



State of California – Natural Resources Agency
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May 8, 2019

Mr. Tom Nieves
San Bernardino County
385 N. Arrowhead Avenue, 1st Floor
San Bernardino, CA 92415-0182

Governor's Office of Planning & Research

MAY 08 2019

STATE CLEARINGHOUSE

Dear Mr. Tom Nieves:

Daggett Solar Power Facility (PROJECT)
DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR)
SCH# 2018041007

The California Department of Fish and Wildlife (CDFW) with this letter provides additional comments to the April 29, 2019 letter of the Notice of Availability of a Draft Environmental Impact Report (DEIR) from San Bernardino County (Lead Agency) for the Daggett Solar Power Facility (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

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, CDFW appreciates 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 (FGC).

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. (FGC, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, 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

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.

to exercise regulatory authority as provided by the FGC. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (FGC, § 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) (FGC, § 2050 et seq.), the project proponent may seek related take authorization as provided by the FGC.

PROJECT DESCRIPTION SUMMARY

Proponent: Daggett Solar Power 1 LLC

Location: The project is bounded by the town of Daggett approximately 0.5 miles to the west; the Mojave River, Yermo, and Interstate 15 to the north; Barstow-Daggett Airport, Route 66, and Interstate 40 to the south; and Newberry Springs and Mojave Valley to the east in San Bernardino County.

Project Description

Daggett Solar Power 1 LLC, a subsidiary of Clearway Energy Group LLC, proposes constructing, operating, maintaining, and decommissioning of a utility-scale, solar photovoltaic electricity generation and energy storage facility with associated on-site substations, inverters, fencing, roads and supervisory control and data acquisition system that would produce up to 650 megawatts (MW) of power and include up to 450 MW of battery storage capacity on approximately 3,500 acres of land. The proposed project would utilize existing electrical transmission infrastructure adjacent to the existing Coolwater Generating Station, a recently retired natural gas-fired power plant, to deliver renewable energy to the electric grid.

PROJECT SPECIFIC COMMENTS AND RECOMMENDATIONS

Following review of the DEIR CDFW offers the comments and recommendations below to assist the Lead Agency in adequately identifying and/or mitigating the Project's significant, or potentially significant, impacts on water and associated biological resources.

HYDROLOGY

CDFW offers the following comments and recommendations in addition to CDFW's April 29, 2019 comment letter. In addition to being the state trustee agency for the fish and wildlife resources of the state, CDFW is a party to the *City of Barstow v City of Adelanto* Judgment entered on January 10, 1996 (Judgment) and a landowner in the Baja Subarea (Camp Cady Wildlife Area). The proposed Project occurs within the adjudicated Mojave Basin and more specifically one of five subareas called the Baja Subarea. According to the Mojave Water Agency Watermaster, the Baja Subarea has been in continual overdraft since at least 1950 and the estimated groundwater storage has declined by over 400,000 acre-feet since the Judgment was finalized in 1996.

In CDFW's July 9, 2018 letter, concerns were raised regarding potential impacts to the Camp Cady Wildlife Area and further declines in groundwater storage due to the acquisition of land for the project that controlled 15,271 acre-feet of adjudicated water production rights in the Daggett area of the Baja Subarea. It is quite possible that future use of those water rights could occur east of the Calico-Newberry Fault which would cause further damage to riparian resources at Camp Cady Wildlife Area and environmental damage to the Newberry Springs area through increasing ground to water depths, causing more desert habitat being converted to wind-blown sand.

In a letter prepared by Mojave Water Agency Watermaster (Watermaster) on April 29, 2019, the Watermaster points out that the DEIR is inconsistent with the San Bernardino County General Plan Goal CO5, Page V-27 "The County will protect and preserve water resources for the maintenance, enhancement, and restoration of environmental resources" and the "Policy" that "The County Water Masters will continue to monitor the County's adjudicated groundwater basins to ensure a balanced hydrological system in terms of withdrawal and replenishment of water from groundwater basins" (Policy CO 5.2, page V-27). Under Impact 3.9-2 of the DEIR, *the project could substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a new deficit in aquifer volume or a lowering of the local groundwater table level*, four scenarios are analyzed and the conclusion is drawn that no feasible mitigation measures are available.

CDFW disagrees with the above conclusion. Furthermore, CDFW agrees with the Watermaster's conclusion in their April 29, 2019 letter that the Project will likely contribute to increased water production east of the Calico-Newberry Fault and directly impact Camp Cady Wildlife Area, the riparian habitat along the Mojave River and other critical resources in the area that depend upon groundwater. CDFW believes viable mitigation measures exist as explained in the Watermaster's letter. We recommend the County condition Project approval to either retire Base Annual Production rights associated with the properties to be acquired that are currently being farmed or sequester water rights so that they can only be used on the west side of the Baja Subarea.

CONCLUSION

CDFW appreciates the opportunity to comment on the DEIR to assist Lead Agency in identifying and mitigating Project impacts on biological resources. Questions regarding this letter or further coordination should be directed to Alisa Ellsworth, Senior Environmental Scientist (Supervisor) at (760) 872-1173 or by email at alisa.ellsworth@wildlife.ca.gov.

Daggett Solar Power Facility
Draft Environmental Impact Report
SCH# 2018041007
Page 4 of 4

Sincerely,



Scott Wilson
Environmental Program Manger
Inland Desert Region

cc: Alisa Ellsworth
Wendy Campbell
Chris Hayes
CHRON
State Clearinghouse

WC:wc