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August 28, 2020

Mr. Kevin Kolnowski, Electric Utility Chief Operating Officer
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Governor's Office of Planning & Research

Aug 31 2020

STATE CLEARINGHOUSE

Subject: Renewable Parallel Generation Facilities Resolution, Notice of Preparation of a Programmatic Draft Environmental Impact Report, SCH No. 2020070579, City and County of Santa Clara

Dear Mr. Kolnowski:

The California Department of Fish and Wildlife (CDFW) received the Notice of Preparation (NOP) of a draft Environmental Impact Report (EIR) from the City of Santa Clara (City) for the Renewable Parallel Generation Facilities Resolution (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife resources. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is a Trustee Agency with responsibility under CEQA §15386 for commenting on projects that could impact fish, plant and wildlife resources. CDFW is also considered a Responsible Agency if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA), the Native Plant Protection Act, the Lake and Streambed Alteration (LSA) Program and other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources. Pursuant to our jurisdiction, CDFW has the following concerns, comments, and recommendations regarding the Project.

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

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PROJECT DESCRIPTION SUMMARY

Proponent: City of Santa Clara - Silicon Valley Power (SVP)

Objective: The City of Santa Clara operates its Electric Department as Silicon Valley Power within the 18.2-square-mile area of the City of Santa Clara and to areas outside City limits as the City may designate. The City proposes to adopt a resolution that will amend SVP's Rules and Regulations to require new or modified parallel generation facilities to meet the criteria for renewable electrical generation facilities.

Location: City of Santa Clara, Santa Clara County.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

The NOP, in Section 10 on page 4, states that the draft EIR will address all impact areas included in Appendix G of the CEQA Guidelines. However, the primary topics of concern to be considered in the draft EIR include Air Quality and Public Health, Greenhouse Gas Emissions, Energy, Noise and Vibration, and Water Quality and Water Supply. Appendix G includes Biological Resources. CDFW agrees with the City's decision that the draft EIR will include analysis of all impact areas in Appendix G, including Biological Resources.

The NOP Section 6, page 2 and 3, discuss the Description of the Project. It is unclear as to what direct or indirect physical change the Project may have on biological resources. CDFW recommends that the draft EIR clearly analyze the Project direct or indirect impacts on biological resources.

Due to the limited information provided in the NOP, CDFW is providing the general comments below with regards to potential impacts of the Project to special-status species and mitigation measures to offset any unavoidable impacts.

Impacts to Special Status Species and Nesting Birds

CDFW is concerned regarding potential impacts to special-status species that may be present within the Project location, including, but not limited to, those listed below (CDFW 2020, habitat assessment).

- Salt-marsh harvest mouse (*Reithrodontomys raviventris*) - State Endangered and Fully Protected, Federal Endangered

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- Salt-marsh wandering shrew (*Sorex vagrans halicoetes*) - State Species of Special Concern (SSC)
- San Francisco dusky-footed woodrat (*Neotoma fuscipes annectens*) - State SSC
- Pallid bat (*Antrozous pallidus*) - State SSC
- Townsend's big-eared bat (*Corynorhinus townsendii*) - State SSC
- Saltmarsh common yellowthroat (*Geothlypis trichas sinuosa*) - State SSC
- White-tailed kite (*Elanus leucurus*) - State Fully Protected
- Tricolored blackbird (*Agelaius tricolor*) - State Threatened
- Alameda song sparrow (*Melospiza melodia pusillula*) - State SSC
- Western burrowing owl (*Athene cunicularia*) - State SSC
- Western pond turtle (*Emmys marmorata*) - State SSC
- California red-legged frog (*Rana draytonii*) - Federally Threatened, State SSC
- Steelhead (*Oncorhynchus mykiss irideus pop. 8*), Central California Coast Distinct Population Segment - Federally Threatened
- Longfin smelt (*Spirinchus thaleichthys*) - State Threatened, Federally Candidate for Endangered or Threatened

State Fully Protected Species and Nesting Birds:

State fully protected small mammals and nesting birds may occur within the Project area. Without appropriate mitigation measures, the Project could potentially have a significant impact on these species.

Recommended Potentially Feasible Mitigation Measures:

1. Habitat Assessment: A qualified biologist should conduct a habitat assessment in advance of Project implementation, to determine if the Project site or its vicinity contains suitable habitat for special-status small mammals and nesting bird species.
2. Small Mammal and Bird Nest Surveys: A focused survey using appropriate protocols should be conducted by qualified biologists at Project locations prior to Project implementation. If Project activities are to take place during the avian nesting season, an additional pre-Project activity survey for active nests should be conducted by a qualified biologist no more than seven days prior to the start of Project activity.
3. Avoidance: If special-status small mammals are found, work activities should stop and the individual should be allowed to leave the site through its own volition. If an active bird nest is found within or adjacent to the Project site, a no-disturbance buffer should be established and monitoring of the active nest should be conducted by a qualified biologist during all Project-related construction activities. The qualified biologist should increase the buffer if the birds are showing signs of

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unusual or distressed behavior such as defensive flights/vocalizations, standing up from a brooding position, or flying away from the nest. Buffers should be maintained until the eggs have hatched and young have fledged.

State Threatened or Endangered Wildlife Species:

State threatened wildlife species may occur within the Project area. Without appropriate mitigation measures, the Project could potentially have a significant impact on these species.

Recommended Potentially Feasible Mitigation Measures:

1. **Habitat Assessment and Appropriate Project Design:** A qualified biologist should conduct a habitat assessment in advance of Project implementation, to determine if the Project site or its vicinity contains suitable habitat for CESA-listed or candidate species.
2. **State-listed Wildlife Species Focused Surveys:** The Project location should be surveyed for State-listed wildlife species by a qualified biologist following protocol-level surveys. Protocol-level surveys are intended to maximize detectability. In the absence of protocol-level surveys being performed, additional surveys may be necessary.
3. **State-listed Species Take Authorization:** If State-listed wildlife species are identified during surveys and full avoidance of take is not feasible, the project proponents should apply to CDFW for take authorization through issuance of an Incidental Take Permit (ITP).

State Species of Special Concern

Wildlife SSC may occur within the Project area. Without appropriate mitigation measures, the Project could potentially have a significant impact on these species.

Recommended Potentially Feasible Mitigation Measures:

1. **State Species of Special Concern Focused Surveys:** The Project location should be surveyed for SSC by a qualified biologist following protocol-level surveys. Protocol-level surveys are intended to maximize detectability. In the absence of protocol-level surveys being performed, focused surveys for SSC presence, nests, or indicators of presence (e.g. bat guano and acoustic surveys) should be conducted.
2. **State Species of Special Concern Avoidance:** If SSC wildlife species are found within or adjacent to the Project site, the qualified biologist should establish a no-

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disturbance buffer appropriate for the species and conduct on-site monitoring during all Project-related activities. The draft EIR should include additional minimization and mitigation measures for each SCC wildlife species that could be potentially impacted by Project activities.

Impacts to Lake and Riparian Habitat

The Project area has the potential to contain water features subject to CDFW's lake and streambed alteration authority, pursuant Fish and Game Code § 1600 et seq. There may be a potential for Project implementation to have temporary and permanent impacts to these features.

Recommended Potentially Feasible Mitigation Measures:

1. **Habitat Assessment:** A qualified biologist should conduct a habitat assessment in advance of Project implementation, to determine if the Project area or its immediate vicinity supports freshwater marsh, wetland, and/or riparian communities. This survey should include, but not be limited to, ponds, Calabazas Creek, Saratoga Creek, Guadalupe River, other creeks or streams, and drainages.
2. **Wetland Delineation:** CDFW recommends a formal wetland delineation be conducted by a qualified biologist prior to Project construction to determine the location and extent of wetlands and riparian habitat present. Please note that, while there is overlap, State and Federal definitions of wetlands, as well as which activities require Notification pursuant to Fish and Game Code § 1602, differ. Therefore, CDFW further recommends that the delineation identify both State and Federal wetlands as well as which activities may require Notification to comply with Fish and Game Code.
3. **Notification of Lake or Streambed Alteration:** Fish and Game Code §1602 requires an entity to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake; (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. CDFW is required to comply with CEQA in the issuance of an LSA Agreement. For additional information, please see <https://www.wildlife.ca.gov/Conservation/LSA>.

CDFW recommends consulting with the U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS) on potential impacts to federally listed species. Consultation with the USFWS and NMFS in order to comply with the Federal Endangered Species Act is advised well in advance of Project implementation.

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ENVIRONMENTAL DATA

CEQA requires that information developed in draft environmental impact reports be incorporated into a data base which may be used to make subsequent or supplemental environmental determinations. [Pub. Resources Code, § 21003, subd. (e)]. Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link:

<https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data#44524420-pdf-field-survey-form>.

The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

FILING FEES

CDFW anticipates that the Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish and Game Code, § 711.4; Pub. Resources Code, § 21089). Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW.

CONCLUSION

CDFW appreciates the opportunity to comment on the NOP to assist the City of Santa Clara in identifying and mitigating Project impacts on biological resources. Questions regarding this letter or further coordination should be directed to Ms. Kristin Garrison, Environmental Scientist at (707) 944-5534 or by email at Kristin.Garrison@wildlife.ca.gov; or Ms. Brenda Blinn, Senior Environmental Scientist (Supervisory) at (707) 944-5541 or by email at Brenda.Blinn@wildlife.ca.gov.

Sincerely,

DocuSigned by:

BE74D4C93C604EA...
Gregg Erickson
Regional Manager
Bay Delta Region

cc: Office of Planning and Research, State Clearinghouse, Sacramento

LITERATURE CITED

California Department of Fish and Wildlife (CDFW). 2020. Biogeographic Information and Observation System (BIOS). <https://www.wildlife.ca.gov/Data/BIOS>. Accessed August 25, 2020.