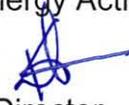


Memorandum

Date: February 28, 2011

To: Renewable Energy Action Team Agencies

From: Kevin Hunting 
Chief Deputy Director
Department of Fish and Game

Subject: Interim Process for the Desert Renewable Energy Conservation Plan

The Desert Renewable Energy Conservation Plan (DRECP or Plan) is intended to result in an efficient and effective biological mitigation and conservation program providing applicants with permit timing and cost certainty under the Federal (ESA) and California Endangered Species Acts (CESA) while preserving, restoring and enhancing natural communities and ecosystems that support covered species within the DRECP Plan Area. Parties to the DRECP Planning Agreement (the Renewable Energy Action Team or REAT agencies) are the United States Fish and Wildlife Service, the United States Bureau of Land Management, the California Energy Commission and the California Department of Fish and Game (DFG). Participation by the U.S. Fish and Wildlife Service will contribute to efficiencies under the Federal ESA and the commitment to use the DRECP process as a basis for amending Bureau of Land Management (BLM) land use plans introduces additional siting and permitting benefits. The DRECP is to be a Habitat Conservation Plan under the ESA and a Natural Community Conservation Plan under the California's Natural Community Conservation Planning Act (NCCPA). In its simplest form, the DRECP will describe and permit areas for renewable energy generation and transmission facility development and create a network of biological conservation areas providing benefits to covered species found in the Plan Area.

The NCCPA anticipates the need for development within a planning area while a plan is in progress and recognizes that such development shouldn't conflict with preliminary conservation goals and objectives established early in the planning process and specified in the Planning Agreement. To that end, the NCCPA requires DFG to establish an interim process to review projects for consistency with preliminary conservation objectives and to recommend mitigation measures or project alternatives should there be a conflict between the project and the Planning Agreement's conservation goals and objectives. For the DRECP, these goals and objectives include:

- Provide for the long-term conservation and management of Covered Species within the Planning Area;
- Preserve, restore, and enhance natural communities and ecosystems that support Covered Species within the Planning Area;
- Build on the Competitive Renewable Energy Zones identified by RETI;
- Further identify the most appropriate locations within the Planning Area for the development of utility-scale renewable energy projects, taking into account potential impacts to threatened and endangered species and sensitive natural communities;

- Provide a means to implement Covered Activities in a manner that complies with the NCCPA, FESA, NEPA, CEQA, and other relevant laws;
- Provide a basis for the issuance of Take Authorizations allowing the lawful Take of Covered Species incidental to Covered Activities;
- Provide for issuance of Take permits for other species that are not currently listed but which may be listed in the future;
- Provide a comprehensive means to coordinate and standardize mitigation and compensation requirements for Covered Activities within the Planning Area;
- Provide a framework for a more efficient process by which proposed renewable energy projects within the Planning Area may obtain regulatory authorizations and which results in greater conservation values than a project-by-project, species-by-species review would have;
- Provide durable and reliable regulatory assurances, as appropriate, under the NCCPA and the FESA for Covered Activities that occur within the Planning Area; and
- Identify and incorporate climate change adaptation research, management objectives, and/or policies into the final plan document.

The general nature of the DRECP preliminary conservation goals and objectives will define the level of review required by DFG for the interim process under the NCCPA. For purposes of the DRECP, the review would address the following broad concerns related to siting of renewable energy projects:

- Potential for the project to foreclose a wildlife corridor or essential connectivity;
- Potential to foreclose a conservation opportunity essential to the successful implementation of the completed plan;
- Potential of the project to cause impacts to a population of a Covered Species that would likely result in jeopardizing the continued existence of that species.

Implementing the NCCPA Interim Process for the DRECP

The purpose of interim review is to afford applicants an opportunity for early engagement with the applicable agencies while there is flexibility in project siting. DFG, in close coordination with the Renewable Energy Action team (REAT) agencies, as contemplated in the DRECP Planning Agreement, will conduct the required review in consultation with a project applicant at the earliest feasible interval in the project planning and siting process. The notification process for interim review and agency requests for information in connection with that review are as set out in paragraph 8.9.1 of the Planning Agreement. Participation by the REAT agencies is important in conducting meaningful and helpful

interim review. However, if one or more REAT agencies does not provide timely information to DFG in conducting the interim review, DFG will, without delay in processing of applications for interim renewable energy projects, perform the interim review without that agency's contribution. The DFG will perform the interim review within sixty days of the project proponent's submission to the REAT agencies of the project information referred to in Paragraph 8.9.1 of the Planning Agreement.

Projects Subject to the Interim Process

The interim review process applies to all projects proposed within the DRECP Planning Area that require permits from one or more of the REAT agencies. Some renewable energy projects in the DRECP study area are not subject to the interim process described in this memorandum. Such projects are those in the following categories.

- Renewable energy projects that have received all their state and federal permits.
- Projects explicitly exempted from being a reportable interim project in the Planning Agreement. These projects are identified as "Existing Projects" in the Planning Agreement.
- Projects previously found to be consistent with the DRECP Planning Agreement preliminary conservation objectives.

Attachment: REAT Agency Contacts

REAT Agency Contacts

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