

Memorandum

To: **David Hochschild**
Janea A. Scott
Karen Douglas
Andrew McAllister
Patty Monahan

Date: November 13, 2020

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 Endowment, Otay Mesa Energy Center (99-AFC-05C)**

Staff is requesting California Energy Commission (CEC) approval of the disbursement of \$18,721 from the Quino Checkerspot Butterfly Endowment to pay for work related to the San Diego National Wildlife Refuge Quino Checkerspot Butterfly Augmentation Project. Condition of Certification BIO-11 in the Final Commission Decision for the Otay Mesa Energy Center (99-AFC-05C) requires that the CEC and United States Fish and Wildlife Service (USFWS) decide how to distribute endowment funds for the benefit of the Quino checkerspot butterfly (*Euphydryas editha quino*), and its management. The funds would be for RECON Environmental to conduct vegetation treatment to prepare a site for Quino checkerspot butterfly release. Staff has reviewed the proposal and determined that this expenditure meets the requirements of BIO-11 and would benefit the Quino checkerspot butterfly. The proposal would not have the potential to result in any significant adverse environmental impact and would be categorically exempt under the California Environmental Quality Act (CEQA). The USFWS supports the current expenditure proposal and will consider formal approval of the expenditure once approved by the CEC.

Background

In April 2001, the CEC approved the Otay Mesa Energy Center, a 510 megawatt, natural gas-fired combined-cycle power plant in San Diego County. To mitigate significant impacts from the facility's air emissions on the federally endangered Quino checkerspot butterfly the CEC imposed Condition of Certification BIO-11, establishing the Otay Mesa Project Quino Checkerspot Butterfly Endowment. The primary purpose of the endowment is to benefit the Quino checkerspot butterfly in southern San Diego County. As of September 21, 2020, there is \$107,944.52 in the endowment fund held by the San Diego Foundation.

Since 2018, staff has made two requests for disbursements totaling \$47,006.59 to pay RECON Environmental to conduct vegetation treatments to prepare sites for Quino checkerspot butterfly release in support of the San Diego National Wildlife Refuge Quino Checkerspot Butterfly Augmentation Project. This project contributes 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. It also helps improve captive breeding protocols for this species, which is transferable to future augmentation efforts required at other locations for subspecies recovery. The augmentation project was approved by the USFWS, has been in effect since 2016, and is funded through at least 2021. Based on staff's recommendation, the CEC approved the expenditure of \$25,875.97 at the December 11, 2019 Business Meeting. With the funds, RECON Environmental completed three rounds

of treatment on a 5-acre plot.

On September 14, 2020, staff was contacted by Dr. Eric Porter of the USFWS Carlsbad Fish and Wildlife Office, which is leading the San Diego National Wildlife Refuge Quino Checkerspot Butterfly Augmentation Project, to request disbursement of funds. There is approximately \$6,809.09 leftover in the existing budget from 2019-2020 because last year's low rainfall meant non-native control was easier than usual. These remaining funds will allow RECON Environmental to make approximately one spray pass in 2020-2021. For 2020-2021, USFWS is requesting \$18,721 (Labor: \$17,731; Expenses: \$1,290) of endowment funds for RECON Environmental to again conduct vegetation treatment to prepare a site for Quino checkerspot butterfly release. This would fund approximately two additional spray passes including one day of late season tumbleweed spraying.

The goal of the vegetation treatments 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 host plants. 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, Variated dudleya (*Dudleya variegata*) but these will be flagged and avoided.

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 concludes that there is no possibility that this activity may have a significant effect on the environment. Additionally, the activity would be considered a Class 7 activity pursuant to Title 14, California Code of Regulations, section 15307, and thus subject to an exemption from CEQA as an action taken by a regulatory agency to assure the maintenance, restoration, or enhancement of a natural resource. No exception to this exemption applies.

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 (CEC) 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 CEC 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 CEC to approve any dispersal of funds from the endowment.

Since 2018, the CEC has approved two dispersals of funds from the endowment for work related to the ongoing San Diego National Wildlife Refuge Quino Checkerspot Butterfly Augmentation Project. To date, the CEC has authorized the dispersal of \$47,006.59 to pay RECON Environmental to perform activities in compliance with **BIO-11**, including vegetation treatment to prepare a site for Quino checkerspot butterfly release; specifically 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 September 14, 2020, CEC staff received a request from the United States Fish and Wildlife Service to release additional endowment funds in the amount of \$18,721 for the same purpose, focusing on areas without host plants but with Quino checkerspot butterfly expected to be nearby in existing patches of host plants.

On November 13, 2020, staff filed its analysis and recommendation that the CEC 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 CEC 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. Additionally, the activity would be considered a Class 7 activity pursuant to Title 14, California Code of Regulations, section 15307, and thus subject to an exemption from CEQA as an action taken by a regulatory agency to assure the maintenance, restoration, or enhancement of a natural resource. No exception to this exemption applies.

III. CONCLUSION AND ORDER

The CEC hereby approves staff's recommendation to release \$18,721 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 CEC 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 CEC held on December 9, 2020.

AYE:

NAY:

ABSENT:

ABSTAIN:

Cody Goldthrite
Secretariat