit of burrowing owls, with the specific goals of:
  - a. Maintaining the functionality of at least four artificial or natural burrows for the 5-year monitoring period; and
  - b. Minimizing the occurrence of weeds (species considered "moderate" or "high" threat to California wildlands as defined by CAL-IPC [2006] and noxious weeds rated "A" or "B" by the California Department of Food and Agriculture and any federal-rated pest plants [CDFG 2009]) at less than 10 percent cover of the shrub and herb layers.

The Burrowing Owl Relocation Area Management Plan shall include monitoring and maintenance requirements, details on methods for measuring compliance goals and remedial actions to be taken if management goals are not met.

5. Acquire 20 Acres of Burrowing Owl Habitat. In addition to protecting the 6 acre relocation area north of the project site, the project owner shall acquire, in fee or in easement, 20 acres of land suitable to support a resident population of burrowing owls and shall provide funding for the enhancement and long-term management of these compensation lands. The responsibilities for acquisition and management of the compensation lands may be delegated by written agreement to CDFG or to a third party, such as a non-governmental organization dedicated to Mojave Desert habitat conservation, subject to approval by the CPM, in consultation with CDFG and USFWS prior to land acquisition or management activities. Additional funds shall be based on the adjusted market value of compensation lands at the time of construction to acquire and manage habitat. Agreements to delegate land acquisition to CDFG or an approved third party and to manage compensation lands shall be implemented within 12 months of the Energy Commission's License Decision.
  - a. Burrowing Owl Compensation Lands Criteria. The terms and conditions of this acquisition or easement shall be as described in BIO-11, with the additional criteria to include: 1) the 20 acres of mitigation land must provide suitable habitat for burrowing owls, and 2) the acquisition lands must be either currently supporting burrowing owls or be no farther than 5 miles from an active burrowing owl nesting territory. The 20 acres of burrowing owl compensation lands may be included with the 115 acres of desert tortoise and Mohave ground squirrel compensation lands ONLY if these two burrowing owl criteria are met.
  - b. Security. If the 20 acres of burrowing owl compensation land is separate from the 115 acres required for desert tortoise and Mohave ground squirrel compensation lands the project owner or an approved third party shall complete acquisition of the proposed compensation lands prior to initiating construction-related ground disturbance activities. Alternatively, financial assurance can be provided to the CPM in the form of an irrevocable letter of credit, a pledged savings account or another form of security ("Security") prior to initiating construction-related ground disturbance activities. Prior to submittal to the CPM, the Security shall be approved by the CPM, in consultation with CDFG, to ensure funding in an amount determined by a Property Analysis Record (PAR) or PAR-like analysis of the proposed compensation lands.

**Verification:** Within 60 days prior to start of any construction -related ground disturbance activities, the project owner shall submit to the CPM, CDFG and USFWS a draft Burrowing Owl Relocation Area Management Plan. Within 30 days prior to any construction-related ground disturbance activities on the project site the project owner shall submit to the CPM a final Burrowing Owl Relocation Area Management Plan that reflects review and approval by Energy Commission staff in consultation with CDFG and USFWS.

If pre-construction surveys detect burrowing owls within 500 feet of proposed construction activities, the Designated Biologist shall provide to CDFG, USFWS, and the CPM a Burrowing Owl Monitoring and Mitigation Plan at least 30 days prior to the start of any project-related site disturbance activities. The project owner shall report monthly to CDFG, USFWS, and the CPM for the duration of construction on the implementation of burrowing owl avoidance and minimization measures described in the Burrowing Owl Monitoring and Mitigation Plan. Within 30 days after completion of construction the project owner shall provide to the CDFG and CPM a written construction termination report identifying how mitigation measures described in the plan have been completed.

No less than 90 days prior to acquisition of compensation lands, the project owner, or a third-party approved by the CPM, in consultation with CDFG and USFWS, shall submit a formal acquisition proposal to the CPM, and CDFG, and USFWS describing the 20-acre parcel intended for purchase. Prior to start of any construction-related ground disturbance activities the project owner shall provide written verification to the CPM that the 20 acres of compensation lands and/or conservation easements have been acquired and recorded in favor of the approved easement holder(s). Alternatively, before beginning construction-related ground disturbance activities, the project owner shall provide Security to the CPM in accordance with this condition. Within 90 days of the compensation land or easement purchase, as determined by the date on the title, the project owner shall provide the CPM with a management plan for review and approval, in consultation with CDFG, for the compensation lands and associated funds.

If the 20 acres of burrowing owl compensation land is separate from the 115 acres required for desert tortoise and Mohave ground squirrel compensation lands, the project owner shall fulfill the requirements described in BIO-11, including submittal of a formal acquisition proposal no less than 90 days prior to acquisition, and a management plan within 30 days after the compensation land purchase.

No later than January 31st of each year, commencing with the first year of construction and ending at the fifth year following initiation of construction, the Designated Biologist shall submit a report to the CPM, CDFG and USFWS describing survey results and remedial actions taken at the 6-acre burrowing owl relocation area. Thereafter no later than January 31st of each year the project is in operation the Designated Biologist shall provide to the CPM, CDFG and USFWS a report describing the results of monitoring and management of the 6-acre burrowing owl relocation area.

## **STREAMBED IMPACT MINIMIZATION AND COMPENSATION MEASURES**

**BIO-18** The project owner shall compensate for permanent impacts to waters of the state by constructing a new channel that replicates the hydrological and biological functions of the impacted drainages, and shall establish a channel maintenance program. The channel created by the applicant shall: be designed to be geomorphologically equivalent to a typical desert wash system; maintain existing hydrological connections and levels of sediment transport; provide conditions that would support recruitment and maintenance of native vegetation, provide wildlife habitat, and maintain the biological functions and values of a natural desert wash ecosystem; be designed, constructed and maintained such that it would not create a movement barrier or hazard for desert tortoise or other wildlife, or be a source of invasive weeds. The project owner shall also implement Best Management Practices and other measures described below to protect jurisdictional waters of the State occurring along linear alignments. The project owner shall implement the following measures to compensate for impacts to waters of the state:

1. Submit Channel Design for Review: No later than 60 days prior to start of site mobilization, the project owner shall submit channel design and construction drawings for review and approval by the CPM in consultation with CDFG, as described in Soil&Water-5. The channel shall be designed such that it would remain accessible to desert tortoise and other wildlife at all times (i.e., all side slopes 3:1 or more gradual, with textured soil cement that would enhance traction for tortoise), and would promote a slightly aggradational (depositional) pattern of sediment deposition to allow for natural geomorphic processes;
2. Prepare a Desert Wash Revegetation Plan that follows the outline provided for rehabilitation plans described in Newton and Claassen (2003), *Appendix C: Sample Outline for a Rehabilitation Plan*. The Desert Wash Revegetation Plan shall meet the following criteria at the end of the 10-year revegetation period<sup>1</sup>:
  - a. Establishment of at least 15 percent native desert wash shrub cover within the channel bottom (6.2 acres total within the 41.5-acre channel bottom, and under no circumstances less than 4.8 acres);
  - b. Establishment of at least 7 percent native desert wash shrub cover on each of the 11 channel reaches between drop structures;
  - c. Maintain percent cover of noxious weeds (defined as non-native species that pose a "moderate" or "high" threat to California wildlands as defined by CAL-IPC (2006) within the channel) below 2 percent within the channel bottom (less than 0.8 total within the 41.5-acre channel bottom);
3. Acquire Off-Site Desert Wash: If at the end of the 10-year revegetation period the success criteria defined in the Desert Wash Revegetation Plan have not been achieved, the project owner shall acquire, in fee or in easement, land that includes at least 16 acres of desert wash state jurisdictional waters and their immediate watershed. Prior to acquisition the applicant shall prepare an acquisition proposal for review and approval by Energy Commission staff and CDFG describing the 16 acres of state waters and the surrounding watershed, and shall ensure that the acquired parcel(s) include sufficient area to manage the lands. The responsibilities for acquisition and management of the compensation lands may be delegated by written agreement to CDFG or to a third party, such as a non-profit organization dedicated to Mojave Desert habitat conservation, subject to approval by the CPM, in consultation with CDFG and RWQCB prior to land acquisition or management activities. Additional funds shall be based on the adjusted market value of compensation lands at the time of construction to acquire and manage habitat. The terms and conditions of this acquisition or easement shall be as described in **BIO-11**, with the additional criteria that the desert wash mitigation lands: 1) include at least 16 acres of state jurisdictional waters; 2) be characterized by similar soil permeability and hydrological and biological functions as the impacted wash; and 3) be within the same watershed as the impacted wash.
4. Review and Approval of Compensation Lands Prior to Acquisition. A minimum of three months prior to acquisition of the compensation lands, the project owner, or a third-party approved by the CPM, in consultation with CDFG, shall submit a formal acquisition proposal to the CPM and CDFG describing the parcel(s) intended for purchase. This acquisition proposal shall include a description and delineation of waters of the state within the parcel(s); shall describe the immediate watershed in the vicinity of the drainage; and shall identify the area of lands surrounding the drainage needed to

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<sup>1</sup> The 10-year revegetation period begins upon completion of construction of the new channel.

adequately manage the waters of the state to protect and enhance their biological functions and values. Approval from the CPM, in consultation with CDFG, shall be required for acquisition of all parcels comprising the compensation lands in advance of purchase.

5. Security for Implementation of Mitigation: A security in the form of an irrevocable letter of credit, pledged savings account, or certificate of deposit for the amount of all mitigation measures pursuant to this condition of certification shall be submitted to, and approved by, the CPM, in consultation with CDFG, prior to commencing project activities within waters of the state. The security shall be approved by the CPM, in consultation with CDFG's legal advisors, prior to its execution, and shall allow the CPM at its discretion to recover funds immediately if the CPM, in consultation with CDFG, determines there has been a default. Security shall include an amount equal to the final cost estimate for implementation of the Desert Wash Revegetation Plan, as described above in item 2. In addition, security shall include the costs of purchasing sufficient land to ensure acquisition of a minimum of 16 acres of desert wash state jurisdictional waters.

Prior to initiation of ground disturbance, the security shall be approved by the CPM, in consultation with CDFG, to ensure funding for the required mitigation (onsite restoration or offsite acquisition). The amount of the security shall be based on the amount of the final estimated cost of implementing the Desert Wash Revegetation Plan over a ten year period. The security deposit shall be no less than \$230,000, as estimated for the cost of sufficient acreage to ensure acquisition of 16 acres of desert wash state jurisdictional waters, should onsite mitigation not succeed. ~~in the amount of \$230,000 plus the final estimated cost of implementing the Desert Wash Revegetation Plan over a ten year period. The security amounts shall include the costs of implementing the Desert Wash Revegetation Plan over a ten year period, and the costs of acquisition of 50 acres that includes at least sufficient acreage to ensure acquisition and management of 16 acres of desert wash plus the immediate watershed and floodplain state jurisdictional waters. The required acreage may be less than 50 acres, and will depend on the area of adjacent watershed and floodplain needed to adequately protect and manage the 16 acres of waters of the state. The minimum security amount is based on 50 acres, an estimated amount of acreage needed for acquisition of 16 acres of state jurisdictional waters. Security costs for land acquisition were calculated as follows and may be revised upon completion of a Property Analysis Record (PAR) or PAR-like analysis of the proposed compensation lands:~~

- land acquisition costs for compensation lands, calculated at \$3,000/acre for 50 acres: \$150,000;
  - costs of enhancing compensation lands, calculated at \$250/acre for 50 acres: \$12,500; and
  - costs of establishing an endowment for long-term management of compensation lands, calculated at \$1,350/acre for 50 acres: \$67,500.
6. Long-Term Monitoring and Management. Long-term monitoring and management of the channel shall begin at the end of the 10-year revegetation period and shall continue for the life of the project as described in SOIL&WATER-8, and shall occur regardless of the success or failure of the revegetation effort. The goals of the long-term monitoring shall be to:
    - a. Maintain percent cover of noxious weeds (defined as non-native species that pose a "moderate" or "high" threat to California wildlands as defined by CAL-IPC (2006)

within the channel) below 2 percent within the channel bottom (less than 0.8 total within the 41.5-acre channel bottom).

- b. Maintain the channel as safe for desert tortoise and other wildlife. At no time shall the channel pose an entrapment hazard to desert tortoise and other wildlife. An entrapment hazard is defined as a depression, pit or trench with a depth of one foot or greater and a slope steeper than 3:1.

Inspections to assess percent weed cover within the channel shall be conducted by the Designated Biologist no less than once per year and only within the peak growing season for weedy annual herbs (February 1 through April 30<sup>th</sup>). Inspections to assess entrapment hazards for desert tortoise and other wildlife shall occur within 1 day of major storm events. The same remedial actions for managing weeds and entrapment hazards described in the Desert Wash Revegetation Plan shall be employed during the long-term monitoring. Entrapment hazards shall be corrected immediately upon detection.

7. Equipment Laydown Plan: The project owner shall develop a Storm Water Pollution Prevention Plan for construction activities that includes an engineered plan for the proposed equipment laydown area within the existing wash, as described in Soil&Water 3. This engineered plan shall describe protective structures, procedures for moving equipment, fuels and materials, and plan for conveyance of stormflows, during a rainfall event. Prior to initiation of any project activities in jurisdictional areas and no later than 60 days after publication of the Energy Commission Decision, the project owner shall submit this plan for review and approval by the CPM in consultation with CDFG.
8. Right of Access and Review for Compliance Monitoring: The CPM reserves the right to enter the project site and/or allow CDFG to enter the project site at any time to ensure compliance with these conditions. The project owner herein grants to the CPM and to CDFG employees and/or their representatives the right to enter the project site at any time, to ensure compliance with the terms and conditions and/or to determine the impacts of storm events, maintenance activities, or other actions that might affect the restoration and revegetation efforts. The CPM and CDFG may, at the CPM's discretion, review relevant documents maintained by the operator, interview the operator's employees and agents, inspect the work site, and take other actions to assess compliance with or effectiveness of mitigation measures.
9. Code of Regulations: The project owner shall provide a copy of the Energy Commission License Decision to all contractors, subcontractors, and the applicant's project supervisors. Copies shall be readily available at work sites at all times during periods of active work and must be presented to any CDFG personnel or personnel from another agency upon demand. The CPM reserves the right to issue a stop work order or allow CDFG to issue a stop work order after giving notice to the project owner and the CPM, if the CPM in consultation with CDFG, determines that the project owner has breached any of the terms or conditions or for other reasons, including but not limited to the following:
  - a. The information provided by the applicant regarding streambed alteration is incomplete or inaccurate;
  - b. New information becomes available that was not known to it in preparing the terms and conditions;
  - c. The project or project activities as described in the Final Staff Assessment have changed; or

- d. The conditions affecting biological resources changed or the CPM, in consultation with CDFG, determines that project activities will result in a substantial adverse effect on the environment.
10. Construction Schedule: Pine Tree Creek and the unnamed desert wash shall not be altered until the new channel is constructed and deemed by the CPM ready to accept stormwater flows.
  11. Best Management Practices: The applicant shall also comply with the following conditions:
    - a. The project owner shall not allow water containing mud, silt, or other pollutants from grading, aggregate washing, or other activities to enter a lake or flowing stream or be placed in locations that may be subjected to high storm flows.
    - b. The project owner shall comply with all litter and pollution laws. All contractors, subcontractors, and employees shall also obey these laws, and it shall be the responsibility of the operator to ensure compliance.
    - c. Spoil sites shall not be located within a drainage or locations that may be subjected to high storm flows, where spoil shall be washed back into a drainage or lake.
    - d. Raw cement/concrete or washings thereof, asphalt, paint or other coating material, oil or other petroleum products, or any other substances that could be hazardous to vegetation or wildlife resources, resulting from project-related activities, shall be prevented from contaminating the soil and/or entering waters of the state. These materials, placed within or where they may enter a drainage or lake, by project owner or any party working under contract or with the permission of the project owner shall be removed immediately.
    - e. No broken concrete, debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete or washings thereof, oil or petroleum products or other organic or earthen material from any construction or associated activity of whatever nature shall be allowed to enter into, or placed where it may be washed by rainfall or runoff into, waters of the state.
    - f. When operations are completed, any excess materials or debris shall be removed from the work area. No rubbish shall be deposited within 150 feet of the high water mark of any drainage.
    - g. No equipment maintenance shall occur within or near any stream channel where petroleum products or other pollutants from the equipment may enter these areas under any flow.

**Verification:** Within 90 days prior to any construction-related ground disturbance activities, the project owner shall submit to the CPM and CDFG a draft Desert Wash Revegetation Plan and a draft estimate of costs to fully implement the plan. Within 30 days prior to any construction-related ground disturbance activities within waters of the State, the project owner shall submit to the CPM a final Desert Wash Revegetation Plan and a final cost estimate for implementation of revegetation monitoring and management activities that reflects review and approval by Energy Commission staff in consultation with CDFG.

No later than 90 days prior to any construction-related ground disturbance activities, the project owner shall submit channel design and construction drawings for review and approval by the CPM in consultation with CDFG, as described in **Soil&Water-5**.



No fewer than 30 days prior to the start of any construction-related ground disturbance activities, the project owner shall implement the mitigation measures described above. No fewer than 30 days prior to the start of work potentially affecting jurisdictional waters of the state, the project owner shall provide written verification (i.e., through incorporation into the BRMIMP) to the CPM that the above best management practices will be implemented and provide a discussion of work in jurisdictional waters of the state in Compliance Reports for the duration of the project. Compliance reports shall be monthly for the first five years following completion of construction of the channel, and thereafter shall be submitted annually per COMPLIANCE-7

No less than 90 days prior to acquisition of the desert wash compensation acreage the project owner, or a third-party approved by the CPM, in consultation with CDFG, shall submit a formal acquisition proposal to the CPM and CDFG describing the parcel(s) intended for purchase.

The project owner shall notify the CPM and CDFG, in writing, at least five days prior to initiation of project activities in jurisdictional areas as noted and at least five days prior to completion of project activities in jurisdictional areas. The project owner shall notify the CPM and CDFG of any change of conditions to the project, the jurisdictional impacts, or the mitigation efforts, if the conditions at the site of a proposed project change in a manner which changes risk to biological resources that may be substantially adversely affected by the proposed project. The notifying report shall be provided to the CPM and CDFG no later than seven days after the change of conditions is identified. As used here, change of condition refers to the process, procedures, and methods of operation of a project; the biological and physical characteristics of a project area; or the laws or regulations pertinent to the project as defined below. A copy of the notifying change of conditions report shall be included in the annual reports.

- a. Biological Conditions: a change in biological conditions includes, but is not limited to, the following: 1) the presence of biological resources within or adjacent to the project area, whether native or non-native, not previously known to occur in the area; or 2) the presence of biological resources within or adjacent to the project area, whether native or non-native, the status of which has changed to endangered, rare, or threatened, as defined in section 15380 of Title 14 of the California Code of Regulations.
- b. Physical Conditions: a change in physical conditions includes, but is not limited to, the following: 1) a change in the morphology of a river, stream, or lake, such as the lowering of a bed or scouring of a bank, or changes in stream form and configuration caused by storm events; 2) the movement of a river or stream channel to a different location; 3) a reduction of or other change in vegetation on the bed, channel, or bank of a drainage, or 4) changes to the hydrologic regime such as fluctuations in the timing or volume of water flows in a river or stream.
- c. Legal Conditions: a change in legal conditions includes, but is not limited to, a change in Regulations, Statutory Law, a Judicial or Court decision, or the listing of a species, the status of which has changed to endangered, rare, or threatened, as defined in section 15380 of Title 14 of the California Code of Regulations.

After completion of the 10-year monitoring period for the Desert Wash Revegetation Plan, the project owner shall thereafter submit an annual report to the CPM and CDFG. The report shall describe the methods and results of the long term monitoring inspections for weed and entrapment hazards within the channel. The report also shall include a discussion of remedial actions taken, if any, and shall be submitted no later than January 31st of every year for the life of the project. If any entrapped animals/carcasses are detected CDFG and USFWS shall be notified in writing within 48 hours.

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

**APPLICATION FOR CERTIFICATION FOR  
THE BEACON SOLAR ENERGY PROJECT**

DOCKET NO. 08-AFC-2

**PROOF OF SERVICE**  
(Revised 2/8/10)

| <b><u>APPLICANT</u></b>  | <b><u>COUNSEL FOR APPLICANT</u></b>  | <b><u>ENERGY COMMISSION</u></b>  |
|--|--|--|
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| <b><u>APPLICANT CONSULTANT</u></b>   | <b><u>INTERESTED AGENCIES</u></b>  |  |
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|  | <b><u>INTERVENORS</u></b>  |  |
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**Declaration of Service**

I, Lois Navarrot, declare that on March 19, 2010, I served and filed copies of the attached **Beacon Solar Energy Project's Biological Resources Conditions of Certification**. The original document, filed with the Docket Unit, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at: [www.energy.ca.gov/sitingcases/beacon](http://www.energy.ca.gov/sitingcases/beacon). The document has been sent to both the other parties in this proceeding (as shown on the Proof of Service List) and to the Commission's Docket Unit, in the following manner:

**(check all that apply)**

**For Service to All Other Parties**

- sent electronically to all email addresses on the Proof of Service list;
- by personal delivery or by depositing in the United States mail at Sacramento, California with first-class postage thereon fully prepaid and addressed as provided on the Proof of Service List above to those addresses **NOT** marked "email preferred."

**AND**

**For Filing with the Energy Commission**

- sending an original paper copy and one electronic copy, mailed and e-mailed respectively, to the address below (**preferred method**);

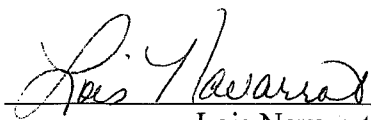
**OR**

- depositing in the mail an original and 12 paper copies as follow:

California Energy Commission  
Attn: Docket No. 08-AFC-2  
1516 Ninth Street, MS-4  
Sacramento, CA 95814-5512

[docket@energy.state.ca.us](mailto:docket@energy.state.ca.us)

I declare under penalty of perjury that the foregoing is true and correct.

  
\_\_\_\_\_  
Lois Navarrot