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Planning for Success.

March 7, 2019

Eric Cherniss
Vistra Energy Corporation
6555 Sierra Drive
Irving TX 75039

**Re: Response to CDFW Letter, February 21, 2019
Duke Energy Moss Landing (Project) Mitigated Negative Declaration (MND)
SCH No.: 2019011067**

Dear Eric,

The Monterey County Resource Management Agency received the above-referenced comment letter regarding the Duke Energy Moss Landing LLC (Vistra Energy Corporation) MND from the California Department of Fish and Wildlife (CDFW) expressing concerns regarding the potential presence of three listed species within the proposed project boundary: California tiger salamander (*Ambystoma californiense*), Santa Cruz long-toed salamander (*Ambystoma macrodactylum croceum*), and peregrine falcon (*Falco peregrinus anatom*). As part of the preliminary research and preparation process for the application package, Andrea Edwards, EMC Planning Group biologist, conducted a preliminary biological resources analysis and a site survey, concluding that installation of the proposed project would not increase potential impacts to biological resources when compared to existing conditions. Additionally, County staff conducted a site visit on September 18, 2018 and concluded there were no biological resource issues and determined that a biological resources analysis was not necessary for the project. Analysis to support this conclusion is included in the paragraphs below.

EMC PLANNING GROUP INC.
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Qualifications and Knowledge of Local Biological Resources

EMC Planning Group has over 40 years of experience in land use and environmental planning issues and is recognized as one of the leading providers of planning services on the central coast of California. Three biologists support the EMC team with biological impact analysis, and EMC Planning Group is included on the Monterey County lists of approved consultants for biological resources and environmental planning issues. Two senior biologists, Andrea Edwards and Janet Walther, are part of the project team for this project, and their resumes are attached.

Ms. Edwards and Ms. Walther have years of experience working with listed species and their habitats in California, particularly on the central coast. Most recently, EMC Planning Group and Dana Bland and Associates completed a protocol-level survey for California tiger salamander and Santa Cruz long-toed salamander for the DeepWater Desal site located along the north side of Dolan Road, east of the existing power plant, one mile east of the battery storage project site. Following the survey protocol and in consultation with CDFW and the U.S. Fish and Wildlife Service (USFWS), spring larval surveys at six ponds were completed in 2016, one winter of pitfall trapping was completed over the winter of 2016-2017, and a second year of spring larval surveys was completed in 2017. The only observation of a listed species was the capture of one adult California salamander in January 2017. No Santa Cruz long-toed salamanders (larval or adult) were observed (Bland 2018). The survey reports were submitted to the CDFW and USFWS and were deemed valid.

Site Investigation

On August 13, 2018, EMC Planning Group Senior Biologist Andrea Edwards surveyed the project site and assessed the potential for special-status species to occur within the project boundary. This effort was undertaken in order to inform the project applicant of any potential biological resource issues. Based on this survey, the consultant's knowledge of biological resources in the project vicinity, the existing operational nature of the power plant, and that the project proposes to re-purpose a building and paved areas currently used for industrial activities, no further biological investigation was recommended.

California Tiger Salamander

The proposed project would have no effect on California tiger salamander.

California Tiger Salamander (CTS) is a species with specific habitat requirements, including freshwater ponds or pools inundated for a sufficient period to allow for egg and larval development and adjacent or nearby burrow habitat to provide cover during the months requiring aestivation. There are occurrences of CTS documented within the region, including the observation of one adult during winter pitfall surveys at the Deep Water Desal site, one mile east of the project site (Bland 2018).

During the project site survey in August 2018, the project site and vicinity was assessed for the potential presence of suitable aquatic or upland CTS habitat. Two disturbed, undeveloped patches of ruderal grasses and invasive ice plant supporting scattered ground squirrel burrows were observed within 100 feet of the project site boundary. One of these sites is an unpaved parking lot and the other is a fenced part of the power plant's on-site wastewater system. However, individual CTS attempting to migrate from the nearest known occupied breeding habitat to these ruderal patches would encounter significant barriers, including buildings, industrial development and operations, fencing, and berms. The proposed project would not disturb any burrows and is proposed completely within a developed industrial area. Traffic trips occurring during installation of the proposed project would be consistent with current traffic at the site occurring during maintenance and operational activities. Installation of the proposed project would not increase the potential of encountering or taking a CTS when compared to existing conditions. No additional surveys or mitigation measures are recommended.

Santa Cruz Long-Toed Salamander

The proposed project would have no effect on Santa Cruz long-toed salamander.

Santa Cruz Long-Toed Salamander (SCLTS) requires shallow ephemeral freshwater pools for breeding near suitable upland habitat including riparian woodland, oak woodland, chaparral, or dense coastal scrub. Upland habitat sites used by SCLTS include moist refugia such as small mammal burrows, leaf litter, fallen logs, rocks, and soil crevices. The ruderal patches of scattered ground squirrel burrows represent very low quality potential upland habitat. The California Natural Diversity Database

(CNDDDB) contains three occurrence records for SCLTS in the project vicinity, the nearest of which occurs 1.2 miles from the installation site in wetlands associated with Moro Cojo Slough. As described above, the protocol survey conducted east of the project site for the Deep Water Desal project found no SCLTS. Similar to the conclusions drawn for CTS, individual SCLTS attempting to migrate from the nearest known occupied breeding habitat to the ruderal patches would encounter significant barriers, including buildings, industrial development, fencing, and berms. The proposed project would not disturb any burrows and is proposed completely within a developed industrial area. Traffic trips occurring during installation of the proposed project would be consistent with current traffic at the site occurring during maintenance and operational activities. Installation of the proposed project would not increase the potential of encountering or taking a SCLTS when compared to existing conditions. No additional surveys or mitigation measures are recommended.

Peregrine Falcon

The proposed project would have no effect on peregrine falcon.

This species forages widely over a wide variety of open landscapes, including urban areas, agricultural lands, harbors, salt marshes, and grasslands. A 2015 observation of a nesting pair on one of the power plant smokestacks was recorded in the CNDDDB. This nesting activity occurred despite maintenance and operational activities and noise generated by workers and industrial equipment, as well as traffic on State Route 1 adjacent to the nesting site. Project installation noise and activity would be similar to that generated by maintenance and operation of the power plant. The proposed project would not increase the potential of encountering or taking a peregrine falcon when compared to existing conditions. No additional surveys or mitigation measures are recommended.

Conclusion

In conclusion, EMC Planning Group biologists evaluated the site for potential impacts to special-status species, including California Endangered Species Act listed species, to be encountered at the project site. After a thorough investigation of the relevant literature and recent survey data, EMC Planning Group surveyed the project site, reviewed the project with the Vista Team, and met with County staff on site. EMC Planning Group

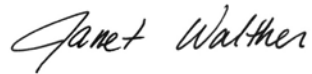
biologists concluded that the proposed project would have no effect on California tiger salamander, Santa Cruz Long-toed salamander, or peregrine falcon.

We hope this response provides additional information regarding the points raised in the February 21, 2019 letter and clarifies why additional biological analysis or mitigation measures are not required. The County's initial study/mitigated negative declaration properly concludes that the proposed project would not have an impact on sensitive biological resources. If you have any questions, please don't hesitate to contact us.

Sincerely,



Andrea Edwards
Senior Biologist



Janet Walther, MS
Senior Biologist

Sources

Bland 2018. *Results of Winter Pitfall Trapping Study for Salamanders at Monterey Regional Water Project, Deepwater Desal, LLC, Proposed Main Facility, Moss Landing, CA.* July 2018.

Monterey County Resource Management Agency 2019. *Duke Energy Moss Landing LLC (Vistra Energy Corporation) Mitigated Negative Declaration.* January 25, 2019.

enc: Resumes



Andrea Edwards

SENIOR BIOLOGIST / CERTIFIED ARBORIST

PROFESSIONAL EXPERIENCE

Ms. Edwards joined the firm in 2011 and has been working in the field of biology since 1999. Her experience includes knowledge of California plant biology, biological resource evaluation, natural resource planning, and habitat restoration. She specializes in biological field surveys, focused special-status species surveys, plant identification, plant community mapping, mitigation monitoring, and restoration project planning.

Ms. Edwards's responsibilities include conducting jurisdictional delineations to provide baseline data concerning the type and extent of resources under U.S. Army Corps of Engineers, California Department of Fish and Wildlife, and Regional Water Quality Control Board jurisdiction.

Ms. Edwards is also responsible for performing reconnaissance surveys to document existing biological resources; assessing potential biological impacts per California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA); preparing tree evaluation reports; regulatory agency permitting and reporting; and compiling plant inventory lists for project sites.

Prior to joining EMC Planning Group, Ms. Edwards was employed as a biologist/botanist and project manager for another consulting firm. Her responsibilities included field reconnaissance surveys, biological technical reports and resource impact analyses, focused plant surveys for various special-status species, tree surveys, collecting and analyzing vegetation data to monitor habitat restoration projects, and jurisdictional delineations for wetland and waterway resources. She was also responsible for managing biological resource and regulatory permit compliance projects for public and private sector clients.

EDUCATION

B.S. Trinity University at San Antonio, TX; summa cum laude, Biology and Anthropology, 1999

CERTIFICATES AND TRAINING

California Department of Fish and Wildlife – *Plant Voucher Collecting Permit* (No. 2081(a)-17-090-V). Exp. 12/31/20

International Society of Arboriculture *Certified Arborist* (No. WE-9727A). Exp. 06/30/21

Climate-Smart Riparian Restoration Workshop for California's Central Coast, Elkhorn Slough Coastal Training Program and Point Blue Conservation Science, Watsonville, CA, 2016

Wetland Delineation Field Practicum, Wetland Training Institute, Sacramento, CA, 2015

California Natural Diversity Database (CNDDB) and Biological Information and Observation System (BIOS) Training Course, California Department of Fish and Wildlife, Monterey, CA, 2015

Conservation Conference, California Native Plant Society, Sacramento/San Jose, CA, 2009 & 2015

Annual Tree Pest & Disease Symposium, International Society of Arboriculture - Western Chapter, Milpitas/Saratoga, CA, 2013-2016

Fifty Plant Families in the Field: Introduction to Keying, University of California, Berkeley - Jepson Herbarium, Carmel Valley, CA, 2013

Rare Pond Species Survey Techniques Workshop (for California tiger salamander, California red-legged frog, and western pond turtle), Laguna de Santa Rosa Foundation and The Wildlife Project, Santa Rosa, CA, 2012

PROFESSIONAL ACHIEVEMENTS AND AWARDS

- Author, editor, and photographer, *Living Lightly in Our Watersheds* (a comprehensive guide to natural resources distributed throughout the Santa Monica Mountains) June 2002.
- Award, Camp Pico Blanco Boy Scout Reservation Conservation Plan, 2013.
 - Outstanding Environmental Resource Document Award- Association of Environmental Professionals, 2015.
 - Innovation in Green Community Planning Award of Excellence- American Planning Association, California Chapter, Northern Section, 2014.

PROFESSIONAL AND ACADEMIC ASSOCIATIONS

- International Society of Arboriculture – Western Chapter, 2012 to Present
- California Native Plant Society – Monterey Bay Chapter, 2005 to Present

Janet Walther, MS

SENIOR BIOLOGIST

PROFESSIONAL EXPERIENCE

Ms. Walther joined the firm in 2003 and has been working in the field of biology since 2000. She is responsible for performing botanical and wildlife surveys; wetland and waters of the U.S. determinations; data analysis; and reports in support of management agreements, permits, and mitigation monitoring. She assists clients in complying with the Federal Endangered Species Act, California Endangered Species Act, Section 404 of the Clean Water Act, California Fish and Game Code, and local (county and/or city) regulations. Ms. Walther is also responsible for permit processing and preparation of environmental documents in compliance with the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA). She produces a variety of graphics for use in environmental and natural resources documents. Ms. Walther primarily utilizes the following software: Pathfinder (for collection of GPS data), ArcGIS, AutoCAD, and Adobe Illustrator/Photoshop.

Prior to joining EMC Planning Group, Ms. Walther was employed at the Bureau of Land Management as a Biological Science Technician at Fort Ord, California, where she was responsible for special-status species identification; collection of Global Positioning System data for the purpose of monitoring both native and non-native species using Geographical Information Software; reporting; and exotic species identification and abatement.

Additionally, Ms. Walther worked for a private environmental consulting firm as a biologist/environmental scientist where she performed biological surveys, coordinated biological resource permits, developed CEQA/NEPA documents, and assisted in preparing California Energy Commission Applications for Certification for four major power plant projects in California.

EDUCATION

- M.S. California State University Monterey Bay, Coastal Watershed Science and Policy, 2014
- B.S. California Polytechnic State University at San Luis Obispo, Ecology and Systematic Biology, 2000 - Concentration: Environmental Management

CERTIFICATES AND TRAINING

- California Pesticide Application Certification, 2003/2004
- OSHA 40-hr HAZWOPER Certificate, 2001 and 8-hr Refresher Training, 2002-2007
- Army Corps of Engineers Wetland Delineation Training, 2002

PROFESSIONAL ACHIEVEMENT

- Contributor, *Environmental Mitigation Handbook*, California's Coalition for Adequate School Housing, February 2009

PROFESSIONAL ASSOCIATION

- Member, California Native Plant Society, Monterey Chapter
- Member, Society of Wetland Scientists
- Member, Western Section of The Wildlife Society

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