



DEPARTMENT OF FISH AND GAME

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June 14, 2010

Monisha Gangopadhyay / Tom Hurshman
CPUC / BLM
c/o Ecology and Environs Inc.
Eldorado-Ivanpah Transmission Project
130 Battery Street, 4th Floor
San Francisco, CA 94111

Subject: Draft EIS/EIR Eldorado-Ivanpah Transmission Project SCH#2009071091

Dear Ms. Gangopadhyay and Mr. Hurshamn:

The Department of Fish and Game (Department) has reviewed the Draft Environmental Impact Statement / Environmental Impact Report (DEIS/EIR) for the above referenced project. The proposed project is for upgrading approximately 35 miles of existing single-circuit 115-kV subtransmission line to double-circuit 230-kV transmission between the Ivanpah Dry Lake area and the existing Substation, construct a new substation (Ivanpah Substation), install upgrades within existing Eldorado Substation, and install a redundant telecommunications path between the Ivanpah and Eldorado substations. The redundant telecommunications path would be strung along the existing 500-kV Eldorado-Lugo line for approximately 25 miles before it would be installed in a new underground duct for approximately 5 miles along the northern edge of Nipton Road to a new microwave tower outside Nipton, CA. The project is located at in eastern San Bernardino County, California and western Clark County, Nevada near Primm Nevada. Approximately 465 acres will be impacted by this project.

The Department is providing comments on the DEIS/EIR as the State agency which has the statutory and common law responsibilities with regard to fish and wildlife resources and habitats. California's fish and wildlife resources, including their habitats, are held in trust for the people of the State by the Department (Fish and Game Code §711.7). The Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and the habitats necessary for biologically sustainable populations of those species (Fish and Game Code §1802). The Department's Fish and wildlife management functions are implemented through its administration and enforcement of Fish and Game Code (Fish and Game Code §702). The Department is a trustee agency for fish and wildlife under the California Environmental Quality Act (see CEQA Guidelines, 14 Cal. Code Regs. §15386(a)). The Department is providing these comments in furtherance of these statutory responsibilities, as well as its common law role as trustee for the public's fish and wildlife.

The Department has serious concerns with the potential impacts of this project on

desert tortoise, a State and federally-listed Threatened species, and burrowing owl, which is a state Species of Special Concern and protected under Fish and Game Code §3503.5, as well as with the adequacy of this environmental document under CEQA as it pertains to biological resources. In addition, the loss of the barn owl roost could be considered significant under Fish and Game Code §3503.5. This project is located within the range of the desert tortoise and burrowing owl. Impacts to these species from the proposed project have not been adequately disclosed in the document, nor have adequate mitigation measures been proposed to reduce those impacts to less than significant.

The Department's responsibilities in regard to the biological resources potentially impacted by the proposed project fall into two categories. First, as Trustee agency for the state's fish and wildlife resources, the Department's role is to provide the County of San Bernardino with biological information and recommendations that the County can use to comply with its responsibilities, as CEQA Lead Agency, to disclose the impacts of the proposed project, and adopt mitigation measures which will reduce the impacts to those resources to below significance. Our second role, as a state Responsible Agency, is to issue permits, consistent with our authority, for the Incidental Take of state listed species; for the handling of wildlife species pursuant to research projects; and as appropriate, issue agreements for the alteration of state waters. (Lake and Streambed Alteration Agreements). As a Responsible Agency, we must also rely on the Lead Agency's CEQA document on which to base our permits. Our comments on this project will address both of these roles.

Introduction

Table 1-2 – State Agencies – CDFG – The project will require and Incidental Take Permit or Consistency Determination for desert tortoise impacts.

Description of proposed project

Table ES-3

APM BIO-4 - When are Best Management Practices not applicable?

APM BIO-6 - The Worker Environmental Awareness Program will need to be approved by the Department.

APM BIO-7 - The Department can not approve the taking of an active raptor nest.

APM BIO-10 - The Invasive Plant Management Plan will need to be approved by the Department.

AMP BIO-11 item 9 – Authorized biologists will be approved by USFWS and the CDFG. In addition, the Department also must approve the monitors.

AMP BIO -11 items 12 & 13 – The 2009 USFWS protocols are the updated version of the 1999 Desert Tortoise Council.

AMP BIO 11 – item 14 – This section should read all activities conducted in desert tortoise habitat will be monitored by a qualified or authorized biologist.

AMP BIO 11 – item 20 – The Department will also need a copy of the report regarding tortoise seen, injured, killed, excavated and handled.

AMP BIO 11- This section should include replacement for desert tortoise habitat impacted.

AMP BIO 12 – If bighorn sheep habitat is impacted in California, then the Department must be consulted.

AMP BIO 14 – If Gila monsters are found within California the same methods will be used to move them as for ones found in Nevada. In addition, the Department will be notified as to the location.

Biological Resources 3.4

Page 3.4-29 Table 3.4-4

1) Nelson's bighorn sheep are fully protected, except as provided for in DFG Code subdivision (b) section 4902.

2) Burrowing owl is a CA Species of Special Concerns and is protect under DFG Code Section 3503.5

3) The banded Gila monster is also a Species of Special Concerns and requires a special permit for take.

Page 3.4-62 – The description of the State Endangered Species Act is not completely accurate. It states "A project applicant is responsible for consulting with the CDFG, if applicable, to preclude activities that are likely to jeopardize the continued existence of any CESA-listed threatened or endangered species or destroy or adversely affect habitat essential for any given species." It should be more accurate to state that if a project activities are likely to take a listed species, then an Incidental Take Permit (DFG Code Section 2081) will be required.

Page 3.4-63 – Should include DFG Code Section 3503.5 which prohibits the take of raptors and their nests or eggs.

See comments above for the AMPs

Page 3.4-92 –95

MMBIO-2 - The Department will need to approve the Reclamation, Restoration and Revegetation Plan.

MMBIO-7 - The Mitigation Monitoring Plan, where jurisdictional areas within established riparian areas will be affected, should also be submitted to the Department.

MMBIO-9 - The trenches and/or holes need to be monitored a minimum of three times during the summer (hotter) months.

This section also needs to include the compensation for habitat impact along with enhancement and endowment fees. Compensation will be at 3:1 for non critical habitat and 5:1 for critical habitat. In accordance with the American Recovery and Reinvestment Act (ARRA) funding, this project may also be eligible to use a Mitigation Account to satisfy mitigation requirements.

MMBIO-12 - item 9 – The following can be deleted as it will be the same for Nevada. “For California portions of the project, in addition to adhering to the most current Desert Tortoise Council handling guidelines, the following guidelines will be adhered to.”

MMBIO-13 – Please include the Clark Mountain Range. Also, the Department will need to be notified if bighorn sheep are seen.

MMBIO-14 – During breeding season, burrows must be checked for young before the one way door is installed. If young are present during relocation efforts, all work will stop until the young have fledged.

Page 3.4-99 Table 3.4.7 - Add bighorn sheep as fully protected and add FP to the State list.

There was no mention of the fairy shrimp in Ivanpah Dry Lake in the biological section. Any impacts to these species should be addressed.

Page 3.8-14 – Streambed and Lake Alteration Agreement, Code Section 1600 may need to be listed here.

Page 3.8-29 – MMW-4 - The Department will want to review the Dry Lake Restoration Plan.

Page 3.8 – 21 – Table 3.8-2 Need to include the Department Code Section 1600.

Page 5.2 - Table 5-1 Several other projects in the area include the Kern River Pipeline and the Caltrans Truck Descending Lane on the I-15.

Page 5-36 - Table 5.5 – Caltrans’ Joint Point of Entry may need to be included on this Table.

Page 5-45 – Lines 42-51 – The First Solar project discussed within this document should be included in this section.

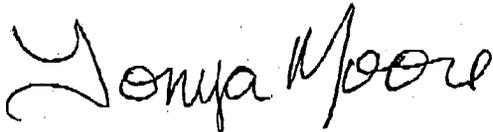
Page 5-50 – Lines 2-5 The Department concurs that the cumulative impacts from past, present and future proposed activities in this contribute to a significant loss of vegetation, wildlife and special status species in the Ivanpah Valley, but we do not feel that it can be mitigated to less than significant levels, when looking at the cumulative

impacts to this area. As stated in the document cumulative impacts to special status plants will remain significant under CEQA even with compensatory mitigation.

Page 6-1 Lines 20-22 Special status plant should be included under the section for significant unavoidable impacts.

The Department appreciates the opportunity to comment on the proposed project. Questions regarding this letter and further coordination on these issues should be directed to Ms. Rebecca Jones, Environmental Scientist, at (661) 285-5867.

Sincerely,

A handwritten signature in cursive script that reads "Tonya Moore". The signature is written in black ink and is positioned above the typed name and title.

Tonya Moore
Senior Environmental Scientist

cc: Ms. Rebecca Jones, CDFG
State Clearinghouse