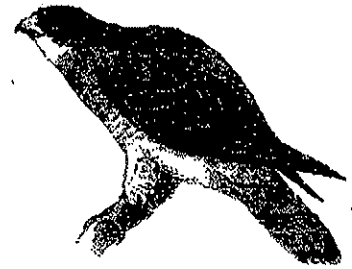


DEPARTMENT OF FISH AND GAME

Inland Deserts Region
Mojave River Hatchery
12550 Jacaranda Ave
Victorville, CA 92395
(Mailing address only: Not a Public Office)
(760) 955-8139 phone
(760) 245-9142 fax



FACSIMILE TRANSMITTAL SHEET

TO: Shilpa Gupta	FROM: Tonya Moore
COMPANY: Los Angeles Department of Water and Power	DATE: JUNE 24, 2010
FAX NUMBER: (213) 367-4710	TOTAL NO. OF PAGES INCLUDING COVER: 5
PHONE NUMBER: (213) 367-0610	SENDER'S REFERENCE NUMBER:
RE: Comments IS/MND	YOUR REFERENCE NUMBER: SCH # 2010051081

- URGENT
 FOR REVIEW
 PLEASE COMMENT
 PLEASE REPLY
 PLEASE RECYCLE

NOTES/COMMENTS:



DEPARTMENT OF FISH AND GAME

<http://www.dfg.ca.gov>
Inland Deserts Region (IDR)
407 West Line Street
Bishop, CA 93514
(760) 872-1171



June 24, 2010

Ms. Shilpa Gupta
Environmental Affairs
Los Angeles Department of Water and Power
111 North Hope Street, Room 1044
Los Angeles, CA 90012
Phone: (213) 367-0610

Subject: Proposed Initial Study and Mitigated Negative Declaration to allow for the development of the Adelanto Solar Power Project, located in the City of Adelanto, San Bernardino County, within a parcel currently owned by Los Angeles Department of Water and Power (LADWP) and currently hosts the Adelanto Switching Station. 34°32'51"N and 17°26'27"W. State Clearinghouse Number 2010051081

Dear Ms. Gupta:

The Department of Fish and Game (Department) has reviewed the Initial Study (IS) and Mitigated Negative Declaration (MND) for the above mentioned project. The proposed project would allow for the construction of Adelanto Solar Power Project, located in the City of Adelanto. The project is proposed to be located within a 42.5 acre site, south and west of the existing Los Angeles Department of Water and Power (LADWP) Adelanto Switching Station, at the cross streets of Pansy Road and Raccoon Avenue, City of Adelanto, San Bernardino County.

The Department is providing comments on the IS/MND as the State agency which has statutory and common law responsibilities with regard to fish and wildlife resources and habitats. California's fish and wildlife resources, including their habitats, are held in trust for the people of the State by the Department (Fish and Game Code §711.7). The Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and the habitats necessary for biologically sustainable populations of those species (Fish and Game Code §1802). The Department's Fish and wildlife management functions are implemented through its administration and enforcement of Fish and Game Code (Fish and Game Code §702). The Department is a trustee agency for fish and wildlife under the California Environmental Quality Act (see CEQA Guidelines, 14 Cal. Code Regs. §15386(a)) and a Responsible agency regarding any discretionary actions (CEQA §15381). The Department is providing these comments in furtherance of these statutory responsibilities, as well as its common law role as trustee for the public's fish and wildlife.

The supplied CEQA Documentation does *not* adequately address potential mitigation measures feasible in order to address threatened and/or endangered species which have the potential to be impacted by the proposed project. The four (of six total) mitigation measures with biological relevance, do not adequately identify and mitigate for potential project impacts for the reasons identified below.

The proposed project is within the range of the Mohave ground squirrel (MGS). Not all lands within the range are potential habitat for the MGS. The Department reviews the potential for MGS habitat on a site specific basis. The IS/MND's Biological Resources Assessment (Power Engineers, Inc. May 2010) states: "Suitable habitat [MGS] is present within and adjacent to the project limits. No records for the species have been recorded in recent years within 10 miles of the project." In fact, positive MGS surveys have been identified within recent years less than 10 miles from the project site. As such, the project will need to perform protocol surveys for the MGS to determine presence or absence. Without protocol surveys, the Department cannot definitively determine either presence or absence of MGS. Impacts to MGS or its associated habitat constitutes "take" and will require the project to acquire an Incidental Take Permit under Fish and Game Code § 2080. Additionally, without protocol surveys, BIO-4 of the Biological Resources Assessment, which identifies a Worker Environmental Awareness Program (WEAP) to inform workers of Best Management Practices, is not adequate mitigation to potential impacts to the Mohave ground squirrel.

The proposed project is located within the known range of the desert tortoise (*Gopherus agassizii*) a state and federally listed species. Although focused desert tortoise surveys have been performed according to the Biological Resource Report, no date was specified. Please remember that surveys are valid for one year's time and any take of a protected species without an Incidental Take Permit would result in a violation of Fish and Game Code §2080. Copies of all desert tortoise surveys should be submitted to the respective permitting agencies (e.g. the United States Fish and Wildlife Service (USFWS) and the Department). Additionally, mitigation measures should be implemented to avoid and minimize potential impacts to desert tortoise.

Although burrowing owls were not detected during the Initial Biological Resources Assessment, the site is identified as potentially suitable habitat. A 30-day pre-construction survey for burrowing owl may be required as mitigation for the project (as identified in BIO-2), this mitigation alone is not adequate to reduce impacts to burrowing owl to less than significant levels if an owl is found. Also, owls may only be passively relocated at certain times of the year. The relocation process may need to be performed months prior to construction. If burrowing owls are found on site the following mitigation measures would insure impacts are less than significant. The final IS/MND should include these measures:

1. As compensation for the direct loss of burrowing owl nesting and foraging habitat, the project proponent shall mitigate by acquiring and permanently

protecting known burrowing owl nesting and foraging habitat at the following ratio;

- a) Replacement of occupied habitat with occupied habitat at 1.5 times 6.5 acres per pair or single bird;
- b) Replacement of occupied habitat with habitat contiguous with occupied habitat at 2 times 6.5 acres per pair or single bird; and/or
- c) Replacement of occupied habitat with suitable unoccupied habitat at 3 times 6.5 acres per pair or single bird.

The project proponent shall establish a non-wasting endowment account for the long-term management of the preservation site for burrowing owls. The site shall be managed for the benefit of burrowing owls. The preservation site, site management, and endowment shall be approved by the Department.

2. All owls associated with occupied burrows, that will be directly impacted (temporarily or permanently) by the project, shall be relocated and the following measures shall be implemented to avoid take of owls:
 - a) Occupied burrows shall not be disturbed during the nesting season of February 1 through August 31, unless a qualified biologist can verify through non-invasive methods that either the owls have not begun egg laying and incubation or that juveniles from the occupied burrows are foraging independently and are capable of independent flight.
 - b) Owls must be relocated by a qualified biologist from any occupied burrows that will be impacted by project activities. Suitable habitat must be available adjacent to or near the disturbance site or artificial burrows will need to be provided nearby. Once the biologist has confirmed that the owls have left the burrow, burrows should be excavated using hand tools and refilled to prevent reoccupation.
 - c) All relocation shall be approved by the Department. The permitted biologist shall monitor the relocated owls a minimum of three days per week for a minimum of three weeks. A report summarizing the results of the relocation and monitoring shall be submitted to the Department within 30 days following completion of the relocation and monitoring of the owls.
3. A Burrowing Owl Mitigation and Monitoring Plan shall be submitted to the Department for review and approval prior to relocation of owls. The Burrowing Owl Mitigation and Monitoring Plan shall describe proposed relocation and monitoring plans. The plan shall include the number and location of occupied burrow sites and details on adjacent or nearby suitable habitat available to owls for relocation. If no suitable habitat is available nearby for relocation,

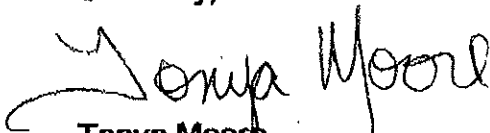
details regarding the creation of artificial burrows (numbers, location, and type of burrows) shall also be included in the plan. The Plan shall also describe proposed off-site areas to preserve or compensate for impacts to burrowing owls/occupied burrows at the project site as required under Condition 1.

The project may require a Streambed Alteration Agreement pursuant to Fish and Game Code §1600 et. seq. The Department has direct authority under Fish and Game Code §1600 et. seq. in regard to any proposed activity that would divert, obstruct, or affect the natural flow or change the bed, channel, or bank of any waterway. Departmental jurisdiction under §1600 et. seq. may apply to all lands within the 100-year floodplain. Early consultation is recommended, since modification of the proposed project may be required to avoid or reduce impacts to fish and wildlife resources.

In conclusion, the Department believes the IS/MND is inadequate as written. A finding that any potentially significant impacts would be mitigated to less than significant levels or that no potentially significant impacts would occur as a result of the project is not supported by evidence presented in the document. The proposed document should be revised to include an adequate discussion of biological resources potentially affected by the project, an analysis of potential impacts to these biological resources, and adequate mitigation measures to offset any identified impacts. The revised document should then be submitted and circulated through the State Clearinghouse for public review and comment.

Questions regarding this letter and further coordination on these issues should be directed to Mr. Eric Weiss, Environmental Scientist at (760) 246-8828.

Sincerely,



Tonya Moore
Senior Environmental Scientist

cc: Mr. Eric Weiss
State Clearinghouse