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**SUPPLEMENT TO THE APPLICATION FOR CERTIFICATION
ORANGE GROVE PROJECT**

1.0 INTRODUCTION

This Supplement to the Application for Certification (AFC) for the Orange Grove Project (08-AFC-4) provides clarifying and augmenting information to respond to data adequacy needs identified by CEC Staff based on review of the AFC submittal dated June 16, 2008. Information is provided in the following sections:

- Section 2.0 – Biological Resources
- Section 3.0 – Facility Design
- Section 4.0 – Water Resources

Back-up information for these sections is provided in Exhibits appended to this Supplement.

2.0 BIOLOGICAL RESOURCES

Seven data adequacy items have been identified for the biological resources section of the AFC, as addressed below.

1. CNDDDB Forms:

CNDDDB Forms for the coastal California gnatcatcher, least bell's vireo, San Diego horned lizard, Northern Red-Diamond Rattlesnake, Rufous-crowned sparrow, Engelmann oak, and Parry's tetracoccus are included as Exhibit A.

2. Resumes/Qualifications of Biologists:

Resumes of biologists performing field studies and special status species surveys are included as Exhibit B.

3. Gnatcatcher Habitat Compensation Contacts:

The following summary presents information on various opportunities related to the mitigation of impacts to coastal sage scrub (CSS) (including CSS occupied by coastal California gnatcatcher) that would occur as a result of the Orange Grove Project.

There are several existing conservation banks in San Diego County that may be able to sell mitigation credits for CSS. The current status of these banks and descriptions of contacts that have been made and contact information is provided below:

- (1) Daley Ranch Conservation Bank
Darren Parker (Assistant Planner)
City of Escondido
Planning Division
201 North Broadway
Escondido, CA 92025-2798
(760) 839-4553

The Daley Ranch Conservation Bank currently has available mitigation credits for CSS/chaparral occupied by coastal California gnatcatcher.

- (2) Crestridge Conservation Bank
Tammy Lawhead
J. Whalen Associates
1660 Hotel Circle North, Suite 725
San Diego, CA 92108-2820
(619) 683-5544

This conservation bank currently has available mitigation credits for CSS occupied by coastal California gnatcatcher, but only 0.36 credit acres are remaining. However, the bank is not authorized to sell credits to projects that are outside of the South County Plan Area of the Multiple Species Conservation Plan (MSCP). Therefore, a waiver from the California Department of Fish and Game (CDFG) and US Fish and Wildlife Service (USFWS) would be required for the bank to sell mitigation credits to the Orange Grove Project.

(3) Cornerstone Conservation Bank

Jim Braun
City of San Diego
Water Department
600 B Street, Suite 1150
San Diego, CA 92101
(619) 533-6517

This bank is operated by the City. They have CSS credits for occupied California gnatcatcher habitat.

Discussions with the CDFG (Dave Mayer, Natural Communities Conservation Plan (NCCP) Group [858-467-4234] and Dave Lawhead, California Environmental Quality Act (CEQA)/California Endangered Species Act (CESA) Group [858-627-3997]) identified one bank (in process) that may be able to sell mitigation credits for CSS within the next six months. Michael McCollum identified another bank that he is currently processing that may also be able to sell mitigation credits for CSS. Furthermore, J. Whalen Associates has been looking at a property (i.e., Snow property) that could be developed as a compensation site. The current status of these banks and the potential compensation site as well as the key contact information for these mitigation opportunities is provided below:

(1) Red Mountain Mitigation Bank

Westley Peltzer (attorney)
751 Rancheros Drive, Suite 4
San Marcos, CA 92069
(760) 744-7125
WWPeltzer@aol.com

The Red Mountain Mitigation Bank will be authorized to sell mitigation credits for CSS occupied by coastal California gnatcatcher within the next year (likely within six months). The bank has also been processing separate conservation easements for a small number of applicants with extremely pressing mitigation needs prior to authorization of the bank (with approval from the agencies). This secondary process has involved purchase of CSS mitigation credits with an associated processing fee. The bank is not particularly interested in processing additional conservation easements since they are trying to focus on completion of the bank, but have indicated that they would entertain offers. Furthermore, it appears that all of the credits that will become available at the time of bank authorization will likely be

purchased by the US Border Patrol for impacts related to construction of the new international border fence.

(2) Carlsbad Oaks Habitat Bank

Michael McCollum
McCollum Associates
10196 Clover Ranch Drive
Sacramento, CA 95829-6574
(916) 688-2040

This bank will be authorized to sell mitigation credits for CSS occupied by coastal California gnatcatcher.

(3) Snow Property Compensation Site

Tammy Lawhead
J. Whalen Associates
1660 Hotel Circle North, Suite 725
San Diego, CA 92108-2820
(619) 683-5544

The Snow Property is not developed as a mitigation bank. It is however available for use as a compensation site and is occupied by coastal California gnatcatcher.

Also, should suitable mitigation credits not be available for the Orange Grove Project, the applicant may purchase and manage land that supports the vegetation communities for which compensation/mitigation is required. In particular, the agencies are interested in protecting land in the Rice Canyon area in order to create a north/south connection between habitat occupied by coastal California gnatcatcher at locations to the north and south. As such the Orange Grove Project could purchase land in this area, develop a habitat management plan for the land, establish an endowment for the annualized costs of monitoring and management, and convey an easement in perpetuity to protect the land.

4. Agency Correspondence with USFWS, ACOE, RWQCB and CDFG:

There has been no written correspondence to these agencies directly related to the Project as currently proposed. A summary of prior conversations follows.

The Applicant met with United States Fish and Wildlife Service (USFWS) and the US Army Corps of Engineers (ACOE) on May 27, 2008 to discuss the project. In attendance from the USFWS was Michelle Moreno and from the ACOE was Laurie Monarres. The

project and potential permitting requirements related to the federal Endangered Species Act (ESA) and the Clean Water Act were discussed. Ms. Monarres explained that if the project avoided all jurisdictional waters a 404 Permit would not be required by the ACOE and if a 404 Permit was not required a 401 Water Quality Certification would also not be required. As discussed in the AFC submittal dated June 19, 2008 the project is avoiding all impacts to jurisdictional waters by incorporating horizontal directional drilling (HDD). Therefore a 404 Permit will not be required for the project.

At the meeting on May 27, 2008, the federally protected species that were located within and adjacent to the project were reviewed. Ms. Moreno indicated that impacts to the California gnatcatcher could be permitted through the County's Habitat Loss Permit (HLP) process. She went on further to explain the HLP process would not handle any issues related to critical habitat. The project is located within critical habitat for the gnatcatcher. She did explain that critical habitat impacts would only need to be addressed if a federal permit such as a 404 Permit was required for the project. During the meeting minimization measures were discussed that could be incorporated into the project description that could avoid the need for any other permitting requirement under the federal ESA. Minimization measures discussed include construction timing measures and techniques such as HDD. As discussed in the AFC submittal, the project incorporates minimization measures to avoid all impacts to federally protected species located within and adjacent to the project so that Section 10 consultation will not be required.

The Applicant is currently preparing a Section 1602 Streambed Alteration Agreement Notification package. TRC spoke to the California Department of Fish and Game (CDFG) and explained the project and they verified that even though we were drilling under the resources there was a potential of an impact so the Notification package needed to be submitted for review. We expect that the Notification package will be submitted in mid-July 2008. Under the Fish and Game Code regulations, the CDFG have 30 days to deem the packages complete and once the package is deemed complete 30 more days to issue an Agreement for the project.

5. Identify Agencies with Jurisdiction:

The jurisdiction of relevant agencies is identified in Table 1 below. The Regional Water Quality Control Board (RWQCB) is not shown because, without the need for 401 Water Quality Certification (see item 4 above), the RWQCB does not have jurisdiction related to biological resources. The project will avoid disturbance to surface waters that otherwise would trigger RWQCB jurisdiction. The State Water Resources Control Board, overseeing the RWQCB, is listed as an agency contact in the Water Resources section of the AFC, due to jurisdiction over storm water permitting.

Table 1 – Agencies with Authority Concerning Biological Resources

AGENCY	AUTHORITY
<p>U.S. Army Corps of Engineers San Diego Region 16885 W. Bernardo Drive, Suite 300A San Diego, CA 92127 (858) 674-5384 Laurie Monarres laurie.a.monarres@usace.army.mil</p>	<p>Clean Water Act Section 404 – Alteration of “waters of the U.S.”</p>
<p>U.S. Fish and Wildlife Service Carlsbad Field Office 6010 Hidden Valley Road Carlsbad, CA 92011 (760) 431-9440 Michelle Moreno Michelle_Moreno@fws.gov</p>	<p>Take of Species protected under the Federal Endangered Species Act</p>
<p>County of San Diego Department of Public Works 5469 Kearny villa Road, Suite 305 San Diego, CA 92123 (858) 874-4039 Thomas Duffy Thomas.duffy@sdcounty.ca.gov</p>	<p>Take of Species protected under the Federal Endangered Species Act</p>
<p>California Department of Fish and Game South Coast Region 4949 Viewridge Avenue San Diego, CA 92123 (858) 467-4201 Tamara Spears</p>	<ul style="list-style-type: none"> • Take of species protected under the CA Endangered Species Act • CDFG may exercise jurisdiction over HDD, to be determined following submittal of an application.

6. Agency Contact Information:

Agency contact information is provided in Table 1, above.

7. Schedule for Conformance with the County NCCP and Obtaining a HLP:

The Applicant met with the County of San Diego on June 11, 2008 to discuss various issues regarding the project including Habitat Loss Permit (HLP) process and was informed that the HLP would need to be submitted as part of the grading plans submittal. Mr. Nael Areigat will be the lead from the County of San Diego for the grading permit. He is a Project Manager with the Land Development Division with the Department of Public Works for the County of San Diego. Tom Duffy will be the lead for the HLP. Mr. Duffy is an Environmental Planner with the Environmental Services Units with the Department of Public Works. It is anticipated that the HLP will take approximately four to six months to process and the County of San Diego will need a completed CEQA document or equivalent in order to complete the process. The June 11, 2008 meeting included discussion of the AFC process and the expected FSA issuance in October 2008. The County anticipated that the HLP process can substantially be completed by that time if the application is submitted in July 2008. J-Power is expecting to submit the grading permit application along with the HLP application in mid-July 2008. Preliminary discussions regarding the HLP have also occurred with Michelle Moreno with the USFWS as noted above in Response 4.

In addition to the above items, the protocol survey reports for the Least Bell's vireo and Southwestern Willow Flycatcher have been completed and are provided as Exhibits C.1 and C.2, respectively.

3.0 FACILITY DESIGN

Seven data adequacy items have been identified for Facility Design, as addressed below.

1. Foundation Types, Design Criteria, Analytical Techniques, Assumptions, Loading Conditions, and Loading Combinations for Structures and Major Equipment:

Supplemental Information for Foundations, Facility Structures, and Major Mechanical and Electrical Equipment is provided in Exhibit D.

2, 3, 4, 5 and 7. Dimensions, Surface Area Requirements, and Design Criteria for the Power Generation System, the Heat Dissipation System, Cooling Water Supply System Tanks and Foundations, Atmospheric Emission Control System, and Switchyards/Transformers:

Supplemental information clarifying and augmenting the AFC is provided in Exhibit E.

6. Waste Disposal System and On-Site Disposal Sites:

There are no on-site waste disposal sites except for the sanitary waste septic tank and leach field described in AFC Section 2.7.2. All other project waste disposal will be offsite, as described in detail in Section 6.14 - Waste Management.

As referenced in AFC Section 2.7.2, the location and preliminary plan for the sanitary waste system are shown in Drawings C100 and C200 in AFC Appendix 2-A. As further described in Section 6.5.5, the design criteria for the sanitary waste septic system include the County Plumbing Code and the County septic tank ordinance. The County septic tank ordinance is Title 6, Division 8, Chapter 3 of the San Diego County Code of Regulatory Ordinances. The County Plumbing Code is Title 9, Division 4, Chapter 1 of the San Diego County Code of Regulatory Ordinances. A detailed design report, including description of system sizing, is provided in Appendix 6.5-H.

Process wastewater streams are identified in AFC Table 2.7-1. As described in AFC Section 2.7.1, process wastewater will be recycled onsite using reverse osmosis (RO) water treatment. The RO treated water and RO reject will be recycled to the plant water supply as described in Section 2.7.1. As also described in Section 2.7.1, with the RO treatment, the plant will essentially function as zero liquid discharge technology. Only a few hundred gallons per month of wastewater will be generated that will not be recycled onsite. This water will be from turbine wash and plant drains, where the water may contain oil making it unsuitable for onsite recycling. As described in Section 6.14 - Waste Management (Table 6.14-4), the few hundred gallons per month of turbine wash water and plant drain water that is not recycled will be stored in an onsite wastewater tank and hauled offsite periodically to a licensed treatment facility. The wastewater storage tank will be carbon steel with an approximate height and diameter of 22 feet and 19 feet, respectively (Table 1 in AFC Appendix 6.13-A). The tank will be field fabricated with an approximately 40,000 gallon capacity (AFC Table 2.3-1).

7. See item 2, 3, 4, 5 and 7, above

4.0 WATER RESOURCES

The only identified data adequacy item for water resources is the need for an executed water option for the Project fresh water supply. A copy of the executed option is provided in Exhibit F.