



STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

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May 27, 2026
Sent via email

John Forsythe
Project Manager
California Public Utilities Commission
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Dear Mr. Forsythe:

SCE IVANPAH-CONTROL PROJECT (PROJECT)
DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR)
SCH# 2020080553

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a DEIR from the California Public Utilities Commission (CPUC) for the Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹ CDFW previously submitted comments in response to the Notice of Preparation of the Draft EIR/EIS.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386,

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

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subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code will be required.

PROJECT DESCRIPTION SUMMARY

Proponent: Southern California Edison Company (SCE)

Objective: The objective of the Project is to construct and remediate components of an existing SCE power transmission system that spans over 262 miles between eight existing substations. The Project's purpose is to ensure compliance with state mandated safety standards, and to conform with SCE's approved engineering, design, and constructions standards. The Project also includes building and installing new structures, such as towers and poles, the installation and transfer of ground wires and telecommunications cables, and relocation of existing infrastructure. Primary Project activities include demolition, grading, paving, excavation, drilling, equipment staging, construction lighting, helicopter use, vegetation trimming and/or removal, and landscaping.

Location: The substations and four segments (Segments 1, 2, 3N, and 3S) of transmission lines of the Project are located in unincorporated areas of Inyo, Kern, and San Bernardino counties, starting with the substation near Bishop, Inyo County (Center coordinate of 37.336044 latitude, and -118.484417 longitude), and ending with substations outside of Barstow, San Bernardino County (Center coordinate of 34.861975 latitude, and -116.828100 longitude).

Timeframe: General construction is expected to commence following Lead Agency approval, final engineering, procurement activities, land rights acquisition,

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and receipt of all applicable permits, which is approximately scheduled to begin in April 2027. The project is expected to be completed operational by October 2030.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the California Public Utilities Commission in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document. Based on the potential for the Project to have a significant impact on biological resources, CDFW concludes that an Environmental Impact Report is appropriate for the Project.

CDFW previously submitted comments on September 29, 2020, in response to the Notice of Preparation of the DEIR and recommended that the DEIR include comprehensive biological resource assessments, focused surveys for sensitive species, and avoidance and mitigation measures to reduce the Project's impacts to less than significant. However, the DEIR did not fully incorporate CDFW's recommendations and lacks appropriate mitigation measures to avoid or minimize potential Project impacts.

I. Mitigation Measure Related Impact Shortcoming

COMMENT 1: Mohave Ground Squirrel

Sections 2, 3.5, and 7; Pages 2-55 through 2-56, 3.5-4 through 3.5-7, 3.5-13, 3.5-33, 3.5-49, 7-13, 7-37, and elsewhere in the DEIR.

Statement: CDFW concurs with APM-BIO-MAM-1 and its associated Mitigation Measures, which when implemented, would require CESA take coverage (e.g., a finalized ITP). CDFW appreciates that the Project Proponent intends to apply for an ITP as stated in the DEIR, and recommends this being reiterated in the Final EIR that the Project Proponent will apply for CESA take coverage through CDFW. CDFW would also like to reiterate the recommendation to consult with CDFW for guidance and preconsultation on the ITP application for Mohave ground squirrel.

COMMENT 2: Nesting Bird Pre-construction Surveys

Sections 2, 3, and 7; Pages 2-48 through 2-51, 3.5-32, 7-9 through 7-11, and elsewhere in the DEIR

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Issue: Mitigation measures proposed in the DEIR may not be sufficient to avoid and minimize impacts to nesting birds within the Project areas to a level of less than significant, which may result in take of nesting birds.

Specific impact: CDFW is concerned about the impacts to nesting birds including, but not limited to, loss of nesting/foraging habitat and potential take from ground-disturbing activities and construction.

Why impact would occur: Pre-construction surveys are stated in the DEIR to be conducted no longer than 10-days prior to the start of construction activity within an annual window of January 1 through August 31. Although the Project Proponent may have supportive anecdotal data that this approach has been sufficient to avoid impacts to nesting birds historically, CDFW recognizes that some local bird species, including those with recreational values regulated by CDFW for public hunting opportunities, may build nests within three days, such as doves (family *Columbidae*), which are abundant along the Project's alignment. Accordingly, pre-construction surveys should be conducted no more than three days before the start of Project activities, as any surveys conducted in excess of three days before construction commences holds the potential to miss nests or birds. Additionally, the timing of the nesting season for local birds varies greatly depending on several factors, such as species natural history, weather conditions in any given year, and long-term climate changes. CDFW staff have observed that climate change conditions may result in nesting bird season occurring earlier and later in the year than historical nesting season dates.

Evidence impact would be significant: It is the Project proponent's responsibility to comply with all applicable laws related to nesting birds and birds of prey. Fish and Game Code sections 3503, 3503.5, and 3513 afford protective measures as follows: section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto; 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders *Falconiformes* or *Strigiformes* (birds-of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto; section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.). Due to the linear size and scale of the project, CDFW finds the potential take of nesting birds to be a potentially significant impact associated with the Project that should be mitigated to a level of less than significant.

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Recommended Potentially Feasible Mitigation Measures: CDFW recommends that the following changes to BIO-AVI-1 be adopted in the Final EIR (additions are in **bold** and edits in ~~strike~~):

Mitigation Measure BIO-AVI-1 (Nesting Bird Management Plan):

Pre-construction nest surveys: Pre-construction nest surveys will be conducted prior to any construction activities, **regardless of the time of year to ensure that impacts to nesting birds are avoided.** ~~scheduled during the breeding period.~~ For this project, the breeding period will be defined as January 1 through ~~August 31~~. The NBMP shall describe the proposed field methods, survey timing, and qualifications of field biologists. Field biologist qualifications will be subject to review by CPUC and BLM. The avian biologists conducting the surveys shall be experienced bird surveyors and familiar with standard nest- locating techniques such as those described in Martin and Guepel (1993). Nest surveys will focus on visual searches for nest locations and observations of bird activities and movement to detect nesting activity (e.g., carrying nest materials or food, territorial displays, courtship behavior). Surveys shall be conducted in accordance with the following guidelines:

- Surveys shall cover all potential nesting habitat within the ROW or other work areas within 500 feet of these areas for raptors and 300 feet for non-raptors.
- Pre-construction surveys shall be conducted for each work area, no longer than ~~103~~ days prior to the start of construction activity. On the first day of construction at any given site, a qualified Avian Biologist will perform a pre-construction “sweep” to identify any bird nests or other resources that may have appeared since the ~~103~~-day survey.
- **Construction activities may not occur inside the established buffers, which shall remain on-site until a qualified biologist determines the young have fledged or the nest is no longer active. Considerations for multi-clutch species shall be addressed by the qualified biologist in determining seasonal nest activity and future reuse (seasonally and annually). Active nests and adequacy of the established buffer distance shall be monitored daily by the qualified biologist until the qualified biologist has determined the young have fledged or the Project has been completed. The qualified biologist has the authority to stop work if nesting birds exhibit signs of disturbance.**
- SCE shall provide the CPUC and BLM a report describing the findings of the pre-construction nest surveys, including the time, date, and duration of the survey; identity of the surveyor(s); a list of species observed; and electronic data identifying nest locations and the boundaries of buffer

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zones. The electronic data set will be updated following each preconstruction nest survey throughout the nesting season. The format and contents of this report will be described in the draft NBMP and will be subject to review and approval by CPUC and BLM. [Et seq.]

COMMENT 3: Burrowing owl

Sections 2, 3, and 7; Pages 2-51 through 2-53, 3.5-32, and 7-11 through 7-12, and elsewhere in the DEIR

Issue: Mitigation measures proposed in the DEIR may not be sufficient to avoid and minimize impacts to burrowing owl within the Project areas to a level of less than significant. Potential take of candidate CESA-listed species, burrowing owl.

Specific impact: CDFW is concerned about the inclusion of passive relocation, as passive eviction has become a high risk of take from exposure, predation, and heat stress, loss of nesting and foraging habitat, and potential take in terms of nest failure and increased predation associated with ground-disturbing activities and construction.

Why impact would occur: The Project identifies burrowing owl as present in Segment 3N, including burrows being observed within the Project area thereof. The Project also identifies a high-potential for burrowing owl to occur in Segments 2, and 3S, in addition to a moderate potential to occur in Segment 1. The Project occurs in areas containing high quality habitat, and occupied habitat, of LeConte's thrasher. Burrowing owls have a high potential to move into disturbed areas since they are adapted to highly modified habitats (Chipman et al., 2008; Coulombe, 1971). Impacts to burrowing owls from the Project could include take of burrowing owls, their nest, or eggs, or destroying nest, foraging, or over-wintering habitat, thus impacting burrowing owl populations. Impacts can result from grading, earthmoving, burrow blockage, heavy equipment compaction and crushing of burrows, general Project disturbance that has the potential to stress owls at occupied burrows, and other activities. Due to the linear size and scale of the project, CDFW finds the potential take of burrowing owl to be a significant impact associated with the Project that should be mitigated to a level of less than significant.

Evidence impact would be significant: Burrowing owl is a candidate species for CESA-listing, which gives the species blanket protection under CESA during its candidacy. Take of any CESA-listed species or candidate is prohibited except as authorized by state law (Fish and Game Code, §§ 2080 & 2085). Take of individual burrowing owls and their nests is also defined by Fish and Game Code section 86, and prohibited by sections 3503, 3503.5, and 3513. Take is defined in Fish and Game Code section 86 as "hunt, pursue, catch, capture, or

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kill, or the attempt to hunt, pursue, catch, capture, or kill.” During the recent Fish and Game Commission meeting to petition to list, it was stated that take of owls is often delayed by eviction or relocation due to strong site fidelity, resulting in a reluctance to leave the site.

Recommended Potentially Feasible Mitigation Measure: CDFW recommends that the Project Proponent applies for a CESA ITP for burrowing owl, as BIO-AVI-2 as written could result in take of a CESA candidate species. CDFW also recommends mitigation for permanent impacts to nesting, occupied and satellite burrows and/or burrowing owl habitat such that the habitat acreage, number of burrows and burrowing owls impacted are replaced in an acreage amount that accounts for the permanent and temporal impacts to the species. The mitigation lands may require habitat enhancements including enhancement or expansion of burrows for breeding, shelter and dispersal opportunity, and removal or control of population stressors. CDFW recommends permanent protection of mitigation land at a 3:1 acreage ratio (Conserved: Impacted) through a conservation easement deeded to a nonprofit conservation organization or public agency with a conservation mission, development and implementation of a mitigation land management plan to address long-term ecological sustainability and maintenance of the site for burrowing owls, and funding for the maintenance and management of mitigation land through the establishment of a long-term funding mechanism such as an endowment.

In addition, CDFW requests that the following changes to BIO-AVI-2 be adopted in the Final EIR (additions are in **bold** and edits in ~~strike through~~):

Mitigation Measure BIO-AVI-2:

Burrowing Owl. Conduct surveys and avoidance for burrowing owl: **SCE shall apply for a state incidental take permit for burrowing owl through the California Department of Fish and Wildlife (CDFW). In collaboration with CDFW, SCE shall develop construction minimization measures and habitat conservation measures during the 2081 ITP consultation.** Burrowing owl **breeding season** surveys shall be conducted in accordance with the most current CDFW **recommended** guidelines²(CDFG, 2012; or updated guidelines as they become available). **The surveys shall include 100 percent coverage of the Project site, and adjacent thereof where Project activities could affect burrowing owl. If burrowing owls are detected during the focused surveys, the qualified biologist and SCE shall begin coordination with CDFW and USFWS immediately, and shall prepare a Burrowing Owl Plan that shall be submitted for agency review and approval prior to commencing Project activities.** SCE shall take measures to **fully** avoid impacts to any active burrowing owl burrow within or adjacent to a work

² <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline>

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area. **If burrowing owl is present on-site, a non-disturbance buffer shall be implemented. Fencing or flagging shall be installed to create a non-disturbance buffer area where no work activities may be conducted.** The default buffer for a burrowing owl burrow is ~~5300 feet for ground construction, and 300 feet horizontal and 3200 feet vertical for helicopter construction.~~ The Nesting Bird Management Plan will specify a procedure for adjusting this buffer, if needed. Binocular surveys may be substituted for protocol field surveys on private lands adjacent to the project site only when SCE has made reasonable attempts to obtain permission to enter the property for survey work but was unable to obtain such permission.

If active burrowing owl burrows are located within project work areas **and full avoidance of an occupied burrow is infeasible, SCE shall consult with CDFW to discuss the best path going forward, which may include, but is not limited to, a finalized ITP to comply with CESA. CDFW recommends monitoring active burrows during construction periods to ensure impacts to burrowing owls are fully avoided.** SCE may, **in a processed deemed appropriate by the resource agencies (e.g., a finalized ITP issued by CDFW, etc.),** passively relocate the owls, by preparing and implementing a Burrowing Owl Passive Relocation Plan, as described below. SCE shall prepare a draft Burrowing Owl Passive Relocation Plan for review and approval by CPUC and BLM in consultation with CDFW and USFWS prior to the start of any ground-disturbing activities. No passive relocation of burrowing owls shall be permitted **without a finalized ITP, and shall not occur during breeding season (assessed by a qualified biologist based on local burrowing owl behavior; hereafter as, “breeding season”)**, unless a qualified biologist verifies through noninvasive methods that an occupied burrow is not occupied by a mated pair, and only upon authorization by CDFW. The Plan shall include, but not be limited to, the following elements:

- Assessment of Suitable Burrow Availability. The Plan shall include an inventory of existing, suitable, and unoccupied burrow sites within **500** feet of the affected project work site. Suitable burrows will include inactive desert kit fox, ground squirrel, or desert tortoise burrows that are deep enough to provide suitable burrowing owl nesting sites, determined by a qualified biologist. If two or more suitable and unoccupied burrows are present in the area for each burrowing owl that will be passively relocated, then no replacement burrows will need to be built.
- Replacement Burrows. For each burrowing owl that will be passively relocated, if fewer than two suitable unoccupied burrows are available within 300 feet of the affected project work site, then SCE shall construct at least two replacement burrows within 300 feet of the affected project work site, or in suitable locations within 1/4 mile when suitable locations within 300 feet are not available. Burrow replacement sites shall

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be in areas of suitable habitat (as described in the TLRR Habitat and Sensitive Species Reports for Control-Haiwee and Ivanpah Coolwater-Kramer-Inyokern) for burrowing owl nesting, and subject to minimal human disturbance and access. The Plan shall describe measures to ensure that burrow installation or improvements will not affect sensitive species habitat (as described in the TLRR Habitat and Sensitive Species Reports for Control-Haiwee and Ivanpah-Coolwater-Kramer-Inyokern) or any burrowing owls already present in the relocation area. The Plan shall provide guidelines for creation or enhancement of at least two natural or artificial burrows for each active burrow within the project disturbance area, including a discussion of timing of burrow improvements, specific location of burrow installation, and burrow design. Design of the artificial burrows shall be consistent with CDFW guidelines (CDFG, 2012; or more current guidance as it becomes available) and shall be approved by the CPUC, BLM, CDFW, and USFWS.

- **Methods.** Provide detailed methods and guidance for passive relocation of burrowing owls, outside the breeding season. An occupied burrow may not be disturbed during the nesting season (generally, but not limited to, February 1 to August 31; **as assessed by a qualified biologist based on local burrowing owl behavior**), unless a qualified biologist determines, by non-invasive methods, that it is not occupied by a mated pair. Passive relocation will include installation of one-way doors on burrow entrances that will let owls out of the burrow but will not let them back in. Once owls have been passively relocated, burrows will be carefully excavated by hand and collapsed by, or under the direct supervision, of a qualified biologist.
- **Monitoring and Reporting.** Describe monitoring and management of the replacement burrow site(s), and provide a reporting plan. The objective shall be to manage the relocation area for the benefit of burrowing owls, with the specific goal of maintaining the functionality of the burrows for a minimum of two years. Monitoring reports shall be available to the CPUC and BLM on a weekly basis.

COMMENT 4: LeConte's Thrasher

Section 3; Pages 3.5-15, and elsewhere in the DEIR.

Issue: Mitigation measures proposed in the DEIR may not be sufficient to avoid and minimize impacts to LeConte's thrasher within the Project areas to a level of less than significant. Potential take of candidate CESA-listed species, LeConte's thrasher.

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Specific impact: CDFW is concerned about the impacts to LeConte's thrasher including loss of nesting and foraging habitat, potential take in terms of nest failure, and increased predation associated with ground-disturbing activities and construction.

Why impact would occur: The Project identifies LeConte's thrasher as present in Segment 1, including an adult being flushed during Project surveying near Alabama Hills within the Project Area. The Project also identifies a high-potential for LeConte's thrasher to occur in Segments 2, 3N, and 3S. The Project occurs in areas containing high quality habitat, and occupied habitat, of LeConte's thrasher. Additionally, the timing of the nesting season varies greatly depending on several factors for the species, including, but not limited to, weather conditions in any given year, long-term climate changes, and changes in vegetation associated with wildfire. CDFW staff have observed that changing climate conditions has resulted in nesting bird activity occurring earlier within, and later in the same year than historical nesting season dates. Wildfires may dramatically shift nesting and foraging opportunities for LeConte's thrasher.

Evidence impact would be significant: LeConte's thrasher is a candidate species for CESA-listing, which gives the species blanket protection under CESA during its candidacy. Take of any CESA-listed species or candidate is prohibited except as authorized by state law (Fish and Game Code, §§ 2080 & 2085). Take of individual LeConte's thrasher and their nests is also defined by Fish and Game Code section 86, and prohibited by sections 3503, and 3513. Take is defined in Fish and Game Code section 86 as "hunt, pursue, catch, capture, or kill, or the attempt to hunt, pursue, catch, capture, or kill." Because the Project could convert, or result in loss of, LeConte's thrasher habitat, and would remove key vegetation structure, the potential for significant adverse impacts is high and may trigger mandatory incidental take authorization and/or mitigation obligations. Due to the linear size and scale of the project, CDFW finds the potential take of LeConte's thrasher to be a potentially significant impact associated with the Project that should be mitigated to a level of less than significant.

Recommended Potentially Feasible Mitigation Measure: CDFW recommends that the Project Proponent applies for a CESA ITP for LeConte's thrasher. To fully mitigate impacts to a level of less than significant, CDFW also recommends mitigation for permanent impacts to LeConte's thrasher habitat areas are replaced in an acreage amount that accounts for the permanent and temporal impacts to the species. Mitigation lands may require habitat enhancements including enhancement or expansion of breeding, shelter, and dispersal opportunities, in addition to removal or control of population stressors. CDFW recommends permanent protection of mitigation land at a 3:1 acreage ratio (Conserved: Impacted) through a conservation easement deeded to a

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nonprofit conservation organization or public agency with a conservation mission, development and implementation of a mitigation land management plan to address long-term ecological sustainability and maintenance of the site for LeConte's thrasher, and funding for the maintenance and management of mitigation land through the establishment of a long-term funding mechanism such as an endowment.

In addition, CDFW is requesting that the following new Mitigation Measure (below in bold) be adopted in the Final EIR:

BIO-AVI-5 LeConte's Thrasher. Conduct surveys and avoidance for LeConte's thrasher.

Location: Project-wide

Monitoring/Reporting Action: SCE to conduct surveys

Effectiveness Criteria: Survey are conducted as approved

Responsible Agency: CPUC, BLM, CDFW, USFWS

Timing: Prior to the start of construction during the nesting season and during construction activities.

LeConte's Thrasher. SCE shall apply for a state incidental take permit for LeConte's thrasher through the California Department of Fish and Wildlife (CDFW). In collaboration with CDFW, SCE will develop construction minimization measures and habitat conservation measures during the 2081 ITP consultation. Conduct surveys and avoidance for LeConte's thrasher: LeConte's thrasher surveys shall be conducted in accordance with the most current CDFW recommended survey protocol ([Desert Thrasher Working Group, 2018](https://borderlandsbirds.org/wp-content/uploads/2017/08/Thrasher-Survey-Protocol-2018_DTWG.pdf)³; or updated guidelines as they become available), with the surveying qualified biologist holding an active Memorandum of Understanding (MOU) from CDFW for the species. SCE shall take measures to avoid impacts to any LeConte's thrasher individuals or nests (seasonally active or inactive, as the species is known to reuse the same nest each year in multi-clutch fashion) within or adjacent to a work area. If impacts that would result in take cannot be avoided, SCE shall obtain a Section 2081(b) ITP from CDFW if the species is CESA listed or a candidate for listing, and will implement additional measures pursuant to the ITP.

If nests are located within Project work areas, SCE may passively relocate inactive nests, by preparing and implementing an Inactive Nest Relocation Plan, in accordance and conjunction with an ITP. SCE shall prepare a draft Inactive Nest Relocation Plan for review and approval by CPUC and BLM in consultation with CDFW and USFWS prior to the start of any ground-disturbing activities. No impacts to LeConte's thrasher shall be permitted during breeding

³ https://borderlandsbirds.org/wp-content/uploads/2017/08/Thrasher-Survey-Protocol-2018_DTWG.pdf

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season, unless outlined in an ITP. The Inactive Nest Relocation Plan shall include, but not be limited to, the following elements:

- **Assessment of Suitable Relocation Sites.** The Nest Relocation Plan shall include an inventory of existing, suitable, and unoccupied relocation sites within 300 feet of the affected nest. Suitable nest relocation sites will include inactive nesting sites of similar structure and habit, as determined by a qualified biologist.
- **Methods.** Provide detailed methods and guidance for relocation of inactive nests, outside the breeding season. An active nest may not be disturbed during the nesting season (generally, unless a qualified biologist determines, by non-invasive methods, that it is not occupied in accordance with an ITP.
- **Monitoring and Reporting.** Describe monitoring and management of the relocation site, and provide a reporting plan. The objective shall be to manage the relocation area for the benefit of LeConte's thrasher, with the specific goal of maintaining the functionality of the nest for a minimum of two years. Monitoring reports shall be available to the CPUC and BLM on a weekly basis.

COMMENT 5: Mojave Desert Tortoise

Sections 2, 3.5, and 7; Pages 2-55 through 2-56, 3.5-4 through 3.5-7, 3.5-13, 3.5-33, 3.5-49, 7-13, 7-37, and elsewhere in the DEIR.

Issue: Mitigation measures proposed in the DEIR may not be sufficient to avoid and minimize impacts to Mojave desert tortoise within the Project areas to a level of less than significant. Potential take of candidate CESA-listed species, Mojave desert tortoise.

Specific impact: CDFW is concerned with potential impacts to Mojave desert tortoise and their habitat considering that the Project's design plans indicate disturbance of areas that appear to contain suitable habitat, and that potential take of Mojave desert tortoise from ground disturbing activities and construction may occur.

Why impact would occur: The Project identifies Mojave desert tortoise as present in Segment 1 (present in form of sign of species recorded) and Segment 2 (present in form of individuals and sign of species recorded). The Project also identifies a high-potential for Mojave desert tortoise to occur in Segments 3N and 3S. The Project occurs in areas containing high quality habitat, and occupied habitat, for Mojave desert tortoise. The Project activities, as described

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in the DEIR, hold the potential for take of Mojave desert tortoise in the form of, but not limited to, collapsing burrows, entombment, displacement, increased predation, and vegetation removal that reduces foraging and nesting habitat and habitat quality.

Evidence impact would be significant: Mojave desert tortoise is an endangered species for CESA-listing. Take of any CESA-listed species is prohibited except as authorized by state law (Fish and Game Code, §§ 2080). Take is defined in Fish and Game Code section 86 as “hunt, pursue, catch, capture, or kill, or the attempt to hunt, pursue, catch, capture, or kill.” Because the Project could result in direct take of Mojave desert tortoise individuals, and would convert and/or result in loss of Mojave desert tortoise habitat, the potential for significant adverse impacts is high, and may trigger mandatory incidental take authorization and/or mitigation obligations. Due to the linear size and scale of the project, CDFW finds the potential take of Mojave desert tortoise to be a potentially significant impact associated with the Project that should be mitigated to a level of less than significant.

Recommended Potentially Feasible Mitigation Measure: CDFW recommends that the Lead Agency ensures that Mojave desert tortoise is listed as “Endangered” under CESA in the final EIR (currently listed as “Threatened in the DEIR). CDFW also recommends the Project Proponent applies for a CESA ITP for Mojave desert tortoise. To fully mitigate impacts to a level of less than significant, CDFW also recommends mitigation for permanent impacts to Mojave desert tortoise habitat areas are replaced in an acreage amount that accounts for the permanent and temporal impacts to the species. Mitigation lands may require habitat enhancements including enhancement or expansion of foraging resources and burrowing opportunities, in addition to removal or control of population stressors. CDFW recommends permanent protection of mitigation land at a 3:1 acreage ratio (Conserved: Impacted) through a conservation easement deeded to a nonprofit conservation organization or public agency with a conservation mission, development and implementation of a mitigation land management plan to address long-term ecological sustainability and maintenance of the site for Mojave desert tortoise, and funding for the maintenance and management of mitigation land through the establishment of a long-term funding mechanism such as an endowment.

In addition, CDFW appreciates the avoidance aspects of BIO-HERP-1, which when implemented, would require CESA take coverage (e.g., a finalized ITP, Consistency Determination, etc.). CDFW is requesting the following changes to BIO-HERP-1 be adopted in the Final EIR (additions are in **bold** and edits in ~~strike through~~):

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Mitigation Measure BIO-HERP-1:

Desert Tortoise. SCE will apply for a state incidental take permit for desert tortoise through the California Department of Fish and Wildlife (CDFW). Prior to initial ground-disturbing activities, a biological monitor under the supervision of a USFWS or CDFW approved biologist – with experience monitoring and handling desert tortoise – will conduct a pre-activity survey in all work areas within potential desert tortoise habitat, plus an approximately 100-foot buffer, **and surveyed utilizing the protocols outlined in the 2009 USFWS Desert Tortoise Field Manual.** All desert tortoise burrows within the pre-activity survey area (including desert tortoise pallets) will be prominently flagged at that time so that they may be avoided during work activities.

An approved biologist will be onsite to monitor vegetation removal and grading and provide regular inspections of all other construction activities within desert tortoise habitat. The approved biologist will have the authority to halt all non-emergency actions (as soon as safely possible) that may result in harm to desert tortoise, and will assist in the overall implementation of conservation measures for the tortoise.

In the event a desert tortoise is encountered in the work area, all work will cease and the approved biologist will be contacted. Work will not commence until the animal has voluntarily moved to a safe distance away from the work area. If it does not move on its own within 15 minutes, an authorized biologist may remove and relocate the animal to a safe location according to the permit conditions. No tortoise will be handled except under authorization from the USFWS and CDFW. Encounters with desert tortoise will be documented and provided to the appropriate wildlife resource agencies. In the event a dead or injured desert tortoise is observed, the approved biologist will be responsible for notifying SCE's Herpetologist and reporting the incident to the wildlife resource agencies.

Coordinate with agencies. BLM will complete formal consultation, pursuant to section 7(a)(2) of the Endangered Species Act, with the FWS prior to the onset of ground disturbing activities. This consultation will address coordination with the agencies. **CDFW will complete and finalize an ITP for take of desert tortoise, pursuant to Fish and Game Code section 2081(b) et seq., prior to the onset of ground disturbing activities, unless a Consistency Determination is issued.**

Avoid and minimize impacts. All project activities located within areas **where desert tortoise has the potential to occur** identified as habitat (as described in the TLRR Habitat and Sensitive Species Reports for Control Haiwee and Ivanpah-Coolwater-Kramer-Inyokern) shall implement the following avoidance and minimization measures:

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Under Vehicle Checks. Desert tortoises commonly seek shade during the hottest times of the day. Employees working within the geographic range of this species will be required to check under their equipment or vehicles before they are moved. If desert tortoises are encountered, the vehicle will not be moved until the tortoise has either voluntarily moved away from the equipment or vehicle.

Excavation of Desert Tortoise Burrows. Should it prove necessary to excavate a desert tortoise from its burrow to move it out of harm's way, the authorized biologist will be responsible for following the appropriate protocols outlined in the 2009 USFWS Desert Tortoise Field Manual.

Disposal of Trash. Trash and food items will be contained in closed containers and removed daily to reduce attractiveness to opportunistic predators, such as common ravens (*Corvus corax*), coyotes (*Canis latrans*), and feral dogs (*Canis lupus familiaris*).

Pets Prohibited. Employees will not bring pets or other animals to the Proposed Project area, unless the animal is Americans with Disabilities Act (ADA) compliant.

Vehicle Travel. Vehicular traffic will not exceed 15 miles per hour within the areas not cleared by protocol level surveys where desert tortoise may be impacted.

Trapped Animal Prevention. All auger holes, trenches, pits, or other steep-sided excavations that may pose a hazard to desert tortoise will be either constructed with escape ramps (earthen or wooden) or securely covered when unattended to prevent entrapping animals. At the start and end of each workday, and just before backfilling, all excavations will be inspected for trapped animals. If found, trapped animals will be removed by the qualified biologist and relocated to outside the Project footprint, as required in all applicable permits or habitat conservation plans.

Wildlife Attractants. All trash, food waste, water sources will be strictly controlled and monitored to ensure that no food or water attractants for tortoise or common raven are available on the work sites during or following project activities.

COMMENT 6: Crotch's Bumble Bee

Sections 3.5 and 7; Pages 3.5-13, 3.5-45 through 3.5-46, 7-34, and elsewhere in the DEIR

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Issue: Mitigation measures proposed in the DEIR may not be sufficient to avoid and minimize impacts to Crotch's bumble bee within the Project areas to a level of less than significant. Potential take of candidate CESA-listed species, Crotch's bumble bee.

Specific impact: CDFW is concerned with potential impacts to Crotch's bumble bee and their habitat considering that the Project's design plans indicate disturbance of areas that appear to contain suitable habitat, and that potential take from ground disturbing activities and construction may occur.

Why impact would occur: The Project identifies Crotch's bumble bee as present in Segment 1, including an individual observed during Project surveying in 2024. The Project also identifies a moderate-potential for Crotch's bumble bee to occur in Segments 2, 3N, and 3S. The Project occurs in areas containing high quality habitat, and occupied habitat, for Crotch's bumble bee (CDFW CNDDDB, 2026). Crotch's bumble bee forages on a wide variety of flora resources, including those in the Project area such as, but not limited to, *Asclepias*, *Chaenactis*, *Lupinus*, *Eschscholzia*, *Eriogonum*, *Phacelia*, and *Salvia* species, and nests in rodent burrows, bunch grasses, and grass thatches. The Project has the potential for take of Crotch's bumble bee from collapsing burrows, entombment, displacement, dust from Project operations, and vegetation removal that reduces foraging and nesting habitat and habitat quality.

Evidence impact would be significant: Crotch's bumble bee is a candidate species for CESA-listing, which gives the species blanket protection under CESA during its candidacy. Take of any CESA-listed species or candidate is prohibited except as authorized by state law (Fish and Game Code, §§ 2080 & 2085). Take is defined in Fish and Game Code section 86 as "hunt, pursue, catch, capture, or kill, or the attempt to hunt, pursue, catch, capture, or kill." Because the Project could convert, or result in loss of, Crotch's bumble bee habitat, and would remove key vegetation structure, the potential for significant adverse impacts is high, and may trigger mandatory incidental take authorization and/or mitigation obligations. Due to the linear size and scale of the project, CDFW finds the potential take of Crotch's bumble bee to be a potentially significant impact associated with the Project that should be mitigated to a level of less than significant.

Recommended Potentially Feasible Mitigation Measure: CDFW recommends that the Project Proponent applies for a CESA ITP for Crotch's bumble bee. To fully mitigate impacts to a level of less than significant, CDFW also recommends mitigation for permanent impacts to Crotch's bumble bee habitat areas are replaced in an acreage amount that accounts for the permanent and temporal impacts to the species. Mitigation lands may require habitat enhancements including enhancement or expansion of floral resources and

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nesting opportunities, in addition to removal or control of population stressors. CDFW recommends permanent protection of mitigation land at a 3:1 acreage ratio (Conserved: Impacted) through a conservation easement deeded to a nonprofit conservation organization or public agency with a conservation mission, development and implementation of a mitigation land management plan to address long-term ecological sustainability and maintenance of the site for Crotch's bumble bee, and funding for the maintenance and management of mitigation land through the establishment of a long-term funding mechanism such as an endowment.

In addition, CDFW is requesting the following changes to BIO-1g be adopted in the Final EIR (additions are in **bold** and edits in ~~strike through~~):

Mitigation Measure BIO-1g:

Crotch Bumble Bee. **SCE will apply for a state incidental take permit for Crotch's bumble bee through the California Department of Fish and Wildlife (CDFW). In collaboration with CDFW, SCE will develop construction minimization measures and habitat conservation measures during the 2081 ITP consultation.** All on-site personnel shall be required to attend the Worker Environmental Awareness Program (WEAP) **prepared and presented by a qualified biologist**, as detailed in Mitigation Measure BIO-1a (Worker Environmental Awareness Program (WEAP)), that includes education program on identification and avoidance of Crotch bumble bee and nests.

If Project activities are due to occur anytime during the Colony Active Period (generally February 1 through October 1) for Crotch's bumble bee, immediately prior to ground-disturbing activities and vegetation removal, a qualified biologist shall conduct a survey of the entire Project Site and a 50-foot buffer where floral resources are present to confirm Crotch's bumble is not foraging on the Project site. If Crotch's bumble bee is present, it shall be allowed to move out of harm's way of its own volition and CDFW shall be notified within 24 hours. Pre-construction surveys would include inspection for Crotch bumble bee nests. If any are located, CDFW would be notified **within 24 hours**, and a no-disturbance buffer of at least 50 feet would be demarcated as determined by the ~~Lead Biologist~~, in coordination with CDFW. **All impacts to Crotch's bumble bee shall be fully avoided, or if impacts are unavoidable, a CESA ITP should be obtained.**

If a live individual is detected during pre-construction surveys, or incidentally, the Applicant shall take adaptive management actions in coordination with CDFW, considering CDFW guidance and best management practices at the time of the occurrence.

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COMMENT 7: Special-status Plants

Sections 2, 3.5, 4, and 7; Pages 2-62, 3.5-34, 3.5-41, 4-32, 4-78, 4-120, 7-18, and elsewhere in the DEIR

Issue: Mitigation measures proposed in the DEIR may not be sufficient to avoid and minimize impacts to special-status plants within the Project areas to a level of less than significant. Potential take of: candidate CESA-listed species, western Joshua tree; CESA-listed species, Owens Valley checkerbloom; California Rare Plant Rank (CRPR) 1B.1 species, Inyo County star-tulip, Parish's popcornflower; CRPR 1B.2 species desert cymopterus, sanicle cymopterus, Mojave monkeyflower, Barstow woolly sunflower, Red Rock poppy, Mojave menodora, Beaver Dam breadroot, Inyo Phacelia; CRPR 1B.3 species three-tooth blazing star, and July gold; and CRPR 2B.2 Species coyote gila, pink funnel lily, Geyer's milkvetch, sagebrush loeflingia, Torrey's blazing star, and Nevada oryctes.

Specific impact: CDFW is concerned that the proposed pre-construction and focused surveys, and proposed mitigation, are insufficient to detect special-status plant species that may occur on the Project site, and reduce those impacts to a level of less than significant. If the presence of special-status plant species is not determined through floristic based surveys, unauthorized take or disturbance of special-status plant species could occur.

Why impact would occur: The Project identifies the special-status plants noted above as present with the Project areas across all segments respectively as found within Appendix 4 of the DEIR. The Project identifies additional special-status plant species (beyond those listed above) with the potential to occur across all segments respectively as found within Appendix 4 of the DEIR. The Project occurs in areas containing high quality habitat, and occupied habitat, of special-status plants. Additionally, although special-status plant surveys occurred in the 2017, 2018, and 2023 survey seasons, weather and seasonal occurrence varies greatly depending on several factors for these species, including, but not limited to, weather conditions in any given year, long-term climate changes, and changes in vegetation associated with wildfire. CDFW staff have observed that climate change conditions may result in flowering seasons occurring earlier and later in the year than historical observation dates. Wildfires may dramatically shift plant communities and occupation of habitat by special-status plants, both in new occurrences, or lack of observations. CDFW recommends the completion of protocol level surveys for special-status plants, conducted temporally as appropriate as the project advances in linear construction, to ensure compliance with all applicable laws pertaining to special-status plants, including those regulated under CESA. Construction activities, grading, contouring, vegetation modification and removal are expected to result the take of special-status plants.

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Evidence impact would be significant: The Project includes a CESA-listed species, Owens Valley checkerbloom, as present within the Project area, and the candidate species for CESA-listing, western Joshua tree, which in its candidacy also gives the species blanket protection under CESA. Take of any CESA-listed species or candidate is prohibited except as authorized by state law (Fish and Game Code, §§ 2080 & 2085). Take is defined in Fish and Game Code section 86 as “hunt, pursue, catch, capture, or kill, or the attempt to hunt, pursue, catch, capture, or kill.” Because the Project could convert, or result in loss of Owens Valley checkerbloom and western Joshua tree, the potential for significant adverse impacts is high and may trigger mandatory incidental take authorization and/or mitigation obligations. Plants with a CRPR rating of 1B or 2 meet the definition of rare or endangered under CEQA § 15380(b) and (d). Due to the linear size and scale of the project, CDFW finds the potential and expected take of special-status plants to be a potential and significant impact associated with the Project that should be mitigated to a level of less than significant. Mitigation at a 1:1 ratio (Conserved: Impacted) as proposed in the DEIR, does not account for temporal and permanent loss to special-status plant individuals or habitats thereof, resulting in impacts which would not be mitigated to a level of less than significant.

Recommended Potentially Feasible Mitigation Measure: CDFW recommends that the following changes to BIO-BOT-1, and BIO-BOT-2, be adopted in the Final EIR (additions are in **bold** and edits in ~~strike through~~):

Mitigation Measure BIO-BOT-1:

Special-status Herbaceous Plants. SCE shall avoid, minimize or mitigate impacts to any state or federally listed, California Rare Plant Rank (CRPR) 1 or 2, or California BLM Special Status herbaceous plants that may be located on the project disturbance areas or surrounding buffer areas.

Pre-construction survey. Pre-construction clearance surveys would be performed by a qualified biologist (i.e., a biologist with the requisite education and experience to address specific resources), which may be chosen from a previously approved CPUC approved biologist, to avoid or minimize impacts on special status plants. **Surveys would be consistent with the protocol outlined by California Department of Fish and Wildlife (CDFW) Protocols for Surveying and Evaluating Impacts to Species Status Native Plant Populations and Sensitive Nature Communities (May 2018).** The pre-construction survey will be performed to re- identify the location of plants that were previously identified during baseline special status species survey(s) and to identify the presence of new (previously undescribed) special-status species. Disturbance free buffers for herbaceous species shall be 50-ft from the individual and/or occurrence boundary. If a smaller buffer is required, SCE shall obtain in the field

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concurrence of the smaller buffer from a BLM-and/or CPUC-approved biological monitor(s), depending on underlying land ownership. **Should any state-listed plant species be present in the Project area, SCE shall obtain appropriate CESA authorization for those species prior to the start of Project activities. Should any species of native plants designated as rare, threatened, or endangered by state law be present in the Project area, on-site or off-site habitat restoration (whichever is applicable) and/or enhancement and preservation shall be evaluated and discussed in detail with the appropriate resource agencies. Where habitat preservation is not available on-site, off-site land acquisition, management, and preservation will be evaluated by the appropriate resource agencies.**

In the event of a discovery of previously undescribed species, the boundary of the occurrence (defined by CNDDDB as all individuals within a ¼ mile of each other) will be flagged, avoided, and monitored as discussed above and the CPUC, BLM, CDFW, and/or USFWS will be notified.

Focused Survey. For construction areas where focused surveys have not occurred, focused surveys will take place prior to construction. Focused surveys will be conducted consistent with methodology described in the Project Biological Technical Report.

Restoration and Mitigation

SCE will implement the following activities; other conflicting permit conditions will supersede the activities below.

- Coordinate with Agencies. Agencies shall approve any impacts to special status plants. ~~Impacts in excess of 10% of a~~ Any occurrence shall be restored or mitigated.
- Habitat Restoration and Revegetation. A Habitat Restoration Plan (HRP) shall address topsoil, plant or propagules salvage, and restoration. Approval of the HRP by appropriate agencies is required before impacts to special-status plant occurrences are allowed. For more information see APM BIO-RES-1.
- Salvage. SCE shall consult with a qualified restoration ecologist or horticulturist regarding the feasibility and likely success of salvage efforts for each species. If salvage is feasible, based on prior success with similar species, SCE shall include salvage methods in the HRP. For special-status plants, the goal shall be to preserve existing populations or establish new populations. The HRP will include at minimum: (a) species and locations of plants identified for salvage; (b) criteria for determining whether a

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species is appropriate for salvage; (c) the appropriate season for salvage; (d) equipment and methods for collection, transport, and re-planting plants or propagules, to retain intact soil conditions and maximize success; (e) details regarding storage of plants or propagules for each species; (f) location of the proposed recipient site, and detailed site preparation and plant introduction techniques, as applicable; (g) a description of the irrigation, and other maintenance activities, as applicable; (h) success criteria, including specific timeframe for survivorship of each species; and (i) a detailed monitoring program, commensurate with the HRP goals. Invasive plant control for special-status plants will be addressed in the Invasive Plant Management Plant (IPMP, APM BIO-RES-2).

- Off-site compensation. Where restoration is not feasible, SCE shall provide compensation lands consisting of habitat occupied by the impacted CRPR 1 or 2 ranked, or California BLM Special Status, plant occurrences at a ~~3~~:1 ratio of acreage for any occupied habitat affected by the project. Occupied habitat will be calculated on the project site and on the compensation lands as including each special-status plant occurrence. If compensation is selected as a means of mitigating special-status plant impacts, it may be accomplished by purchasing credit in an established mitigation bank (**if credits are available for the species being impacted**), acquiring conservation easements, or direct purchase and preservation of compensation lands. Compensation for these impacts may be “nested” or “layered” with compensation for habitat loss. A mitigation ratio higher than ~~3~~:1 may be necessary if so- identified in an applicable federal or state land use management plan or conservation plan, or in a term or condition attached to a project authorization.

Annual construction monitoring reports shall be submitted to CPUC and BLM. Reports shall include, but not be limited to, details of plants or propagules salvaged, stored, and transplanted (salvage and transplanting locations, species, number, size, condition, etc.); adaptive management efforts implemented (date, location, type of treatment, results, etc.); and evaluation of success of transplantation. After construction, salvage status will be described in the HRP annual report

Mitigation Measure BIO-BOT-2:

Special-status Perennial Plants and Other Species. SCE shall avoid, minimize or mitigate impacts to sensitive plants and natural communities, including, **but not limited to**, any smoke trees (*Psoralea argophylla*), mesquites (*Prosopis spp.*), all species of the family Agavaceae (including Mojave yucca and Joshua

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tree), palo verde (*Parkinsonia spp.*), desert pincushion (*Coryphantha chlorantha*), matted cholla (*Grusonia parishii*), curved-spine beavertail (*Opuntia curvispina*), Mojave fishhook cactus (*Sclerocactus polyancistrus*) in the project area, or unique riparian vegetation, that may be located on the project disturbance areas or surrounding buffer areas.

Pre-construction survey. Pre-construction surveys would be conducted by a qualified specialist to identify any special-status perennial species or other species of tree, shrub, cactus, or yucca in the project area that require restoration or mitigation.

Surveys would be consistent with the protocol outlined by California Department of Fish and Wildlife (CDFW) Protocols for Surveying and Evaluating Impacts to Species Status Native Plant Populations and Sensitive Nature Communities (May 2018). Prior to the start of construction, a qualified biologist (i.e., a biologist with the requisite education and experience to address specific resources), which may be chosen from a previously approved CPUC approved biologist, shall complete pre-construction surveys in all habitats to identify individuals or occurrences **including, but not limited to the following species:** of smoke trees (*Psoralea spinosus*), mesquites (*Prosopis spp.*), all species of the family Agavaceae (including Mojave yucca and Joshua tree), palo verde (*Parkinsonia spp.*), desert pincushion (*Coryphantha chlorantha*), matted cholla (*Grusonia parishii*), curved-spine beavertail (*Opuntia curvispina*), Mojave fishhook cactus (*Sclerocactus polyancistrus*) in the project area, or unique riparian vegetation. Where these species are known to occur, all work shall occur outside a 50-ft buffer; the buffer will be measured from the drip line or outer most part of the plant. If a smaller buffer is required, SCE shall obtain in the field concurrence of the smaller buffer from a BLM and/or CPUC-approved biological monitor(s), depending on underlying land ownership. Buffer reductions may occur with the implementation of appropriate minimization measures. A qualified botanist/arborist monitor, with the authority to halt work, shall be present whenever work occurs within reduced buffers for any of these species. **Should any state-listed plant species be present in the Project area, SCE shall obtain appropriate CESA authorization for those species prior to the start of Project activities. Should any species of native plants designated as rare, threatened, or endangered by state law be present in the Project area, on-site or off-site habitat restoration (whichever is applicable) and/or enhancement and preservation shall be evaluated and discussed in detail with the appropriate resource agencies. Where habitat preservation is not available on-site, off-site land acquisition, management, and preservation will be evaluated by the appropriate resource agencies.** If avoidance of listed species is not feasible, SCE will consult with BLM/CDFW and implement additional measures pursuant to ESA/CESA, required after consultation.

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In the event of an unexpected discovery of a new species or previously undocumented occurrence, the same steps will be used as discussed above. In addition, when there is an unexpected discovery of a new species, the CPUC, BLM, CDFW, and/or USFWS will be notified.

Restoration and Mitigation

- Coordinate with Agencies. Agencies shall approve any impacts to the species.
- Habitat Restoration and Revegetation. If individuals of special-status species cannot be avoided, a Habitat Restoration Plan (HRP) shall address removal or salvage methods, number of individuals to be impacted, and restoration (see BIO-RES-1). Approval of the HRP by appropriate agencies is required before impacts to the given species is allowed.
- Salvage. Native Cactus/ Yucca (Joshua Tree) Removal. Most native cactus and yucca species (Joshua tree and Mohave yucca) can be successfully salvaged and transplanted, and yuccas often provide an important vertical component to wildlife habitat. Therefore, native cactus and yuccas (excluding chaparral yucca, *Y. whipplei*), shall be avoided or salvaged as follows:
- On BLM lands, SCE will prepare and implement a HRP. The goal shall be maximum practicable survivorship of salvaged plants, (i.e., moving plants only once). The HRP will include at minimum: (a) species and locations of plants identified for salvage; (b) criteria for determining whether an individual plant is appropriate for salvage; (c) the appropriate season for salvage; (d) equipment and methods for collection, transport, and re-planting, to retain intact soil conditions and maximize success; (e) a requirement to mark each plant to identify the north-facing side prior to transport, and replant it in the same orientation; (f) details regarding storage of plants for each species; (g) location of the proposed recipient site, and detailed site preparation and plant introduction techniques, as applicable; (h) a description of the irrigation and other maintenance activities, as applicable; (i) success criteria, including specific timeframe for survivorship of each species; and (j) a detailed monitoring program, commensurate with the HRP goals. Invasive plant control for special-status plants will be addressed in the Invasive Plant Management Plan (IPMP, APM BIO-RES-2).

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- Tree Removal. Tree removal and trimming would be designed to minimize the total number of individual trees removed or significantly trimmed. A qualified arborist would be onsite to make recommendations on trimming and removal. Protection and replacement of trees impacted by project activities would be mitigated consistent with applicable jurisdiction and agency requirements, and included in the HRP.
- Offsite Compensation. If restoration is not feasible, SCE shall provide compensation lands consisting of habitat occupied by the impacted sensitive species at a **3:1** ratio of individuals or acreage, for any occupied habitat affected by the project. Occupied habitat will be calculated on the project site and on the compensation lands as including each special-status plant occurrence. If compensation is selected as a means of mitigating special-status plant impacts, it may be accomplished by purchasing credit in an established mitigation bank (**if credits are available for the species being impacted**), acquiring conservation easements, or direct purchase and preservation of compensation lands, **all of which at a 3:1 ratio**. Compensation for these impacts may be "nested" or "layered" with compensation for habitat loss.

Annual construction monitoring reports shall be submitted to CPUC and BLM. Reports shall include, but not limited to, details of individuals or occurrences impacted (removed or salvaged), salvage, temporary storage, if applicable, and final transplant locations, including species, number, size, condition, at a minimum; adaptive management efforts implemented (date, location, type of treatment, results, etc.); and evaluation of success of transplantation. After construction, salvage status will be described in the HRP annual report.

COMMENT 8: Lake and Streambed Alteration (LSA) Program Notifications

Sections 3.12.2.2, 7, Page 3.12-6, 7-21, and elsewhere in the DEIR

Issue: Proposed mitigation ratios for impacts to lake and stream resources where activities are regulated under Fish and Game Code section 1602 et seq., would not be mitigated to a level of less than significant.

Specific impact: Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following: Substantially divert or obstruct the natural flow of any river, stream or lake; Substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or Deposit debris, waste or other materials that could pass into any river, stream or lake. Please note that "any river, stream or lake" includes those that are episodic (i.e., those that are dry for periods of time) as

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well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams, desert washes, and water courses with a subsurface flow. It may also apply to work undertaken within the flood plain of a body of water. Upon receipt of a complete notification, CDFW determines if the proposed Project activities may substantially adversely affect existing fish and wildlife resources and whether a LSA Agreement would be required. An LSA Agreement includes measures necessary to protect existing fish and wildlife resources. CDFW may suggest ways to modify your Project that would eliminate or reduce harmful impacts to fish and wildlife resources. CDFW's issuance of an LSA Agreement is a "project" subject to CEQA (see Pub. Resources Code 21065).

Why impact would occur: The Project area, as described in the DEIR on page 3.12-6, transects areas where activities would be subject to Notification under Fish and Game Code section 1602 et seq. The Project area transects other areas subject to Notification under Fish and Game Code 1602 et seq., which were not addressed in this acreage calculation.

Evidence impact would be significant: The DEIR states an approximately 33.44 acres of CDFW jurisdictional waters, including: wetlands, streams, rivers, and washes, would be impacted. Under Fish and Game Code section 1600 et seq., determination of jurisdiction associated with this Chapter of Fish and Game Code is a responsibility of CDFW. To facilitate issuance of an LSA Agreement and ensure that impacts associated with activities occurring in areas subject to Notification under Fish and Game Code section 1602 et seq., if necessary, the Final EIR should fully identify the potential impacts to the lake, stream, or riparian resources, which is expected to exceed 33.44 acres, and provide adequate avoidance, mitigation, and monitoring and reporting commitments. Due to the linear size and scale of the project, CDFW finds the acreage, currently estimated at 33.44 acres, of impacts associated with activities slated to occur within areas subject to Notification under Fish and Game Code section 1602, to be a potentially significant impact associated with the Project that should be mitigated to a level of less than significant. Mitigation at a 1:1 (Compacted: Impacted) ratio (Conserved to Impacted) as stated in the DERI, does not account for temporal and permanent loss to lake and stream areas, and the habitats thereof, resulting in impacts which would not be mitigated to a level of less than significant.

Recommended Potentially Feasible Mitigation Measure: CDFW appreciates that Notification for any Lake and/or Streambed Alteration activities will be submitted to CDFW by the Project Proponent as part of APM WET-1 pursuant to Fish and Game Code section 1602. Due to the large number of lake and stream resources within the Project area, CDFW recommends the Project Proponent apply for a Master Agreement. Additionally, CDFW is requesting the below edits

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to be made to APM WET-1 and be adopted in the Final EIR (additions are in **bold** and edits in ~~strike through~~):

Mitigation Measure APM WET-1:

The project shall avoid and/or minimize impacts to all state and federally jurisdictional waters, wetlands, and riparian habitat that occur within the Project area to the maximum extent feasible. All grading, fill, staging of equipment, infrastructure construction or removal, and all other construction activities shall be designed, sited, and conducted outside of state and federally jurisdictional waters, wetlands, and riparian habitat to the maximum extent feasible.

The implementation of appropriate Best Management Practices (BMPs) (e.g., silt fencing, straw wattles, secondary containment, avoiding fueling in close proximity to waters, etc.) shall be utilized to ensure that indirect impacts to jurisdictional waters, wetlands and riparian areas are avoided or minimized to the maximum extent feasible. BMPs are also necessary to reduce the risk of an unintended release of sediments or other materials into jurisdictional waters. New and upgraded roadways will use at-grade type stream crossings where possible. Stockpiled and bermed sediment will be redistributed or removed from the site so as not to cause water impoundment or induce hydromodification. New poles will be sited outside stream channels to the extent possible.

If permanent impacts to waters, wetlands, and riparian habitats are unavoidable, they shall be mitigated ~~for at a minimum of a 1:1 ratio, or at a~~ ratio determined by the applicable Resource or Land-Use Agencies (i.e., U.S. Army Corps of Engineers, the State Water Resources Control Board/ Regional Water Quality Control Boards, and California Department of Fish and Wildlife, Bureau of Land Management, etc.).

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The [CNDDDB field survey form](#)⁴ can be filled out and submitted online. The types of information reported to CNDDDB can be found at [CDFW's CNDDDB Webpage](#)⁵.

⁴ <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>

⁵ <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>

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ENVIRONMENTAL DOCUMENT FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental document filing fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

CDFW appreciates the opportunity to comment on the DEIR to assist the CPUC in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Jhenevieve (Jhen) Cabasal, Senior Environmental Scientist (Specialist) at (909) 638-8783, or Jhenevieve.Cabasal@Wildlife.ca.gov.

Sincerely,

DocuSigned by:

84F92FFEEFD24C8...

Kim Freeburn
Environmental Program Manager

Attachments

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California Public Utilities Commission
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