

Biological Resources (31-45)

Western Riverside County Multi-Species Habitat Conservation Plan

31. *Please provide a detailed discussion of the approval process for participation in the WRCMSHCP and the SKRHCP.*

Response: There are two ways to participate in the Western Riverside County Multispecies Habitat Conservation Plan (WRCMSHCP). If the County issues a permit (such as a grading permit) for a project, the applicant can request participation under the WRCMSHCP. If the County does not issue a permit, then it is possible to apply for participation as a “special participating entity” through the Riverside County Regional Conservation Authority (Greg Neil, Deputy Director for the Riverside County Environmental Programs Department, personal communication). Participation in the HCP is a voluntary action typically taken only when an incidental take permit is required from the U.S. Fish and Wildlife Service (USFWS). All projects, however, are required to comply with the terms and conditions of the MSHCP in terms of surveys and other necessary mitigation, and avoidance measures as appropriate. According to the WRCMSHCP, the SVEP project area is located within an area for which protocol burrowing owl surveys are required before construction. There are no other requirements for the SVEP under the WRCMSHCP.

The Stephens’ Kangaroo Rat Habitat Conservation Plan (SKRHCP) is designed to acquire and permanently set aside, maintain, manage and fund conservation, preservation, restoration and enhancement of the Stephens’ kangaroo rat (SKR) and its habitat. The SKRHCP establishes suitable habitat areas where incidental take is permitted through a fee process and core reserve areas in occupied habitat where development projects are required to obtain individual permits. The SVEP is located within the Stephens’ kangaroo rat HCP fee area, and VSE will be required to pay a per-acre fee to participate in the HCP. An individual SKR incidental take permit is not required for SVEP.

WRCMSHCP Compliance

32. *Please provide a detailed discussion of all actions that must be taken for the project to be in compliance with the WRCMSHCP, including a discussion of what actions have been taken by SVEP and a schedule of future actions that must be taken.*

Response: The project is not located within any of the criteria cells identified in the WRCMSHCP as core habitat areas or key migration corridors. Therefore, the only requirement necessary for the project to comply with the MSHCP is to conduct protocol level burrowing owl surveys and implement appropriate protection measures if owls are found in the vicinity of the project. Protocol burrowing owl surveys were completed for the project site and associated linear features on March 30, 2006. A copy of the technical report of this survey will be provided to the CEC in a separate filing. Preconstruction surveys will also be required for burrowing owls in the project area.

WRCMSHCP Fees

33. *Please provide a discussion of how mitigation fees are determined under the WRCMSHCP and specific fee amounts that will be required for SVEP.*

Response: Mitigation fees under the WRCMSHCP will not be required because the SVEP is not located within any of the core habitat areas or key migration corridors. The SVEP and all other developments in western Riverside County, however, are required to pay a specific development fee that is called the “Multispecies Habitat Conservation Plan Mitigation Fee,” in accordance with County Ordinance 810.2. This is a development fee that is assessed independently of project-specific regulatory requirements for compliance with the Endangered Species Act. The fee is used to acquire habitat for species covered in the MSHCP. The fee amount for land that is zoned industrial is \$5,620 per acre.

Stephens’ Kangaroo Rat HCP

34. *Please provide a detailed discussion of all actions that must be taken for the project to be in compliance with the SKRHCP, including a discussion of what actions have been taken by SVEP.*

Response: The project is located within the SKR habitat mitigation fee area established by Riverside County Ordinance 663.10. This ordinance requires payment of an SKR habitat mitigation fee of \$500.00 per gross acre for development projects within the designated fee area. There are no other specific requirements for the project to be in compliance with the SKRHCP.

Stephens’ Kangaroo Rat HCP Compliance Schedule

35. *Please provide a schedule of future actions that must be taken for the project to be in compliance with the SKRHCP.*

Response: VSE will pay the mitigation fee to Riverside County at the time that a grading permit would normally be issued. No other action is required for the project to be in compliance with the SKRHCP.

Habitat Conservation Agencies

36. *Please provide contact information for the specific individuals at the habitat conservation agencies responsible for approving SVEP’s participation in the WRCMSHCP and the SKRHCP.*

Response: The project would not require approval to participate in the WRCMSHCP (see responses to #31-33, above), and would participate in the SKRHCP by fee payment. Any approvals would be coordinated through the Western Riverside County Regional Conservation Authority (951-955-9700, Tom Mullen, Interim Executive Director).

Habitat Conservation Agencies

37. *Please provide copies of any past and future correspondence related to issuance of incidental take permits.*

Response: Biological Opinions have been issued by USFWS to Riverside County for incidental take of listed species. The SVEP is located within the historic habitat of the Stephens’ kangaroo rat, a federally-listed species. The SVEP will request to be included under the provisions of the incidental take permit upon the issuance of a grading permit

and the payment of habitat mitigation fees. The SVEP will not require a project-specific incidental take permit because it will qualify to participate in the SKRHCP. The SVEP is not located within an area requiring an individual take permit under the WRCMSHCP.

Biological Surveys

38. *Please provide a schedule for and the results of spring botanical surveys, burrowing owl surveys, and winter bird surveys.*

Response: Spring botanical surveys will be completed between April and July 2006 depending on blooming periods of special-status plants. Delayed rainfall in the project area has resulted in a later germination and blooming period. Nearby reference locations will be monitored to determine the most appropriate time to conduct botanical surveys.

Protocol-level burrowing owl surveys were completed for the project area and along the linear routes on March 30, 2006. Results of the survey will be provided to the CEC in a supplemental filing.

Winter bird and general wildlife surveys were completed on March 24, 2006. A report will be provided to the CEC in a supplemental filing.

Burrowing Owl Mitigation Measures

39. *Please provide a detailed discussion of any mitigation measures required by the WRCMSHCP if burrowing owls or burrowing owl burrows are found during surveys.*

Response: Recommended mitigation measures from the Burrowing Owl Consortium include the following:

- Occupied burrows should not be disturbed during the nesting season, from February 1 through August 31, unless the California Department of Fish and Game (CDFG) verifies that the birds have not begun egg-laying and incubation, or that the juveniles from those burrows are foraging independently and capable of independent survival at an earlier date.
- When destruction of occupied burrows is unavoidable, burrows should be enhanced (enlarged or cleared of debris) or created (by installing artificial burrows) in a ratio of 1:1 in adjacent suitable habitat that is contiguous with the foraging habitat of the affected owls.
- If owls must be moved away from the disturbance area, passive relocation (see below) is preferable to trapping. A time period of at least one week is recommended to allow the owls to move and acclimate to alternate burrows.
- The mitigation committee recommends monitoring the success of mitigation programs as required in Assembly Bill 3180. A monitoring plan should include mitigation success criteria and an annual report should be submitted to CDFG.

Impact Acreage

40. *Please provide exact acreage calculations for permanent and temporary impacts from construction of the power plant, the transmission line, the transmission tower, and any other project features that may impact special-status species habitat.*

Response: The permanent and temporary disturbance areas are as follows:

- Power Plant
 - Temporary disturbance of 26 acres (including laydown and construction parking)
 - Permanent disturbance of 22 acres (within the final project fenceline, not including the laydown and construction parking area)
- Transmission Line and Tower
 - Temporary disturbance of 1.6 acres (assumes 1,000 feet of 70-foot-wide right-of-way [ROW])
 - Permanent disturbance of 0.02 acres (assumes one 40' x 40' transmission tower base)
- Nonreclaimable Wastewater Line
 - Temporary disturbance of 0.64 acres (assumes a 70-foot-wide ROW for 400 feet between the power plant site and McLaughlin Road)
 - No permanent disturbance of the ground surface
- Natural Gas Line
 - Temporary disturbance of 1.2 acres (assumes a 70-foot-wide ROW for 750 feet)
 - No permanent disturbance of the ground surface

Impact Acreage

41. *Please provide a discussion of how mitigation fees are determined under the SKRHCP and specific fee amounts that will be required for SVEP, including a discussion of the amount of disturbed land that will and will not require mitigation fees under the SKRHCP.*

Response: The project area is located within the SKR mitigation fee area established by Riverside County Ordinance 663.10. The ordinance states that for development projects, a fee of \$500.00 per gross acre will be paid for SKR mitigation. In the County's process, this fee is due when the County issues of a grading permit or a certificate of occupancy or upon final inspection, whichever occurs first. Other than fee payment, no further review and approval is required for mitigation of SKR habitat. Permanent disturbance associated with the project is enumerated in the response to #40 and would be approximately 22 acres.

For temporary disturbance associated with the project's linear features, no fees will be required per Section 10 (f), which states, "The construction of public utility transmission facilities where ground surface disturbance is minimal or where substantially all of the disturbed ground surface can be restored to its original condition as may be determined by the Planning Director. Said exemption shall not include substations, treatment facilities or

pumping stations.” Therefore, the SVEP’s required SKR mitigation fees would total \$11,000 (\$500/acre for 22 acres of permanent disturbance).

Riverside County Ordinance 663.10

42. *Please provide a discussion of Riverside County Ordinance No. 663.10, its applicability to the SVEP, and a discussion of how SVEP will comply with the ordinance.*

Response: As stated above, SVEP will pay a mitigation fee for permanent impacts to habitat within the SKR fee area established by Riverside County Ordinance 663.10. The fee will be paid at the time that the County would normally issue a grading permit.

Aquatic Resources Surveys

43. *Please provide the results of aquatic resources surveys.*

Response: Aquatic resource surveys were completed for the proposed project site and along the associated linear routes on March 24, 2006. No wetlands or aquatic resources were observed on the proposed project site. Intermittent, ephemeral drainages were observed along both the north and south sides of the existing unpaved roadways to the north of the project site, and along the non-reclaimable wastewater pipeline route. These drainages are generally characterized by discontinuous channels and surface flow areas that convey storm water runoff to the west. All linear features will be located within existing unpaved roads in these areas and will not affect water or aquatic resources.

Corps of Engineers Correspondence

44. *Please provide copies of any official correspondence with the U.S. Army Corps of Engineers regarding wetlands and wetland delineation, including the wetland delineation report.*

Response: No wetlands were identified in the project area and the project will not involve the fill of any wetlands or waters of the U.S. Therefore, neither wetland delineation nor correspondence with the U.S. Army Corps of Engineers is required.

BRMIMP Outline

45. *Please provide a detailed outline of a draft Biological Resources Mitigation Implementation and Monitoring Plan (BRMIMP), including the applicant’s proposed mitigation measures and any mitigation measures applicable under the SKRHCP, WRCMSHCP, and other LORS. At a minimum the BRMIMP outline should include the persons responsible for the BRMIMP implementation, agency contact information, potential compliance measures and habitat compensation, a Worker Environmental Awareness Program (WEAP), a schedule of proposed pre-construction biological resources surveys, post-construction surveys and landscaping, measures required during operation, temporary and permanent closure measures, and environmental compliance monitoring and a reporting plan.*

Response: The following is a detailed outline of the draft BRMIMP:

- 1.0 Introduction
 - 1.1 Background
 - 1.2 Project Site Location
 - 1.3 Project Description
 - 1.4 Purpose of the BRMIMP

- 2.0 Responsible Individuals
 - 2.1 California Energy Commission Compliance Project Manager
 - 2.2 Sun Valley Energy Project Compliance Manager
 - 2.3 Designated Biologist
 - 2.4 On-Site Biological Monitors
 - 2.5 Regulatory Agency Personnel
- 3.0 Conditions of Certification
 - 3.1 Worker Environmental Awareness Program (WEAP)
 - 3.2 Plan Modification Process
 - 3.3 Facility Closure Plan
 - 3.4 Herbicides and Pesticides
- 4.0 Protection Measures for Sensitive Biological Resources within the Project Areas
 - 4.1 Mobilization and Site Preparation
 - 4.1.1 Sun Valley Energy Project Site
 - 4.1.2 Electric Transmission Line
 - 4.1.3 Natural Gas and Nonreclaimable Wastewater Lines
 - 4.2 Special-Status Species Protection Measures
 - 4.2.1 Stephens' Kangaroo Rat
 - 4.2.2 Burrowing Owl
 - 4.3 Construction Restrictions
 - 4.4 Permits Required
 - 4.5 Erosion Control and Revegetation
- 5.0 Implementation Schedule
- 6.0 Implementation Monitoring/Verification Program
- 7.0 References