

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



August 1, 2011

Ms. Suzan Benz
Environmental Project Manager
Devers-Palo Verde No. 2 Transmission Project
6 Point Drive, 1st Floor
Brea, CA 92821-6320

RE: SCE Devers-Palo Verde No. 2 Transmission Line Project – Variance Request #6

Dear Ms. Benz,

On July 8, 2011, Southern California Edison (SCE) submitted a variance request to the California Public Utilities Commission (CPUC) to remove Mitigation Measures B-13a, B-13b and modify B-1a, B-1a(rev), and B-7e for the Devers-Palo Verde No. 2 (DPV2) Transmission Project, because SCE is not subject to, a participating entity in, or under jurisdiction of the Western Riverside County Multiple Species Habitat Compensation Plan (MSHCP).

The CPUC voted on January 25, 2007 to approve the SCE DPV2 Transmission Line Project ([Decision D.07-01-040](#)). On May 14, 2008, SCE filed a Petition for Modification (PFM) of the existing Certificate for Public Convenience and Necessity (CPCN) approved per Decision D.07-01-040. SCE requested that the CPUC authorize SCE to construct DPV2 facilities in only the California portion of DPV2 and the Midpoint Substation (now called the Colorado River Substation) near Blythe, California. The CPUC approved SCE's PFM on November 20, 2009 in [Decision D.09-11-007](#).

After the CPUC's 2009 Decision regarding the PFM, several large solar power projects were proposed in the Blythe and Desert Center areas. SCE filed Permit to Construct applications addressing expansion of the Colorado River Substation and construction of a new Red Bluff Substation. These components were not covered in the original DPV2 Final EIR/EIS, because the solar power projects had not yet been proposed, and supplemental environmental review has been conducted. The Colorado River Substation Expansion and the Red Bluff Substation were both approved by the CPUC on July 14, 2011 in Decisions D.11-07-011 and D.11-07-020, respectively.

The BLM issued a Record of Decision approving the Project on July 19, 2011. The Project also crosses lands under jurisdiction of the U.S. Department of Agriculture Forest Service on the San Bernardino National Forest within an existing Forest Service-issued easement. The Forest Service will issue a revised easement signed by the Forest Supervisor. The area requested under this variance does not fall under BLM or Forest Service jurisdiction.

The CPUC also adopted a Mitigation, Monitoring, Compliance and Reporting Program (MMCRP) to ensure compliance with all mitigation measures imposed on the DPV2 Project during implementation. The MMCRP also acknowledges that temporary changes to the project are anticipated and common practice for construction efforts of this scale and that a Variance Request would be required for these activities. This letter documents the CPUC's thorough evaluation of all activities covered in this variance, and that no new impacts or increase in impact severity would result from removal of Mitigation Measures B-13a, B-13b and modification of Mitigation Measures B-1a, B-1a(rev), and B-7e. At this time,

the CPUC does not approve modifications to Mitigation Measures B-13a, B-13b, B-1a, B-1a(rev), and B-7e over the entirety of the Project. However, with this letter, the CPUC does acknowledge that the subject mitigation measures do not apply to the Menifee, Perris, and Beaumont construction yards and approves the removal of Condition #17 from Notice to Proceed (NTP) #1 which was issued by CPUC authorizing the establishment and use of the Project construction yards.

SCE Variance Request. SCE has requested removal of Mitigation Measure B-13a, B-13b and modification to Mitigation Measures B-1a, B-1a(rev), and B-7e. SCE is requesting deletion and modification to these measures because SCE is not subject to, a participating entity in, or under jurisdiction of the Western Riverside County MSHCP. Excerpts from the SCE Variance Request, received July 8, 2011, are presented below (indented):

SCE has completed compliance with the Federal and California Endangered Species Acts (ESAs). A project-specific ESA Section 7 Biological Opinion and Section 2080.1 Consistency Determination has been issued by the US Fish and Wildlife Service and California Department of Fish and Game. Although the WRCMCHP and its best management practices (BMPs) are not applicable to the DPV2 project, SCE will implement other best management practices which are included in the project's stormwater pollution prevention plans.

Please delete mitigation measures B-13A and B-13B and delete the highlighted sentences *shown with strikethrough* below from mitigation measures B-1A and B-7E.

B-13A Demonstrate compliance with the Western Riverside County MSHCP. SCE shall provide documentation that it has complied with the provisions of the MSHCP.

B-13B Implement the Best Management Practices required by the Western Riverside County MSHCP. SCE shall provide documentation that is has implemented the Best Management Practices set forth in Appendix C of the Western Riverside MSCHP.

B-1A and B-1A (rev) Prepare and implement a Habitat Restoration/Compensation Plan. SCE shall restore all areas disturbed by project construction, including temporary disturbance areas around tower construction sites, laydown/staging areas, temporary access and spur roads, and existing tower locations that are removed during construction of the Proposed Project. Where onsite restoration is planned for mitigation of temporary impacts to sensitive vegetation communities, SCE shall identify a qualified Habitat Restoration Specialist to be approved by the CPUC/BLM. Hydroseeding, drill seeding, or an otherwise proved restoration technique shall be utilized on all disturbed surfaces using a locally endemic native seed mix approved by the CPUC/CDFG/ADGF/FWS and BLM. SCE shall flag the limits of disturbance at each construction site. The Plan shall incorporate the measures identified in the June 2006 Memorandum of Understanding regarding vegetation management along rights-of-way for electrical transmission and distribution facilities on Federal lands. ~~In project areas that occur in the WRCMSHCP plan area, SCE shall use the applicable Best Management Practices identified in the WRCMSHCP.~~

B-7E Conduct focused surveys for California gnatcatchers. SCE shall conduct protocol level surveys for California Gnatcatchers in all areas supporting suitable coastal sage or Riversidean sage scrub habitats that may be affected by the project (San Bernardino to Vista Substation and San Bernardino Junction to San Bernardino Substation). This will include a minimum 300 foot buffer around construction areas. Presence/absence of this species shall be determined prior to construction activities. If direct impacts to coastal California gnatcatcher occupied habitat cannot be avoided, then impacts to this species shall be addressed through either the Section 7 or Section 10(a)(1)(B) Process under the Federal Endangered Species Act of 1973, as amended ~~and consistent with the WRCMSHCP.~~ SCE shall complete compliance with the Federal Endangered Species Act prior to Project construction. After definition of suitable habitat, the following requirements apply:

- Construction activities shall be restricted within coastal sage scrub habitat during the gnatcatcher breeding season (March 15-July 31);
- SCE shall implement the applicable Best Management practices in the WRSMSHCP;
- SCE shall restore, create, or enhance on site coastal sage scrub habitat; and/or
- SCE shall purchase land or mitigation bank credits at an appropriate ratio to offset impacts to gnatcatchers and their habitat.

The creation or restoration of habitat shall be monitored for five years after mitigation site construction, or until established success criteria are met, to assess progress and identify potential problems with the restoration site. Remedial activities (e.g., additional planting, weeding, or erosion control) shall be taken during the monitoring period if necessary to ensure the success of the restoration effort. If the mitigation fails to meet the established performance criteria after the five-year maintenance and monitoring period, monitoring shall extend beyond the five-year period until the criteria are met or unless otherwise noted by the CPUC/BLM.

CPUC Evaluation of Variance Request

In accordance with the MMCRP, the subject variance request was reviewed by CPUC to confirm that no new impacts or increase in impact severity would result from the requested variance activities. The following discussion summarizes this analysis for biological resources and other issue areas. A list of conditions is presented below to define additional information and clarifications regarding mitigation requirements. In some cases, these items exceed the requirements of the Mitigation Measures and Applicant Proposed Measures, and are based on specific site conditions and/or are proposed conditions by SCE.

Biological Resources. On July 22, 2011, Aspen biologists Scott D. White and Jamison Miner participated in a conference call on behalf of the CPUC with SCE staff to discuss SCE's proposed revision to Notice to Proceed (NTP) #1, regarding the Menifee, Perris, and Beaumont construction yards within the Western Riverside County MSHCP Plan Area.

Mitigation Measure B-13a of the DPV2 EIR/EIS reads, "[d]emonstrate compliance with the Western Riverside County MSHCP. SCE shall provide documentation that it has complied with the provisions of the MSHCP." Condition #17 of NTP #1 also requires that SCE demonstrate compliance with the MSHCP prior to ground disturbing activities at three construction yards.

On the call, SCE requested deletion of this condition from the NTP, because SCE has secured take permits for listed threatened or endangered species through separate consultations with the USFWS and CDFG. The CPUC agrees that SCE's agency consultations adequately substitute for MSHCP compliance with regard to potential take of listed threatened or endangered species.

However, MM B-13a was included in the DPV2 Final EIR/EIS to avoid conflict with an existing habitat conservation plan (mandatory findings of significance, CEQA Appendix G), as described in the DPV2 Final EIR/EIS, Section D.2.6.1.1. In order to make the requested revisions in SCE's NTPR, the CPUC must confirm that the construction yards and other project components would not conflict with the MSHCP.

The CPUC has reviewed the DPV2 Final EIR/EIS and has identified several portions of the project where there is potential for conflict with the MSHCP. These areas are described in Sections D.2.3.2 through D.2.3.4 of the DPV2 Final EIR/EIS, in the Banning and Beaumont, Calimesa and San Timoteo Canyon, and San Bernardino Junction to Vista Substation segments of the alignment. There is no potential for conflict in the desert portions of the alignment.

The CPUC has also reviewed the locations of the Menifee, Perris, and Beaumont construction yards and found that the three sites have no potential conflicts with the MSHCP. That is, the three construction

yards are not within Criteria Cells or Linkage Areas as designated in the MSHCP. Based on this review, deletion of Condition #17 from NTP #1 is approved in this variance.

However, for compliance with the DPV2 EIR/EIS, future NTPs for the three project alignment segments (Banning and Beaumont; Calimesa and San Timoteo Canyon; and San Bernardino Junction to Vista Substation) will likely include conditions comparable to Condition #17, based on the project alignment and details of the MSHCP. Therefore, the requested changes to Mitigation Measures B-13a, B-13b, B-1a, B-1a(rev), and B-7e have not been made.

Other Issue Areas. No concerns noted under this variance.

Conditions of Variance Approval.

At this time, no modifications have been made to Mitigation Measures B-13a, B-13b, B-1a, B-1a(rev), and B-7e. However, Condition #17 from NTP #1 has been removed as shown in strikeout below.

~~17. SCE shall demonstrate compliance with the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) prior to any ground disturbing activities at the Menifee, Perris, or Beaumont construction yards. SCE shall provide documentation that it has complied with the provisions of the MSHCP. During construction activities at the Menifee, Perris, and/or Beaumont construction yards, SCE shall provide documentation of the implementation of Best Management Practices as required and defined in Appendix C of the Western Riverside MSHCP.~~

The conditions presented below shall be met by SCE and its contractors:

1. All applicable project mitigation measures, APMs, compliance plans, permit conditions and NTP conditions shall be implemented. Some measures have on-going/time-sensitive requirements and shall be implemented prior to and during construction where applicable.
2. Copies of all relevant permits, compliance plans, and this Variance approval shall be available on site for the duration of construction activities.
3. The CPUC Environmental Monitor (EM) shall be notified immediately of any unanticipated cultural, paleontological, or biological resource discoveries.
4. All crew members shall be Safe Worker and Environmental Awareness Program (SWEAP) trained prior to working on the project. A log shall be maintained on-site with the names of all crew personnel trained. For any crew members with limited English, a translator shall be on-site to ensure understanding of the training program. In place of a translator, the SWEAP training brochure can be provided in Spanish or other languages as appropriate. All participants will receive a hard-hat sticker for ease of compliance verification.

Please contact me if you have any questions or concerns.

Sincerely,

Billie Blanchard
CPUC Environmental Project Manager
DPV2 Transmission Project

cc: Ryana Parker, Southern California Edison

Sheree James, Southern California Edison
John Kalish, Bureau of Land Management
Vida Strong, Aspen Environmental Group
Hedy Koczwara, Aspen Environmental Group
Jamison Miner, Aspen Environmental Group
Jenny Slaughter, Aspen Environmental Group