

ITEM 1a**M e m o r a n d u m**

To: **Robert B. Weisenmiller**
Karen Douglas
David Hochschild
Andrew McAllister
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Date : November 29, 2018

From: **Ann Crisp**
Division of Siting, Transmission and Environmental Protection
California Energy Commission
1516 Ninth Street
Sacramento CA 95814

Subject: **Request for Approval of Disbursement of Funds from the Quino Checkerspot Butterfly Research Endowment, per Condition of Certification BIO-11, Otay Mesa Energy Center (99-AFC-5C) License**

In April 2001 the Energy Commission approved the Otay Mesa Generating Project, a 510 megawatt gas-fired combined cycle power plant in San Diego County. The name of the project was changed to the Otay Mesa Energy Center (OMEC) in 2005. Among the impacts identified by the Commission as requiring mitigation were potential adverse effects from project air emissions on the federally endangered Quino checkerspot butterfly (*Euphydryas editha quino*). Condition of Certification **BIO-11** required establishment of the Otay Mesa Project Quino Checkerspot Butterfly Endowment, as follows:

BIO-11 To compensate for impacts to the quino [*sic*] checkerspot butterfly and its habitat from the OMGP NOx emissions, the project owner will provide \$305,016 to the Center for Natural Lands Management (CNLM) to establish the Otay Mesa Project Quino Checkerspot Butterfly Endowment. The California Energy Commission and the USFWS will decide how the funds will be used to better understand the quino checkerspot butterfly and its management. A portion of the funds may also be used to purchase compensation habitat if later the Energy Commission and the USFWS agree that habitat purchase, in addition to research, is an appropriate use of the endowment funds.

Verification: At least 30 days prior to the start of any project-related ground disturbance, the project owner will provide a certified check to the CNLM for \$305,016 and written verification to the CPM that the check has been provided to CNLM.

In July 2001, the Energy Commission staff approved an amendment to **BIO-11** under an expedited process required by Executive Order D-25-01, changing the endowment amount from \$305,016 to \$333,333 and changing the manager of the endowment from Center for Natural Lands Management to the San Diego Foundation. The endowment was established at the San Diego Foundation with a \$333,333 donation from Otay Mesa Generating Company, LLC on August 1, 2001. The primary purpose of the endowment, as stated in the Advised Non-Endowment Fund Agreement for Quino Checkerspot Butterfly Fund, is to benefit the Quino checkerspot butterfly in southern San Diego County. As of November 1, 2018 there is \$113,817.55 in the endowment.

Staff was contacted by Dr. Eric Porter of the United States Fish and Wildlife Service (USFWS) Carlsbad Fish and Wildlife Office on August 8, 2018 to discuss options to release endowment funds for work related to the ongoing San Diego National Wildlife Refuge Quino Checkerspot

Butterfly (*Euphydryas editha quino*) Augmentation Project. Implementation of this project will contribute to the recovery of the Quino checkerspot butterfly by increasing the number of stable populations and total number of individuals of this species in the San Diego National Wildlife Refuge. Implementation will also help improve captive breeding protocols for this species, which will be transferable to future augmentation efforts required at other locations for subspecies recovery. This project was approved by the USFWS and has been in effect as of 2016 and is ongoing until at least 2020. It is being led by the Carlsbad Fish and Wildlife Office.

On September 25, 2018, Dr. Porter provided a specific proposal for distribution of funds. The proposal would be for vegetation treatment to prepare a site for Quino checkerspot butterfly release. The goal is to reduce the weed and thatch cover to provide space for growth of host plants and room for Quino larvae to bask and move within the environment. Work will entail hand removal and hand spraying of herbicide to remove invasive non-native species. Work will specifically focus on areas without host plants, and Quino would be expected to be nearby in existing patches of hostplants. Although another sensitive species is nearby (e.g. coastal California gnatcatchers), the nature of the work would not disturb this species. There is also a sensitive plant species in the area, *Dudleya variegata* (Variegated dudleya), but they will be flagged and avoided. These techniques were used in 2017 and have a track record of success. Approval would be for the distribution of \$21,130.62 to pay RECON Environmental to perform activities related to the continued implementation of the project [Labor: \$20,268.12; Expenses: \$862.50].

RECON Environmental has extensive experience successfully restoring Quino checkerspot butterfly habitat, primarily in the Southwest San Diego Recovery Unit of the San Diego National Wildlife Refuge, where the restoration work is proposed. RECON Environmental authored the Habitat Restoration Methods section in the USFWS's Recovery Plan for Quino Checkerspot Butterfly. As noted above, work to reduce the weed and thatch cover would employ measures to avoid impacts to the Quino checkerspot butterfly and other listed or sensitive plant and animal species.

Staff Recommendation

Staff is requesting Commission approval of expenditures from the Quino Checkerspot Butterfly Fund established as part of Condition of Certification **BIO-11** (Quino Checkerspot Butterfly Research Endowment) in the Otay Mesa Energy Center license. Staff has reviewed the proposal and determined that this expenditure meets the requirements of Condition of Certification **BIO-11** and would benefit the Quino checkerspot butterfly. The proposal would not have the potential to result in any significant adverse environmental impact. The USFWS supports the current expenditure proposal and will consider formal approval of the expenditure once approved by the Energy Commission. Staff recommends the Commission approve the proposed expenditure and disbursement of \$21,130.62 from the Quino Checkerspot Butterfly Research Endowment to the San Diego National Wildlife Refuge Quino Checkerspot Butterfly Augmentation Project.

ORDER NO:

STATE OF CALIFORNIA

STATE ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

IN THE MATTER OF:

Otay Mesa Energy Center

Docket No. 99-AFC-05C

[Proposed] Order Authorizing
Release of Funds from the
Otay Mesa Project Quino
Checkerspot Butterfly
Endowment

I. INTRODUCTION

On April 18, 2001, the Energy Commission approved the Otay Mesa Generating Project, which was subsequently renamed the Otay Mesa Energy Center, a 510 megawatt gas-fired combined-cycle power plant located in San Diego County. Among other things, the Commission decision identified a potential significant adverse environmental impact to the federally endangered Quino checkerspot butterfly (*Euphydryas editha quino*) and required mitigation in the form of an endowment (called the Otay Mesa Project Quino Checkerspot Butterfly Endowment) to be used to better understand the species and provide for its management. This mitigation was contained in Condition of Certification **BIO-11** and required the Energy Commission to approve any dispersal of funds from the endowment.

On August 8, 2018, Energy Commission staff received a request from the United States Fish and Wildlife Service to release endowment funds for work related to the ongoing San Diego National Wildlife Refuge Quino Checkerspot Butterfly Augmentation Project. Specifically, the Energy Commission is being asked to release \$21,130.62 of the endowment funds to pay RECON Environmental to perform activities in compliance with **BIO-11**, including vegetation treatment to prepare a site for Quino checkerspot butterfly release. The goal is to reduce the weed and thatch cover in order to provide space for the growth of host plants and room for Quino larvae to bask and move within the environment. On November 29, 2018, staff filed its analysis and recommendation that the Energy Commission approve the request. Staff concluded that the expenditure would not have the potential to result in any significant adverse environmental impact.

II. ENERGY COMMISSION FINDINGS

Based on the entire record, including staff's analysis and recommendation, the Energy Commission finds that the requested expenditure of funds from the Otay Mesa Project Quino Checkerspot Butterfly Endowment is in furtherance of the objectives expressed in **BIO-11**, will benefit the Quino checkerspot butterfly, and will not result in any significant adverse impacts to the environment.

III. CONCLUSION AND ORDER

The California Energy Commission hereby approves staff's recommendation to release \$21,130.62 from the Otay Mesa Project Quino Checkerspot Butterfly Endowment to pay RECON Environmental to perform activities related to the continued implementation of the project, as described above and in staff's analysis.

IT IS SO ORDERED.

CERTIFICATION

The undersigned Secretariat to the Commission does hereby certify that the foregoing is a full, true, and correct copy of an Order duly and regularly adopted at a meeting of the California Energy Commission held on December 10, 2018.

AYE:

NAY:

ABSENT:

ABSTAIN:

Cody Goldthrite
Secretariat