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Sent: Tuesday, April 24, 2012 2:23 PM
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Subject: Rio Mesa Solar Electric Generating Facility - Elf Owl Survey Protocol-Data Request 49

To: Todd Stewart, BrightSource
From: California Energy Commission staff
Date: April 23, 2012
Re: Rio Mesa Solar – Elf Owl Survey Protocol / Data Request 49

Energy Commission staff have reviewed BrightSource's (BSE) letter dated April 5, 2012 (Docket Log 64609), and follow-up information from Dr. John Boone of the Great Basin Bird Observatory (dated April 5, 2012 and docketed on April 18, 2012; Docket Log 64833) regarding elf owl survey relevancy and protocols. Staff has also taken under consideration comments by BSE staff and counsel during the Status Conference of March 19, 2012, and reviewed data submitted by Robert McKernan following the Status Conference (Docket Log 64395). On April 19, 2012, staff participated in a conference call organized by BSE consultant URS to discuss ongoing elf owl field surveys at the Rio Mesa site. Staff's notes on that conference call will be docketed. This memorandum provides staff's responses to (1) BSE's objection to the elf owl survey request and (2) BSE's requested revisions to the survey protocol as described in the letter of April 5, 2012 and clarified during the conference call of April 19, 2012.

1. Objection to the surveys

Staff believes that background provided for Data Request 49 and discussed during the Data Request and Issues Resolution Workshop (February 13, 2012) provides strong basis for the requested field surveys. BSE's objection reflects misunderstanding of the scientific literature, elf owl biology, and the applicability and limitations of the California Natural Diversity Data Base. In addition, recent detection of calling elf owls on the site, discussed during the conference call of April 19, 2012, further substantiates the need for survey data to evaluate potential project impacts to elf owl, pursuant to the California Environmental Quality Act (CEQA) and California Endangered Species Act (CESA). Regardless of the objection, staff appreciates that BSE has initiated the field surveys, and is now working with a recognized elf owl expert (Dr. Boone) to provide field survey data suitable to support the Staff Assessment analysis.

2. Proposed revisions to the recommended protocol.

Staff understands that the surveys are now underway and are being conducted based upon the Arizona Game and Fish Department's protocol for cactus ferruginous pygmy owl (CFPO), with modifications as recommended by Dr. Boone. BSE has requested four specific modifications to the survey protocol. Following are the requested modification as well as staff's response.

- a. Expanded evening survey period. Staff recommends adopting the evening survey period described in Dr. Boone's recommendations (April 5, 2012, page 3, list item 2), commencing at twilight and continuing over a five-hour period. We note that this protocol revision will replace the original CFPO protocol and is slightly different from BSE's request on April 5, 2012. The CFPO protocol recommends surveys at dawn and dusk, reflecting the crepuscular activity period of that bird. On April 5, 2012, BSE requested a 1-hour extension of the evening survey period. In the revision recommended here, staff recommends deleting the dawn survey period and adopting the five-hour evening survey period beginning at dusk.
- b. 400 meter call station interval. Staff recommends adopting the 400 m spacing between call stations, with intermediate 2-minute call stations midway between them, as described in Dr. Boone's recommendations (April 5, 2012, page 3, list item 3). We note the caveat that wind conditions must be favorable (April 5, 2012, page 5, list item

3), and we understand that BSE and URS are suspending field surveys when wind noise may interfere with ability to hear owl calls. The 400-meter call station interval is consistent with the CFPO survey protocol for remote areas such as the Rio Mesa site, away from roads and other human noise and disturbance.

- c. Time interval at each call station. Staff recommends adopting the procedure for listening and playing recorded elf owl calls, as described by Dr. Boone (April 5, 2012, page 6, list item 11), including six minutes at each call station and two-minute stop between call stations. We note that this protocol revision is slightly different from BSE's request on April 5, 2012, which proposed eight minutes at each station without the intermittent two minute stops.
- d. Buffer area. Staff's Data Request 49 requested that BSE cover a buffer area of one mile in suitable habitat surrounding the project area; BSE has requested reducing the buffer area to ¼ mile distance. The telemetry data described by Dr. Boone during the conference call indicate maximum known linear movement distances of about 600 meters (0.37 mile) from the nest location, though these data represent only a small sample size for nest sites near riparian habitat. Based on available information and the more arid nature of the Rio Mesa project site, staff recommends that field surveys provide coverage throughout microphyll woodland to a distance of 0.5 mile from the project boundaries.

Staff looks forward to receiving BSE's report on the elf owl surveys when field surveys are completed.

Please note the new email address below.

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