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DOCKET
08-AFC-9
DATE AUG 07 2009
RECD AUG 10 2009

August 7, 2009

CALIFORNIA ENERGY COMMISSION
Attn: Docket No. 08-AFC-9
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512

Re: City of Palmdale Hybrid Power Project – Docket No. 08-AFC-9

Dear Sir/Madam:

Pursuant to the California Code of Regulations, title 20, sections 1209, 1209.5, and 1210, enclosed herewith for filing please find **Addendum to the Palmdale Hybrid Power Project's Biological Assessment**.

Please note that the enclosed submittal was filed today electronically to your attention and via e-mail to all parties on the attached proof of service list.

Very Truly Yours.

Sara J. Head
Applicant's Consultant, Project Manager

Enclosure

cc: 08-AFC-9 Proof of Service List (electronic service only)

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August 7, 2009

Mr. Gerardo Rios
Chief, Permits Office (AIR 3)
U.S. Environmental Protection Agency
75 Hawthorne Street
San Francisco, CA 94105

RE: Palmdale Hybrid Power Project (PHPP) Application for PSD Permit and Request for Endangered Species Act Consultation and Concurrence

Dear Mr. Rios:

On March 31, 2009, AECOM Environment, on behalf of the City of Palmdale and Inland Energy, Inc., submitted an application for a Prevention of Significant Deterioration (PSD) permit for the Palmdale Hybrid Power Project (PHPP). The PHPP is a hybrid power plant to be located in Palmdale, CA, that will consist of a combined-cycle power plant integrated with 50 megawatts (MW) of solar arrays for a combined nominal output of 570 MW. As indicated in that submittal, the City and Inland Energy anticipated that the U.S. Environmental Protection Agency (EPA) would initiate consultation with the U.S. Fish and Wildlife Service (USFWS), pursuant to Section 7 of the Endangered Species Act of 1973, as amended, regarding potential impacts to listed species resulting from EPA's issuance of a PSD permit for the PHPP. A Draft Biological Assessment (BA) for the PHPP was submitted along with the PSD application to assist the EPA with it's consultation with the USFWS. A copy of the Draft BA was also provided to the USFWS.

Subsequent to submittal of these documents, the Applicants' consultants have been in frequent contact with Mr. Ray Bransfield of the USFWS regarding the Draft BA. Focused breeding season surveys for the federally listed species, arroyo toad, were conducted from April 21, 2009 to June 25, 2009 in the Little Rock Creek area (where transmission line segment 2 crosses Little Rock Creek), and no arroyo toad adults, juveniles, eggs, or larvae were detected. A copy of the arroyo toad survey report was provided to Mr. Carl Benz of the USFWS on July 23, 2009. Based on Mr. Bransfield's review of and input on the Draft BA, an Addendum to the PHPP Biological Assessment is attached. This BA Addendum more clearly supports a finding from the USFWS that the Project *may affect but is not likely to adversely affect* desert tortoise and will have no effect on arroyo toads.

The PHPP BA Addendum identifies where changes should be made to the original Draft BA submitted on March 31, 2009. If desired, we would be happy to re-submit the entire BA with these changes incorporated.

With this submittal we believe that the information needed for EPA's consultation with the USFWS is complete and it is our understanding that the USFWS agrees with the finding as stated above.

Please call me at (805) 388-3775 if you have any questions or need additional information. We look forward to seeing the draft PSD permit issued shortly.

Sincerely

Sara J. Head, QEP
Vice President, AECOM Environment
Sara.Head@aecom.com

Attachments: Addendum to the PHPP Biological Assessment (3)

cc: Mr. Ray Bransfield, USFWS
Ms. Shirley Rivera, EPA
Mr. Manny Aquitania, EPA
Ms. Felicia Miller, California Energy Commission
Ms. Misa Milliron, California Energy Commission
Ms. Erinn Wilson, California Dept. of Fish & Game
Ms. Laurie Lile, City Manager, Palmdale
Mr. Tom Barnett, Inland Energy, Inc.
Mr. Tony Penna, Inland Energy, Inc.
Mr. Mike Carroll, Latham & Watkins
Ms. Kim McCormick, Law Offices of Kim McCormick

Addendum
Palmdale Hybrid Power Project
Biological Assessment

AMEC Earth & Environmental, Inc. (AMEC) is providing this Addendum to the Palmdale Hybrid Power Project Biological Assessment, Los Angeles County, California, March 2009 (BA) to clarify that construction and operation of the proposed Palmdale Hybrid Power Project (PHPP or Project) is not likely to adversely affect the federally threatened desert tortoise or federally endangered arroyo toad.

Desert Tortoise

Pg. 19 – Replace the last sentence with the following: "Although there is suitable habitat on the north-south portion of transmission line segment 1 and the southeast portion of transmission line segment 2, with relatively uninterrupted habitat to the east, the lack of documented tortoise sightings closer than 12 miles away and the lack of observed sign on the Project surveys suggests that desert tortoise occurrence potential is low along these transmission line segments."

Pg. 23 – Replace Section 5.2 paragraph 2 with the following: "It is highly unlikely that desert tortoises are present on the power plant site. Based on discussions with Dr. Alice Karl, a well-known desert tortoise expert, there is a low chance that desert tortoises are present along the north-south portion of transmission line segment 1 and the southeast portion of transmission line segment 2 (Karl 2008). Based on the survey results from two years of focused surveys, plus other data from historic and recent surveys and assessments, desert tortoise are presumed to be absent on the power plant site, reclaimed water pipeline, potable water pipeline, natural gas supply pipeline, and sanitary wastewater pipeline. The occurrence potential along the north-south portion of transmission line segment 1 and the southeast portion of transmission line segment 2 is considered to be low. Although the proposed transmission line would result in the loss or disturbance of 26.84 acres of suitable habitat for the desert tortoise, this impact would be insignificant because: (1) desert tortoises are likely absent from this area; (2) based on the desert tortoise recovery plans (FWS 1994a, 2008) and critical habitat designation (FWS 1994b), FWS does not consider this area to be important to the recovery of the species; and (3) FWS has no plans to re-introduce desert tortoises in this portion of the desert. Also, in the unlikely event that a small number of desert tortoises remains in the area, the small amount of habitat loss and the dispersed nature of the loss would not impair the ability of these desert tortoises to find food and shelter. The Project therefore may affect, but is not likely to adversely affect, the desert tortoise.

Pg. 25 – Change Condition 7 to: "No tortoises will be handled during this Project. In the unlikely event that a tortoise is observed in a work area, it will be avoided and allowed to continue unimpeded. Work may halt in the immediate area of the tortoise, a temporary separation fence may be erected, or the tortoise may simply be monitored. The City will employ whatever measures are necessary to ensure its safety."

Pg. 25 – Remove last paragraph of Section 5.2 and insert the following text as Condition 10 regarding common raven measures:

Although desert tortoises are absent from the power plant site and have low potential to occur along the transmission line route, desert tortoises occur within the area within the distance that common ravens can fly to obtain food and water. Project construction and operational activities could contribute to a regional increase in the common raven population, which could cause a regional increase in common raven predation on desert tortoise. The following avoidance measures will be implemented to reduce the Project's likelihood of contributing to a regional increase in the common raven population. The goals of these avoidance measures are to: (i) educate Project staff about common raven and desert tortoise; (ii) reduce and preclude human-provided subsidies of food and water; and (iii) reduce common raven nest and communal roost sites (FWS 2008).

i. Training and Awareness Program

The Project's employee training and awareness program for both the construction and operational phases of the Project will include education relative to common ravens. This program is intended to complement measures described in the FWS Common Raven Management Environmental Assessment (FWS 2008b).

During both the construction and operations phases of the Project, workers will participate in an environmental awareness training program that will provide information about the biology and status of the desert tortoise and the potential for juvenile predation by common ravens. Ensuring that the Project staff and contractors are properly trained and educated regarding common ravens and the potential for predation on tortoises is an important component of the long-term common raven minimization strategy for the Project. Day-to-day operational practices can greatly influence the potential for common ravens to obtain food, water, and other anthropogenic subsidies. Workers will be made aware of the importance of not leaving any food or water outside of the facilities for stray animals or pets. They will also be encouraged to not leave any potential sources of food (such as grain, fruit, etc.) in uncovered truck beds, flat-bed trailers or other accessible external locations on their vehicles.

During the orientation session, Project staff and contractors will be provided instruction pertaining to proper trash disposal techniques and water minimization procedures, including minimizing standing water during construction. A brochure will be provided that summarizes specific positive actions that will be taken and those to avoid. Workers will also be provided with raven nest identification training and learn how to differentiate a raven nest from various raptor species. They will be encouraged to report roosting and nesting observation to a qualified Project biologist or the site environmental compliance officer (such observations will be augmented by those of biological monitors).

ii. Reduce/Preclude Human-Provided Subsidies of Food and Water

To minimize the potential for food scavenging by common ravens, all outdoor trash cans at the Project facility will be raven-proof and equipped with self-closing lids or covers. An adequate number of these trash cans will be provided for employees and the general public at entrances and exits to the building and in parking lots. All large dumpsters at the facility will be equipped with tightly fitting lids.

It is anticipated that the greatest potential for providing unintended common raven water subsidies resulting from Project implementation may occur during the construction phase of the Project because water may be used for a variety of

purposes such as compaction, dust abatement, hydrostatic testing, and other relatively short-term purposes. To the extent practicable, activities that may produce standing or ponded water will be minimized or avoided during construction. Temporary surface drainage improvements such as land grading or field ditches will be used to conduct water away from areas with standing water. Discharge areas for construction activities such as hydrotesting will be selected with adequate drainage. Water truck fill locations will also be selected in areas that drain well. If necessary, gravel will be laid down, or other temporary engineering solutions (such as a leach field) will be installed to ensure that water truck filling operations do not provide a source of water for common ravens.

Construction staff will be instructed to minimize the use of water during the construction phase of the Project. During the operational phase of the Project, the environmental awareness training program described above will help ensure that workers minimize sources of surface water available to common ravens during day-to-day operations. Staff will also be encouraged to immediately report and repair leaking faucets and/or waterlines.

The Project design does not include any evaporation ponds, landscaping, or other readily available sources of surface water that might serve as a common raven subsidy. In addition, the site grading plans and design of the facilities will minimize the potential for post-construction stormwater to pond on the site. Infiltration basins will be designed to remain dry between rainfall events, detain storm water no longer than 48 hours after rainfall events, and incorporate other engineering design features in accordance with Federal Aviation Administration guidance.

iii. Reduce/Preclude Common Raven Nest and Communal Roost Sites
To the extent practicable, the power plant site structures will be designed and built to incorporate elements that reduce the potential for use as common raven nest and roost sites (*e.g.*, communication towers, billboards, and shade structures). Following construction, if a feature proves to be an especially attractive nesting or roosting location, it will be modified or equipped with non-harmful deterrent or repellent devices. Common deterrents include spikes, repellent coils, post and wire (control wire), netting, and electric shock systems. Should a raven nest be built on a power plant structure, it will be removed during the non-nesting season in consultation with CDFG and FWS. If an active raven nest is found on the power plant site or transmission line that has a dead desert tortoise in or beneath it, the Ventura U.S. Fish and Wildlife Office will be contacted immediately.

<u>Arroyo toads – Replace Section 5.1 of the BA with the following.</u>

Designated critical habitat for arroyo toads is located 2-3 miles south (upstream) of where transmission line segment 2 crosses Little Rock Creek. If arroyo toads are present in this critical habitat area, arroyo toads, larvae, and egg masses could potentially move downstream during years of favorable rainfall when water is present. However, the most recent recorded sighting was in 2001 (CDFG 2009), approximately three miles upstream from the Project's proposed crossing of Little Rock Creek. To reach the transmission line crossing location, an arroyo toad individual, larva, or egg mass would need to navigate across Little Rock Reservoir and Little Rock Dam, which is highly unlikely.

Focused breeding season surveys were conducted in 2009 in the Little Rock Creek area (where transmission line segment 2 crosses Little Rock Creek), and no arroyo toad adults, juveniles, eggs, or larvae were detected. Based on the intermittent flow at this location (drying out by early summer; dry throughout some years), marginal habitat (lack of suitable stream and burrowing substrate), and the absence of arroyo toads during 2009 focused surveys, it is highly unlikely arroyo toads utilize this section of Little Rock Creek and the Project therefore will have no effect on the arroyo toad. No additional avoidance and minimization measures (beyond what the Project is already proposing to avoid and minimize impacts to the Little Rock Creek Significant Ecological Area) are necessary.

References

Pg. 27 – Add the following reference:

United States Fish and Wildlife Service (FWS). 1994a. Desert tortoise (Mojave population) Recovery Plan. U.S. Fish and Wildlife Service, Portland, Oregon. 73 pp plus appendices.

---. 1994b. Final rule: determination of critical habitat for the Mojave population of the desert tortoise. FR 59 (26):5820-5866.

---. 2008a. Draft revised recovery plan for the Mojave population of the desert tortoise (*Gopherus agassizii*). U.S. Fish and Wildlife Service, California and Nevada Region, Sacramento, California. 209 pp.

---. 2008b. Final Environmental Assessment to Implement a Desert Tortoise Recovery Plan Task: Reduce Common Raven Predation on the Desert Tortoise. Ventura, California.

STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION

In the Matter of:
APPLICATION FOR CERTIFICATION for the *PALMDALE HYBRID POWER PROJECT*

Docket No. 08-AFC-9

PROOF OF SERVICE
(Revised 7/30/2009)

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DECLARATION OF SERVICE

I, Sara Head, declare that on, August 7, 2009, I served and filed copies of the attached Palmdale Hybrid Power Project: Addendum to the Biological Assessment. 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: **[http://www.energy.ca.gov/sitingcases/palmdale/index.html]**. 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:

(C*heck all that Apply*)

For service to all other parties:

__X__sent electronically to all email addresses on the Proof of Service list;

____ by personal delivery or by depositing in the United States mail at Camarillo, 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:

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

OR

___ depositing in the mail an original and 12 paper copies, along with 13 CDs, as follows:

CALIFORNIA ENERGY COMMISSION
Attn: Docket No. 08-AFC-9
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512

docket@energy.state.ca.us

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