
From: Valand, Andrew@Wildlife <Andrew.Valand@wildlife.ca.gov>
Sent: Friday, April 12, 2019 2:59 PM
To: Anthony Curzi
Cc: Wilson, Erinn@Wildlife; Tang, Victoria@Wildlife; Schmoker, Kelly@Wildlife; Duarte, Dolores@Wildlife; OPR State Clearinghouse
Subject: Antelope Expansion 3 Solar Project - CDFW comments
Attachments: CDFW Comments on MND for Antelope Expansion 3 Solar Project (Antex 3).pdf

Good afternoon Mr. Curzi,

Please see the attached letter regarding CDFW's comments on the Antelope Expansion 3 Solar Project. These comments were submitted one month ago when the mitigated negative declaration (MND) was previously circulated and should still apply. Thank you for the opportunity to provide comments on the project. If you have any questions or concerns relating to the Department's comments on the Antex 3 Project, please feel free to reach out at your convenience. Have a great weekend.

Andrew Valand

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Governor's Office of Planning & Research
APR 12 2019
STATE CLEARINGHOUSE





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Governor's Office of Planning & Research

APR 12 2019

STATE CLEARINGHOUSE

March 8, 2019

Mr. Anthony Curzi
Los Angeles County Department of Regional Planning
320 West Temple Street, Room 1348
Los Angeles, CA 90012
acurzi@planning.lacounty.gov

Subject: Mitigated Negative Declaration for Antelope Expansion 3 Solar Project, Los Angeles County

Dear Mr. Curzi:

The California Department of Fish and Wildlife (CDFW) has reviewed the above-referenced Mitigated Negative Declaration (MND) for Antelope Expansion 3 Solar Project (Project). Supporting documentation for the Project includes the *Administrative Draft Initial Study/Mitigated Negative Declaration for Antelope Expansion 3 Solar Project – Unincorporated Los Angeles County, Biological Resources Technical Report for the Antelope Expansion 3 Solar Project, Los Angeles County, California (November 2018)*, and *Existing Conditions Jurisdictional Delineation Report for the Antelope Expansion 3 Solar Project, Los Angeles County, California (March 2018)*. 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's 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 & Game Code, §§ 711.7, subdivision (a) & 1802; Public Resources Code, § 21070; California Environmental Quality Act (CEQA) Guidelines, § 15386, subdivision (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 state fish and wildlife resources.

CDFW is also submitting comments as a Responsible Agency under CEQA (Public Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code, including lake and streambed alteration regulatory authority (Fish & Game 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 & Game Code, § 2050 *et seq.*), or state-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish

& Game Code, §1900 et seq.), CDFW recommends the project proponent obtain appropriate authorization under the Fish and Game Code.

Project Description and Summary

Objective: The Project involves the construction of a ground-mounted utility-scale solar energy facility on a site of approximately 155 acres. The proposed Project will have a generating capacity of up to 30 megawatts (MW) of alternating current (AC). Solar electricity generated by the proposed Project will be delivered to a previously approved connector substation (the Big Sky North Substation), located at West Avenue G-8 and 100th Street West, via two side-by-side 34 kilovolt generation-tie (gen-tie) lines. Big Sky North Substation is anticipated to be operational in November 2018. The gen-tie lines are scheduled to run through Power-controlled private easements, extending east from the project site, parallel to West Avenue G-8, for about 0.8 mile to the Big Sky North Substation. Electricity at the Big Sky North Substation will be stepped up to 230 kilovolt and will ultimately be delivered to the existing Antelope Substation, south of the proposed project.

The major components of the proposed project are as follows:

- A solar field of north-south rows of PV panels, mounted on either fixed-tilt or single-axis tracking systems on steel support structures.
- An electrical collection system. PV modules will be electrically connected into strings, and each string will be funneled by underground electrical conduit to combiner boxes located throughout the solar field power blocks.
- Battery storage.
- A switchgear area for the transformer equipment, control building foundation, and oil containment area.
- A data collection system to remotely monitor the facility operation and/or remotely control critical components.
- Civil infrastructure, such as paved driveways, internal 20-foot-wide access roads, security fencing, landscaping, and two 10,000-gallon water tanks.
- Interconnection gen-tie lines installed underground to connect the project to the Big Sky North Substation.

Location: The project site is located in unincorporated Los Angeles County within the Antelope Valley portion of the Mojave Desert, west of the City of Lancaster. The Project site is bounded by West Avenue H on the south, West Avenue G on the north, 110th Street West on the west, and 107th Street West on the east. The proposed gen-tie line extends east within a private easement of adjacent parcels 3265-007-030 and 3265-024-003 and connects to the Big Sky North Substation, northeast of the intersection of 100th Street West and Avenue G-8, within the City of Lancaster.

Comments and Recommendations

CDFW offers the comments and recommendations below to assist the County of Los Angeles (County) in adequately identifying, avoiding and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Additional comments or other suggestions may also be included to improve the document.

Project Description and Related Impact Shortcoming

Comment #1: Impacts to Burrowing Owl (*Athene cunicularia*)

Issue: A review of the California Natural Diversity Database (CNDDDB) indicates multiple occurrences of burrowing owl (*Athene cunicularia*) on the Project site and in the adjacent open spaces. Burrowing owls are also known regularly occurring throughout the Palmdale and Lancaster area.

Specific impact: The project may result in direct and indirect burrowing owl mortality or injury; the disruption of natural burrowing owl breeding behavior; and loss of breeding, wintering and foraging habitat for the species. Project impacts would contribute to statewide population declines for burrowing owl. Within the Antelope Valley, the species still persists in low densities and continues to experience significant direct and cumulative habitat loss.

Why impact would occur: Impacts to burrowing owl could result from vegetation clearing and other ground disturbing activities. Project disturbance activities may result in crushing or filling of active owl burrows, causing the death or injury of adults, eggs, and young. The project will remove burrowing owl foraging habitat by eliminating native vegetation that supports essential rodent, insect, and reptile that are prey for burrowing owl. Rodent control activities could result in direct and secondary poisoning of burrowing owl ingesting treated rodents.

Evidence impact would be significant: Take of individual burrowing owls and their nests is 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 kill, or attempt to hunt, pursue, catch, capture or kill." Without appropriate take avoidance surveys prior to project operations including, but not limited to, ground and vegetation disturbing activities and rodent control activities, adverse impacts to burrowing owl may occur because species presence/absence has not been verified. In addition, burrowing owl qualifies for enhanced consideration afforded to species under CEQA, which can be shown to meet the criteria for listing as endangered, rare or threatened (CEQA Guidelines, § 15380(d)).

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: To reduce impacts to burrowing owl to less than significant, CDFW recommends that the project adhere to CDFW's March 7, 2012, *Staff Report on Burrowing Owl Mitigation* (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843>). All survey efforts should be conducted prior to any project activities that could result in habitat disturbance to soil, vegetation or other sheltering habitat for burrowing owl.

Mitigation Measure #2: Permanent impacts to occupied owl burrows and adjacent foraging habitat should be offset by setting aside replacement habitat to be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity, which should include an appropriate non-wasting endowment to provide for the long-term management of mitigation lands. CDFW recommends that the County require a burrowing owl mitigation plan be submitted to CDFW for review and comment prior to project implementation.

Mitigation Measure #3: For proposed preservation and/or restoration, the final environmental document should include measures to protect the targeted habitat values in perpetuity from

direct and indirect negative impacts. The objective should be to offset the project-induced qualitative and quantitative losses of wildlife habitat values. Issues that should be addressed include, but are not limited to, restrictions on access, proposed land dedications, monitoring and management programs, control of illegal dumping, water pollution, and increased human intrusion. An appropriate non-wasting endowment should be provided for the long-term monitoring and management of mitigation lands. CDFW recommends that mitigation occur at a state-approved bank or via an entity that has been approved to hold and manage mitigation lands pursuant to Assembly Bill 1094 (2012), which amended Government Code sections 65965-65968. Under Government Code section 65967(c), the lead agency must exercise due diligence in reviewing the qualifications of a governmental entity, special district, or nonprofit organization to effectively manage and steward land, water, or natural resources on mitigation lands it approves.

Mitigation Measure #4: Project use of rodenticides that could result in direct or secondary poisoning to burrowing owl should be avoided.

Comment #2: Impacts to Swainson's Hawk (*Buteo swainsoni*)

Issue: A review of CNDDDB indicates recorded observations of Swainson's hawk (*Buteo swainsoni*), a state listed threatened species, on the western edge of the project site. As indicated in the Administrative Draft Initial Study, "given the proximity of known nest locations, Swainson's hawk is likely to be found foraging on the project site." Swainson's hawk are also regularly observed foraging throughout the Palmdale and Lancaster area.

Specific impacts: The Project will likely result in the loss of foraging habitat for a state listed raptor species.

Why impact would occur: Vegetation removal and ground clearing activities will potentially result in the loss of foraging habitat for listed raptor species.

Evidence impact would be significant: Consistent with CEQA Guidelines, Section 15380, the status of the Swainson's hawk as a threatened species under CESA qualifies it as an endangered, rare, or threatened species under CEQA. The estimated historical population of Swainson's hawk was nearly 17,000 pairs; however, in the late 20th century, Bloom (1980) estimated a population of only 375 pairs. The decline was primarily a result of habitat loss from development (CDFW 2016). The most recent survey conducted in 2009 estimated the population at 941 breeding pairs. The species is currently threatened by loss of nesting and foraging habitat (e.g., from agricultural shifts to less crops that provide less suitable habitat), urban development, environmental contaminants (e.g., pesticides), and climate change (CDFW 2016). CDFW considers a Swainson's hawk nest site to be active if it was used at least once within the past five years and impacts to suitable habitat or individual birds within a five-mile radius of an active nest as significant. Based on the foregoing, Project impacts would potentially substantially reduce the number and/or restrict the range of Swainson's hawk or contribute to the abandonment of an active nest and/or the loss of significant foraging habitat for a given nest territory and thus result in "take" as defined under CESA.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: CDFW released guidance for this species entitled *Swainson's Hawk Survey Protocols, Impact Avoidance, and Minimization Measures for Renewable Energy Projects in the Antelope Valley of Los Angeles and Kern Counties, California* (2010) (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83991>). CDFW recommends conducting focused surveys for Swainson's hawk following the 2010 guidance and disclosing the results in the Project's environmental documentation: If "take" of Swainson's hawk would occur from project construction or operation, CESA authorization [(i.e., incidental take permit (ITP))] would be required for the project. CDFW may consider the Lead Agency's CEQA documentation for its CESA-related actions if it adequately analyzes/discloses impacts and mitigation to state-listed species. Additional documentation may be required as part of an ITP application for the project in order for CDFW to adequately develop an accurate take analysis and identify measures that would fully mitigate for take of state-listed species.

Mitigation Measure #2: Permanent impacts to foraging habitat for Swainson's hawk should be offset by setting aside replacement acreage to be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity [also see Comment #1 (Burrowing Owl), Mitigation Measure #3].

Comment #3: Impacts to nesting birds

Issue: CNDDDB indicates recorded observations of foraging and wintering mountain plover (*Charadrius montanus*), a CDFW species of special concern (SSC), less than ½ mile west of the Project site. The supporting document, *Biological Resources Technical Report for the Antelope Expansion 3 Solar Project, Los Angeles County, California (November 2018)* indicates that the potential for occurrence is high due to suitable wintering habitat being found on the Project site and acknowledges the historic record of wintering birds being found 0.5 miles west of the Project site.

Specific impacts: Construction during the breeding season for nesting birds could result in the incidental loss of fertile eggs or nestlings or otherwise lead to nest abandonment. The project could also lead to the loss of foraging habitat for sensitive bird species.

Why impact would occur: Impacts to nesting birds could result from vegetation clearing and other ground disturbing activities. Project disturbance activities could result in mortality or injury to nestlings, as well temporary or long-term loss of suitable nesting and foraging habitats. Construction during the breeding season for nesting birds could result in the incidental loss of reproductive success or otherwise lead to nest abandonment.

Evidence impact would be significant: The loss of occupied habitat or reductions in the number of rare bird species, either directly or indirectly through nest abandonment or reproductive suppression, would constitute a significant impact absent appropriate mitigation. Furthermore, nests of all native bird species are protected under State laws and regulations, including Fish and Game Code sections 3503 and 3503.5. CDFW also considers impacts to SSC a significant direct and cumulative adverse effect without implementing appropriate avoid and/or mitigation measures.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: To protect nesting birds that may occur on-site, CDFW recommends

that the final environmental document include a measure that no construction shall occur from February 15 through August 31. If construction during this period must occur, a qualified biologist shall complete a survey for nesting bird activity within a 500-foot radius of the construction site. The nesting bird surveys shall be conducted at appropriate nesting times and concentrate on potential roosting or perch sites. If any nests of birds of prey are observed, they shall be designated an ecologically sensitive area and protected (while occupied) by a minimum 500-foot radius during project construction.

Comment #4: Impacts to coast horned lizard (*Phrynomosa coronatum*) and northern California legless lizard (*Anniella pulchra*)

Issue: As indicated in the Administrative Draft Initial Study, based on the presence of suitable habitat on the Project site, coast horned lizard (*Phrynomosa coronatum*), a SSC, has moderate potential to occur. The population distribution of coast horned lizard ranges on the desert side of the San Gabriel Mountains in Los Angeles County, continuing into San Bernardino County, and the desert areas in the Cities of Lancaster and Palmdale.

Issue: A review of CNDDDB indicates that northern California legless lizard (*Anniella pulchra*), a SSC, have historically been observed on the Project site and in the adjacent open spaces.

Specific impacts: Ground clearing and construction activities could potentially lead to mortality of individual lizards found on the project site.

Why impact would occur: Coast horned lizards are cryptic species that often evade threats from predators by remaining still and blending into the surrounding landscape. Therefore, untrained workers may not recognize the presence of this species.

Evidence impact would be significant: Ground clearing and construction activities could lead to the direct mortality of a species of special concern. The loss of occupied habitat could yield a loss of foraging potential, basking sites, or egg-laying sites and would constitute a significant impact absent appropriate mitigation. CDFW considers impacts to SSC, including legless lizard and coast horned lizard, a significant direct and cumulative adverse effect without implementing appropriate avoid and/or mitigation measures.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: To mitigate impacts to coast horned lizard, CDFW recommends focused surveys for the species. Surveys should typically be scheduled when these animals are most likely to be encountered, usually conducted between June and July. To achieve 100 percent visual coverage, CDFW recommends surveys be conducted with parallel transects at approximately 20 feet apart and walked on-site in appropriate habitat suitable for coast horned lizards. Suitable habitat consists of areas of sandy, loose and moist soils, typically under the sparse vegetation of scrub, chaparral, and within the duff of oak woodlands.

Mitigation Measure #2: In consultation with qualified biologist familiar with the life history of coast horned lizard, a relocation plan (Plan) should be developed for coast horned lizard. The Plan should include, but not be limited to, the timing and location of the surveys that will be conducted for this species, identify the locations where more intensive survey efforts will be conducted (based on high habitat suitability); identify the habitat and conditions in any proposed

relocation site(s); the methods that will be utilized for trapping and relocating the individuals of this species; and the documentation/recording of the number of animals relocated. CDFW recommends the Plan be submitted to the Lead Agency for approval 60 days prior to any ground disturbing activities within potentially occupied habitat.

Mitigation Measure #3: The Plan should include specific survey and relocation efforts that occur during construction activities for the activity period of the coast horned lizard (generally March to November) and for periods when the species may be present in the work area but difficult to detect due to weather conditions (generally December through February). Thirty days prior to construction activities in coastal scrub, chaparral, oak woodland, riparian habitats, or other areas supporting this species, qualified biologists should conduct surveys to capture and relocate individual coast horned lizard to avoid or minimize take of these special-status species. The Plan should require a minimum of three surveys conducted during the time of year/day when coast horned lizard is most likely to be observed. Individuals should be relocated to nearby undisturbed areas with suitable habitat.

Mitigation Measure #4: If construction is to occur during the low activity period (generally December through February), surveys should be conducted prior to this period if possible. Exclusion fencing should be placed to limit the potential for re-colonization of the site prior to construction. CDFW further recommends a qualified biologist be present during ground-disturbing activities immediately adjacent to or within habitat, which supports populations of this species.

Comment #5: Impacts to Streams

Issue: The supplemental document, *Existing Conditions Jurisdictional Delineation Report for the Antelope Expansion 3 Solar Project, Los Angeles County, California (March 2018)*, indicates the presences of at least four drainage features along the periphery of the Project site. The Administrative Draft Initial Study indicates that, "[t]he Project site is located within the 100-year flood hazard area." A review of aerial imagery appears to indicate that portions of the Project site are within a historic stream channel in a southwest to northeastern direction. The Project location may support streams subject to notification under Fish and Game code section 1600 *et seq.*

Specific impacts: The Project may result in the loss of streams and associated watershed function and biological diversity. Grading and construction activities will likely alter the topography, and thus the hydrology, of the project site

Why impacts would occur: Ground disturbing activities from grading and filling, water diversions and dewatering would physically remove or otherwise alter existing streams or their function and associated riparian habitat on the Project site. Downstream streams and associated biological resources beyond the Project development footprint may also be impacted by Project related releases of sediment and altered watershed effects resulting from Project activities.

Evidence impacts would be significant: The Project may substantially adversely affect the existing stream pattern of the Project site through the alteration or diversion of a stream, which absent specific mitigation, could result in substantial erosion or siltation on site or off site of the Project.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: CDFW has concluded that the Project may result in the alteration of streams. For any such activities, the Project applicant (or "entity") must provide written notification to CDFW pursuant to section 1600 *et seq.* of the Fish and Game Code. Based on this notification and other information, CDFW determines whether a Lake and Streambed Alteration Agreement (LSA) with the applicant is required prior to conducting the proposed activities. A notification package for a LSA may be obtained by accessing CDFW's web site at www.wildlife.ca.gov/habcon/1600.

CDFW's issuance of an LSA for a Project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document of the Lead Agency for the Project. However, the MND does not meet CDFW's standard at this time. To minimize additional requirements by CDFW pursuant to section 1600 *et seq.* and/or under CEQA, the CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for issuance of the LSA.

Mitigation measure #2: Any LSA permit issued for the Project by CDFW may include additional measures protective of streambeds on and downstream of the Project. The LSA may include further erosion and pollution control measures. To compensate for any on-site and off-site impacts to riparian resources, additional mitigation conditioned in any LSA may include the following: avoidance of resources, on-site or off-site creation, enhancement or restoration, and/or protection and management of mitigation lands in perpetuity.

Filing Fees

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of 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 fee is required in order for the underlying Project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & Game Code, § 711.4; Pub. Resources Code, § 21089).

Conclusion

We appreciate the opportunity to comment on the Project to assist the County of Los Angeles in adequately analyzing and minimizing/mitigating impacts to biological resources. The Department requests an opportunity to review and comment on any response that the County has to our comments and to receive notification of any forthcoming hearing date(s) for the Project [CEQA Guidelines; § 15073(e)]. If you have any questions or comments regarding this letter, please contact Andrew Valand, Environmental Scientist at Andrew.Valand@wildlife.ca.gov or (562) 342-2142.

Mr. Anthony Curzi
Los Angeles County Department of Regional Planning
March 8, 2019
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Sincerely,



Erinn Wilson
Environmental Program Manager I

cc: CDFW

Victoria Tang – Los Alamitos
Andrew Valand – Los Alamitos
Kelly Schmoker - Pasadena

Scott Morgan (State Clearinghouse)

References:

Bloom, P. H. 1980. The status of the Swainson's hawk in California, 1979. Bureau of Land Management, Sacramento, CA, USA.
California Department of Fish and Wildlife [CDFW]. 2016. Status review: Swainson's hawk (*Buteo swainsoni*) in California. Report to the California Fish and Game Commission, Sacramento, CA, USA.

