

with the Department's local warden (Hank Hodell) to report abuse and legally combat this scourge to our natural resources. Illegal OHV use impacts have increased so dramatically that several local conservation groups formed a lobbying group in 2004 to initiate a OHV use ordinance for the county, which went into effect July 1, 2006.

Regardless of these facts, I respect your determination of what is needed to fully mitigate impacts believed associated with the proposed alternate energy-generation project. I will communicate to the proponent what will be expected of them regarding acquisition of appropriate permits. I'll get back to you soon with their decision.

Thanks again for your note,

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From:  
 Sent: Tue 7/11/2006 1:44 PM  
 To: Tonya Moore  
 Cc: Denyse Racine  
 Subject: RE: Proposed mitigation ratio for Victorville 2 Hybrid Solar Plant

Howdy Tom,

The mitigation ratio for this project to obtain an Incidental Take Permit for both desert tortoise and MGS would be 3:1. As was discussed the mitigation lands will also support BUOW, if they do then the lands obtained for the 2081 will suffice for the burrowing owl. If the lands do not support burrowing owl then additional lands may be required for that species. Please subtract the lands that do not support desert tortoise and Mohave ground squirrel habitat. On this project that would be where the pipeline was put in, the area where people are currently living and any existing roads that were included in the calculation. Also, remember that this ratio does not reflect the transmission line impacts in critical habitat.

Although, it is not required of me to explain why I believe that the project should mitigate at 3:1, I have included it here so that you can understand my position:

First, let me make clear that when I was discussing the desert tortoise mitigation alone, I was using the fact that BLM had Categorized this area as Category III, which when used with the CAGED formula is always 1:1.

However, this was an error on my part. The Department has stated in the California Statewide Tortoise Management Policy that "The Bureau categorization applies only to Bureau administrated lands." This proposed project is on private lands thus it requires a habitat and species evaluation according to CEQA and CESA. So, the automatic 1:1 ratio does not apply for desert tortoise.

The Department must continue to evaluate habitats and species on a project by project basis irrespective of what is outlined in WEMO, since it is not approved. In order to issue an Incidental Take Permit the Department is required to adopt findings that the impact of the taking has been fully mitigated. We use a variety of factors to determine full mitigation on a project by project basis. Projects impacting MGS in the Victor Valley portion of the desert are often mitigated at 1:1, but higher ratios sometimes occur based on the quality of habitat being impacted, potential impacts to core populations, connectivity issues, the quality/location of the mitigation lands being offered and modification to existing science or knowledge of the species. Historically, the entire Victor Valley was mitigating 1:1 for MGS because of the knowledge then was that MGS had not been found in the Valley for decades, and because most projects were adjacent to existing development and/or contained degraded habitat. Although, the Department could not state that there weren't MGS it was assumed the low numbers did not warrant higher protection. However, with the development of the Victor Valley more surveys have be performed and additional information has surfaced.

Limited numbers of MGS trapping has occurred within the location that this project is proposed. However, from the surveys and sightings that been reported this area still contains a population no matter how small of MGS. This is to be expected because the location is not under the high development that the rest of the Valley is and is located adjacent to very large areas of undeveloped habitat. The 2005 survey that found a Juvenile MGS and the petition to Federally list the species, has required the Department to reevaluate how it handles the MGS in the Victor Valley.

If you compare this proposed project habitat with others in the Victor Valley, I believe that a mitigation is warranted. The land is practicably undisturbed, with little trash and very low OHV use. The quality of the land can be seen in the fact that the site and adjacent habitat support desert tortoise, Mohave ground squirrel and burrowing owl as well as large numbers of animal species that are not listed as protected (Kit fox, rabbits and other ground squimels). The land is uniquely situated with no barrier for species near the Mojave River and large open undisturbed desert. There is currently no known mass development north of this project that would leave the me to believe that in future if this project wasn't built the land would still be disturbed. The current land south of the project is slated for complete development with no open space or corridors for the upland desert species.

Then why is the project requiring larger ratios then the developer near Air Expressway? The project foot print is much larger then this one with less desert tortolse(s) sign and historically occurrences of MGS in the area are only north of Air Expressway expect of the one found last year,

which is miles away and many developments to the south. The land is "locked" in by development around it and has started to show heavy disturbance on the edges due to the developments. With all of these differences, I believe it warranted being mitigated at a 2:1 ratio.

Even though I have other reasons I believe that these are the major ones. Each project is evaluated on the impacts that it will directly impact the area and how those direct and indirect impacts cumulatively effect the regions species.

Since, I believe that the impacts to the desert tortoise and it's habitat are less significant then MGS (since they have a wider range and aren't as generalized as MGS). If the project proponent decides to trap the site and the spring prior to construction and there are negative results then a 1.5:1 ratio shall apply just for desert tortoise.

Of course if the site is trapped and a MGS is found, the project proponent will be held to the 2:1 ratio.

If you have any questions or would like to discuss this issue further please feel free to call mat at (760) 955-8139.

Tonya Moore, CDFG  
Environmental Scientist

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