

| <b>DOCKETED</b>         |  |
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| <b>Docket Number:</b>   | 23-AFC-03  |
| <b>Project Title:</b>   | Black Rock Geothermal Project (BRGP)   |
| <b>TN #:</b>            | 260002   |
| <b>Document Title:</b>  | Follow Up from Workshop Discussion, 4th Request  |
| <b>Description:</b>     | CEC, Geothermal AFCs, follow up from workshop discussion regarding additional information needs, 4th Request |
| <b>Filer:</b>           | Marichka Haws  |
| <b>Organization:</b>    | California Energy Commission   |
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**From:** [Veerkamp, Eric@Energy](mailto:Veerkamp_Eric@Energy)  
**To:** [jerry.salamy@jacobs.com](mailto:jerry.salamy@jacobs.com); [Jon Trujillo \(jon.trujillo@calenergy.com\)](mailto:Jon.Trujillo@calenergy.com); [Madams, Sarah](#); [Xayachack, Lindsey](#)  
**Cc:** [Knight, Eric@Energy](#); [Chris Huntley](#); [ldunn@aspenerg.com](mailto:ldunn@aspenerg.com); [Vorters, Dian@Energy](#)  
**Bcc:** [Anderson, Kari@Energy](#); [Kelsey, Tanner@Energy](#); [Mayer, Alex@Energy](#); [Babula, Jared@Energy](#); [Cabrera, Crystal@Energy](#); [Pinkerton, Matthew@Energy](#)  
**Subject:** CEC, Geothermal AFCs, follow up from workshop discussion regarding additional information needs, 4th Request  
**Date:** Wednesday, November 13, 2024 8:55:00 AM  
**Attachments:** [image001.png](#)

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Hi Jerry and Jon,

A recent decision was issued for listing burrowing owls as a candidate under the CESA. CEC staff has been consulting with resource agencies about this issue as well as the issue of rails, and is requesting the following information.

Please provide responses to the following requests within 30 days so that staff can timely incorporate the information into the FSA. If you have any questions about these items, let us know. If we need to, we can meet with appropriate technical staff for clarification.

**Background:**

With the recent candidate for listing under CESA for burrowing owl, an Incidental Take Permit (ITP) is required for impacts that may result in “take” of burrowing owl. Passive exclusion of owls from burrows would be defined as “take.” As part of the MOU between CEC and CDFW, the information for an ITP for burrowing owl will be included in the FSA. Mitigation for impacts to burrowing owls would include things such as tagging owls, monitoring movements, and creation of burrows outside the area of impact. Compensatory mitigation is also required as part of the ITP process, which includes conserving burrowing owl habitat in perpetuity.

CDFW has stated that there are no currently approved mitigation banks that could provide mitigation credits for burrowing owl impacts. Credits through the Mojave Desert Tortoise Conservation Bank Site 8 are therefore not approved. The number of acres needed for compensatory mitigation would be based on habitat impacted, including the following: a) the habitat value of the land impacted by the project, and b) the location of land preservation that provides suitable burrowing owl habitat (i.e., how close conserved land is in relation to the impacts). Compensatory mitigation for burrowing owls could be addressed through conservation easements on agricultural lands, which preserves such lands for burrowing owls in perpetuity and allows the continuation of agriculture use.

**Request:**

1. Please provide information on lands available for compensatory mitigation that would provide habitat for burrowing owl and be preserved in perpetuity, for the proposed MBGP, ENGP, and BRGP geothermal projects.
2. In data response TN254014 the Applicant states that they would be preparing a “Burrowing Owl Artificial Burrow and Exclusion Plan” that outline impact criteria, burrow

ratios, exclusion methods, lands that could serve as receptor sites for evicted burrowing owls, management practices, methods for replacement burrows, and success criteria. Please provide the status of said Burrowing Owl Artificial Burrow and Exclusion Plan, schedule for completion, and availability to staff.

3. During the September 19, 2024, workshop, the Applicant stated it would provide an assessment on agricultural return flows to drains and canals feeding the Salton Sea, including potential impacts to rail and desert pupfish habitat. Please provide a status update on the assessment, schedule for completion, and availability to Staff.
4. During the September 19, 2024, workshop, the Applicant stated it was preparing a Biological Assessment (BA) for Yuma Ridgway's Rail for Morton Bay. Please provide a status update on the BA, schedule for completion, and availability to Staff.
5. Staff have spoken with USFWS regarding the preparation of a Biological Assessment (BA) for Yuma Ridgway's Rail. USFWS is not aware of any communication with Service staff or other lead federal action agencies regarding the preparation of the BA for the Morton Bay project. Please provide details on who the lead federal action agency is for Federal Endangered Species Act (FESA) Section 7 consultation, or if the Applicant is proposing Section 10 consultation, for impacts to Yuma Ridgway's Rail. If FESA Section 7 consultation is anticipated, please provide details on correspondence with the lead federal action agency and the timeline for submitting the BA for consultation.
6. In the Response to Workshop Follow Up Informal Data Request Set 1 for Morton Bay (TN259789), the applicant mentions Figure IDRR-1 which shows the location of the Imperial Wildlife Area, Hazard Tract in proximity to BRGP, ENGP, and MBGP. The figure was not included in the docketed material. Please provide Figure IDRR-1.

Thank you.

**Eric W. Veerkamp**  
Project Manager  
STEP Division  
California Energy Commission  
916-661-8458  
[Eric.Veerkamp@energy.ca.gov](mailto:Eric.Veerkamp@energy.ca.gov)  
[www.energy.ca.gov](http://www.energy.ca.gov)

