

Implementing Senate Bill X8 34 (2010):

**Efficient implementation of biological mitigation measures
for American Reinvestment and Recovery Act projects**

Overview of the Interim Mitigation Strategy

DRECP Stakeholders Meeting
Victorville, CA
July 14, 2010



California Energy Commission



Department of Fish and Game

Implementing SB X8 34 (2010):

The Interim Mitigation Strategy

SB X 8 34 (2010) requires the Department to prepare an Interim Mitigation Strategy that:

- Describes project impacts to natural resources (as they are understood at publication time)
- Describes categories and costs of possible mitigation measures that could be utilized to meet ESA, CESA, and CEQA requirements for each project
- Describe a regional planning perspective for implementing mitigation required of SB 34 eligible projects
- Describe collective mitigation implementation actions that are consistent with the regional planning perspective and the emerging DRECP (NCCP Consistency)

Implementing SB X8 34 (2010):

The Interim Mitigation Strategy

The purpose of the Interim Mitigation Strategy required under SB X8 34 is:

- Ensure the REAT agencies implementing mitigation using one or more of the tools in SB X8 34 direct mitigation actions to areas that would receive the maximum benefit
- Ensure mitigation actions support the concepts, goals, and objectives of the emerging DRECP
- Describe an initial conceptual vision for conservation in the California desert
- Tie mitigation for eligible projects to existing species recovery areas or land management units

Implementing SB X8 34 (2010):

The Interim Mitigation Strategy

Criteria

SB 34 (2010) identifies eligible projects as those that meet the following criteria:

- Are located within the boundary described in the DRECP Planning Agreement (California Desert)
- Have self-identified to the REAT agencies as pursuing one or more ARRA incentive program
- By February 1, 2010:
 - Have been deemed data-adequate by the California Energy Commission or
 - had a Notice of Preparation under CEQA published for the project by a local government permitting authority or
 - competed and submitted a local government permit application

Implementing SB X8 34 (2010):

The Interim Mitigation Strategy

SB X8 34 Eligible Projects

CEC

- Beacon Solar Energy Project – NextEra
- Abengoa Solar - Mojave

Joint BLM-CEC

- Imperial Valley Solar (Solar 2) -- Tessera (Stirling Solar)
- Calico (Solar 1) -- Tessera (Stirling Solar)
- Ivanpah Solar Electric Generating System (SEGS) – Bright Source
- Palen Solar Power Project -- Solar Millennium
- Blythe Solar Power Project -- Solar Millennium*
- Genesis Solar Energy Project, Ford Dry Lake – NextEra
- Rice Solar Energy Project -- Blythe
- Imperial Valley Solar (Solar 2) -- Tessera (Stirling Solar)

BLM

- Desert Sunlight
- Lucerne Valley Solar Project-Chevron, Photovoltaic. Chevron Energy Solutions (CES)

Local Agency

- Antelope Valley Solar Ranch One – Nextlight, Photovoltaic
- Gray Butte Solar – First Solar, Photovoltaic
- Monte Vista – First Solar, Photovoltaic
- Blythe Airport Solar 1 Project – US Solar Holdings, LLC, Photovoltaic
- Borrego Solar Farm – Eurus Energy, Photovoltaic
- Tehachapi Photovoltaic Solar Project – GE
- Boulevard Associates (San Bernardino Co.) -- Boulevard Associates, LLC, Photovoltaic

Implementing SB X8 34 (2010): The Interim Mitigation Strategy

Project Descriptions

The Interim Mitigation Strategy describes biological impacts resulting from construction and operation of eligible projects as they are documented at the time the IMS is published.

- Example – NextEra Beacon Solar Project:
 - 250 mw, 2012 acre thermal solar project
 - Status: deemed data adequate by CEC, all studies completed, evidentiary hearings in progress

Biological Resource	Impact/Mitigation
Special-Status Wildlife	
Desert tortoise	Impact: Potential take of individuals during operation and construction; permanent loss of 5 acres of Mohave Creosote Scrub habitat occupied by desert tortoise; increased risk of predation from ravens and other predators; increased road kill hazard from construction and operations traffic. Mitigation: Avoidance and minimization measures (BIO-9, BIO-12); off-site habitat acquisition of 115 acres (BIO-11); raven management plan (BIO-13).
Mohave ground squirrel	Impact: Potential take of individuals during construction and operation; permanent loss of 5 acres of Mohave Creosote Scrub habitat occupied by Mohave ground squirrels; increased risk of disturbance to nearby populations; increased road kill hazard from construction and operations traffic. Mitigation: Avoidance and minimization measures (BIO-1 through BIO-8, BIO-10, BIO-12); off-site habitat acquisition, endowment, and enhancement of 115 acres (BIO-11).

Implementing SB X8 34 (2010):

The Interim Mitigation Strategy

IMS Content

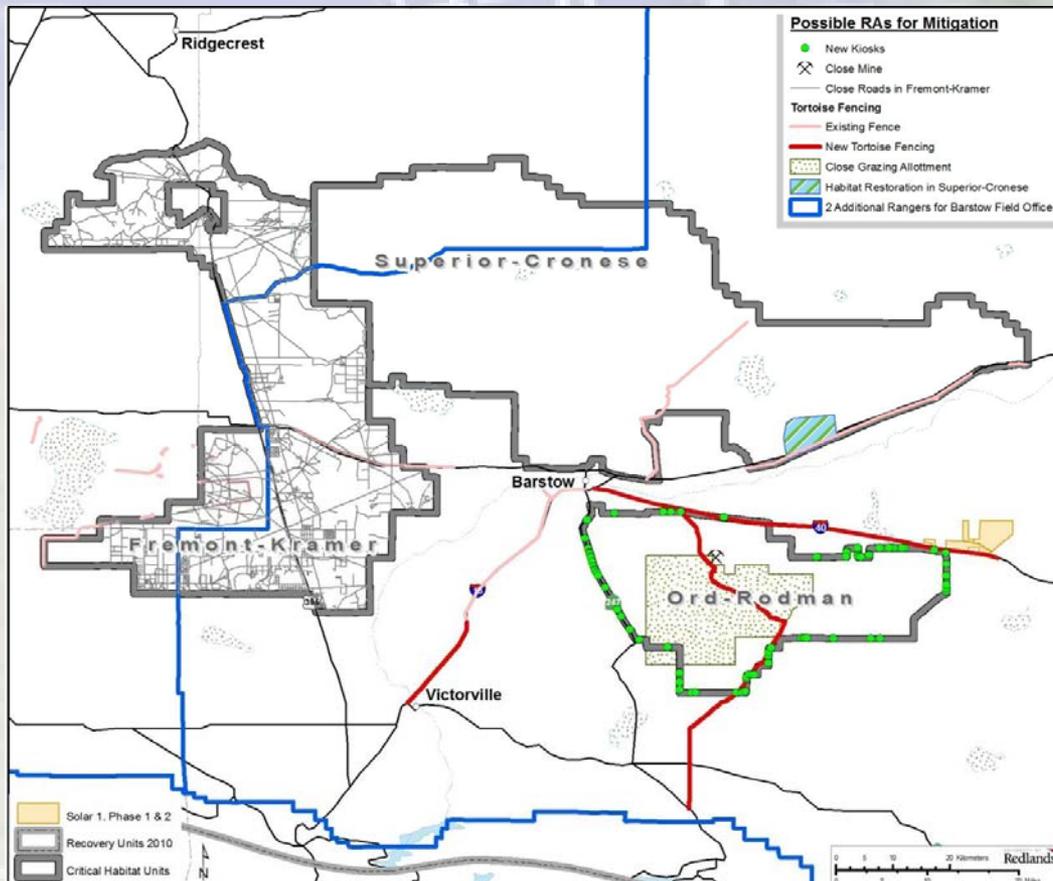
The Interim Mitigation Strategy describes and identifies costs for a series of potential biological mitigation measures. SB X8 34 requires that development of the costs for these measures utilize full cost accounting.

- Land acquisition (fee title or easement)
- Restoration on public or private land (e.g., retiring roads, invasive species control)
- Enhancement of biological values on public or private land (e.g., tortoise fencing, access exclusion fencing)
- Mechanisms for ensuring long-term management of acquired habitat lands (endowment)

Implementing SB X8 34 (2010): Role of the REAT and Agencies

IMS Content

The Interim Mitigation Strategy describes measures and an approach that will be employed to implement biological mitigation.



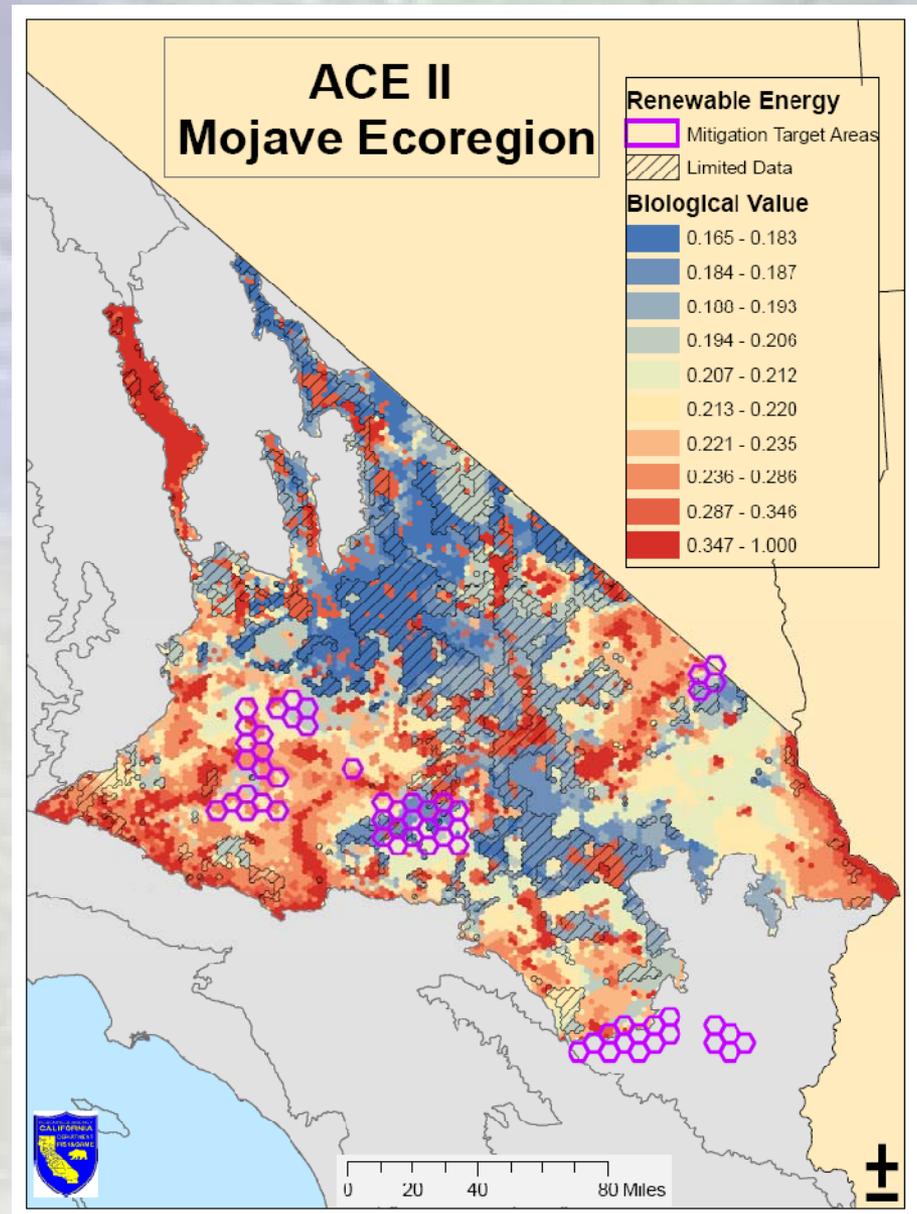
Possible RAs for Mitigation

- New Kiosks
- Close Mine
- Close Roads in Fremont-Kramer
- Tortoise Fencing**
- Existing Fence
- New Tortoise Fencing
- Close Grazing Allotment
- Habitat Restoration in Superior-Cronese
- 2 Additional Rangers for Barstow Field Office

Implementing SB X8 34 (2010): *The Interim Mitigation Strategy*

IMS Content

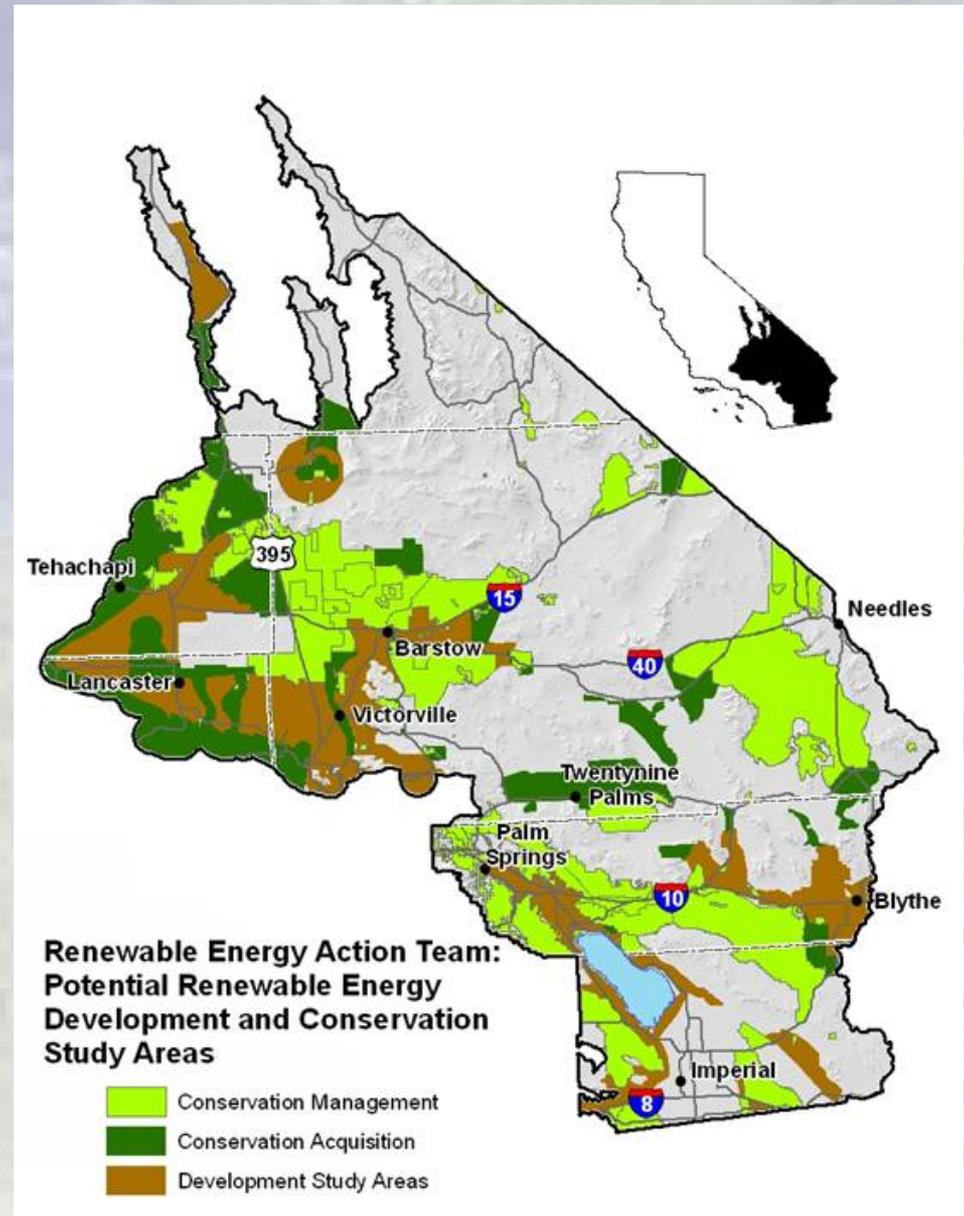
The Interim Mitigation Strategy describes conceptual conservation areas where Project mitigation should be directed to ensure consistency with the DRECP.



Implementing SB X8 34 (2010): The Interim Mitigation Strategy

IMS Content

The Interim Mitigation Strategy uses the DRECP “starting point” map in conjunction with other tools as an initial basis for targeting the implementation of biological mitigation.



Implementing SB X8 34 (2010): The Interim Mitigation Strategy

Implementation

Project Mitigation Determination

Mitigation Implementation

All Other RPS Projects

SB X834-Eligible Projects

NFWF Accounts and Management

In-Lieu Support

- 5% Contingency
- IMS

Advance Mitigation

- Land acquisition
- Revolving fund

Endowment

Enhancement
and Restoration

Land Acquisition

Third Party Partners

Mitigation Obligation Completed

Implementing SB X8 34 (2010):

The Interim Mitigation Strategy

IMS Content

The Interim Mitigation Strategy provides for an in-lieu fee approach to implementing compensatory mitigation. The in-lieu fee approach and typical CESA mitigation approaches are compared below

<i>Typical CESA Implementation</i>	<i>In-Lieu Fee Option</i>
Applicant responsible for implementing compensatory mitigation	Agencies responsible for implementing compensatory mitigation
Applicant responsible for actual costs of implementing compensatory mitigation	Applicant costs for implementing mitigation capped by in-lieu fee and 5% contingency
Mitigation lands identified by applicant and approved by agencies	Mitigation lands identified and acquired by agencies
Applicant responsible for actual ancillary costs associated with implementing mitigation	Ancillary costs incorporated into in-lieu fee
Applicant works directly with third parties, land agents, and fee title or easement holders	Single transaction by applicant to implement mitigation

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The Interim Mitigation Strategy

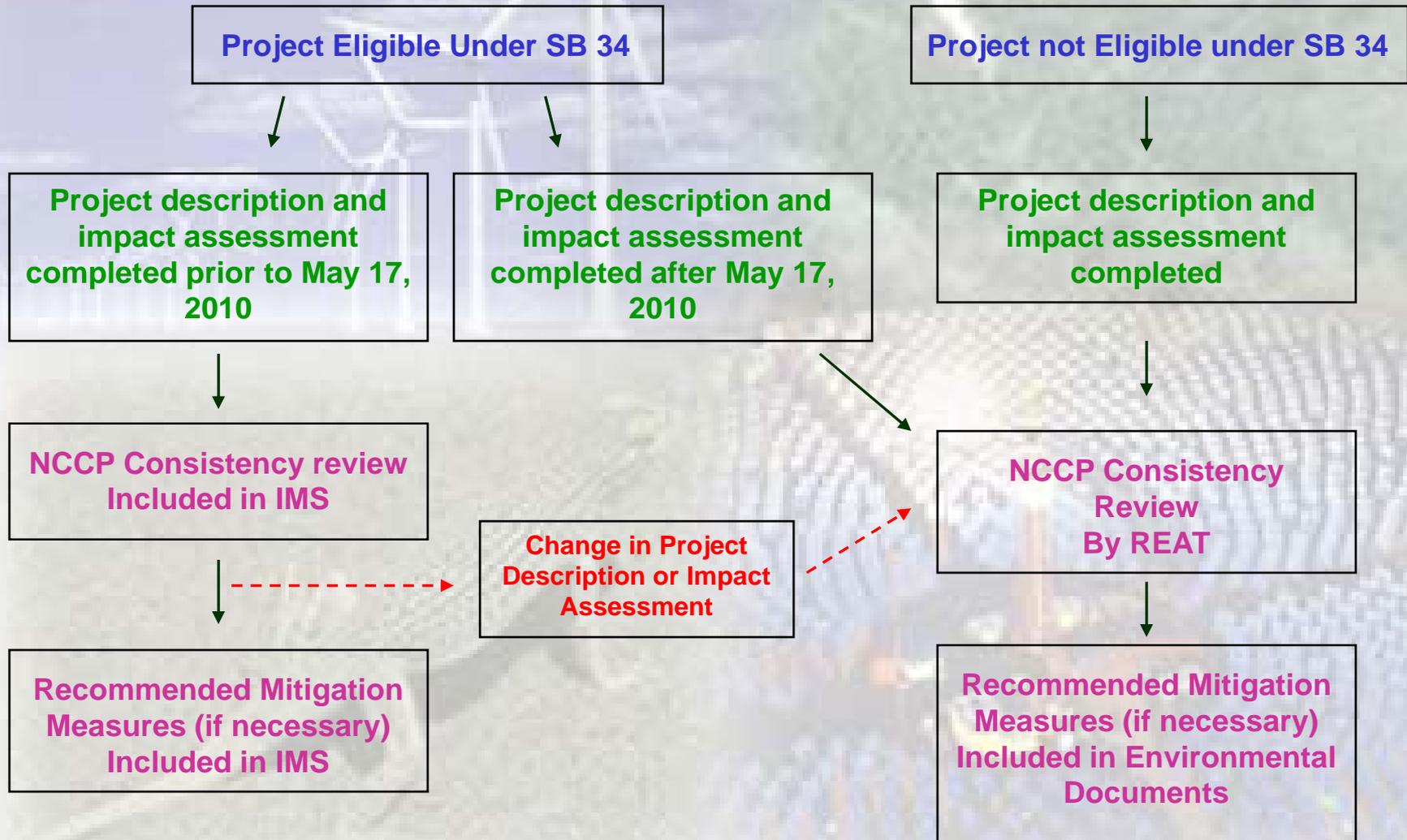
IMS Content

The Interim Mitigation Strategy provides for two options for implementing project mitigation: in-lieu fee and advanced mitigation. Features of these options are compared below

<i>Advanced Mitigation Option</i>	<i>In-Lieu Fee Option</i>
Lands identified and purchased in advance of permits	Lands identified and purchased after project permits are obtained.
Land acquisition costs known to both the agencies and applicant prior to permit issuance	Land costs unknown to both applicant and agencies prior to permit issuance
Lands selected more strategically resulting in more robust conservation outcomes	Lands often selected more opportunistically
Additional certainty in ancillary costs associated with acquisition, restoration, and enhancement actions	Ancillary costs variable depending upon mitigation target areas and location
Single transaction by applicant to implement mitigation	Single transaction by applicant to implement mitigation

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NCCP Consistency



Implementing SB X8 34 (2010):

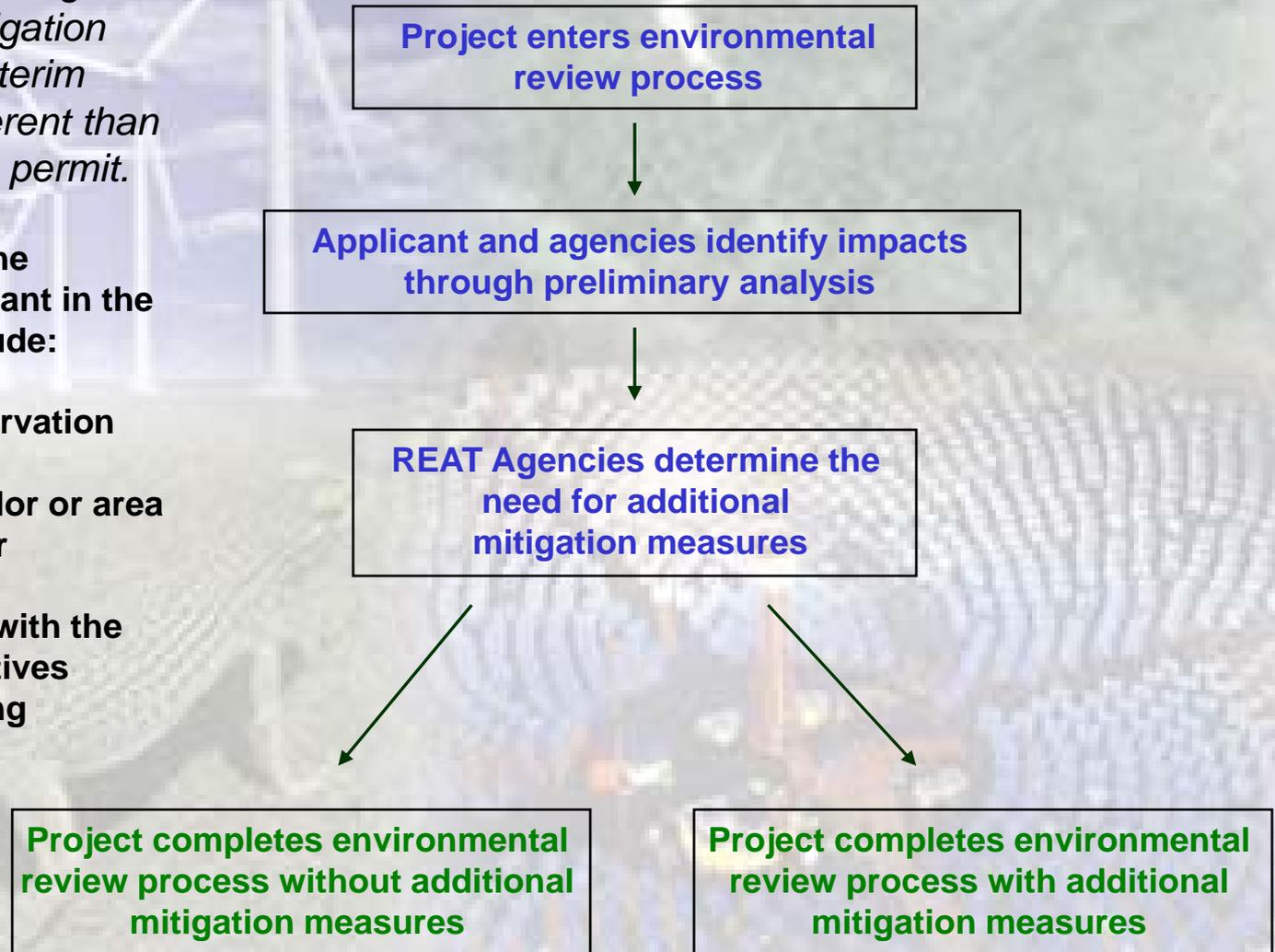
The Interim Mitigation Strategy

Interim Process Example

The standard for evaluating the need for additional mitigation measures under the Interim Project Process is different than standards for issuing a permit.

Factors considered by the Department to be important in the consistency review include:

- Foreclose future conservation opportunities
- Impede a wildlife corridor or area considered important for connectivity
- Project not consistent with the DRECP goals and objectives expressed in the Planning Agreement



Implementing SB X8 34 (2010): *The Interim Mitigation Strategy*

IMS Content

A draft of the Interim Mitigation Strategy was provided to the DRECP stakeholders on July 8 for review prior to the July 14, 2010 stakeholders meeting in Victorville.

- Stakeholders review and comment
- Complete REAT agency review
- Publish final document