**REGULATORY PROGRAM**

**PERMIT ACTION**

APPLICANT: Duke Energy

AREA: San Benito County, California

DESCRIPTION: During 2012, the Panoche Valley Solar project was purchased from PV2 Energy, LLC, who had acquired this project from the original applicant, Solargen Energy Inc. in 2011. The proposed project would construct a 399 megawatt solar photovoltaic energy plant. The project would be constructed in five phases and include a substation, onsite access roads, and buried electrical collection conduit. Electricity generated from the Panoche Valley Solar Farm would be transmitted onsite to the state’s electrical grid through two existing Pacific Gas and Electric Company (PG&E) transmission lines. The 4,855 acre (7.6 square mile) project site is located approximately three-quarters of a mile north of the intersection of Panoche Road and Little Panoche Road, approximately 30 miles south of Los Banos and 60 miles west of Fresno, in eastern San Benito County, California.

Approximately 2,203 acres would be permanently disturbed by on-site facilities, and an additional 100 acres would be temporarily disturbed during construction. The proposed project will include development of the following components: installation of approximately three million to four million photovoltaic panels; photovoltaic module steel support structures; electrical inverters and transformers; an electrical substation with switchyard; buried electrical collection conduit; an operations and maintenance (O&M) building; a septic system and leach field; a wastewater treatment facility and demineralization pond; on-site access roads; security fencing; and transmission support towers and line(s) to interconnect with a PG&E transmission line that passes through the project site.

IMPACTS: The proposed construction of three road crossings would put 427 cubic yards of fill into Panoche Creek and Las Aguilas Creek, jurisdictional other waters of the U.S.

STATUS: The initial jurisdictional determination (JD) request and application were received in November 2009. The applicant revised the application on April 22, 2010. A preliminary JD was issued by the District on February 5, 2010 and subsequently superseded by a verified JD on October 18, 2010.

On August 12, 2010, the Corps initiated formal Section 7 consultation with the U.S. Fish and Wildlife Service (USFWS) for potential impacts to the vernal pool fairy shrimp, blunt-nosed leopard lizard, giant kangaroo rat, San Joaquin kit fox, golden eagle, and California tiger salamander within all potential waters of the United States and the immediate upland areas constituting the outer banks and the riparian corridors adjacent to these waters. The USFWS responded, in a letter dated October 5, 2010, that they need clarification on the proposed project description, additional information for the Biological Assessment, and clarification on the scope of consultation. The San Francisco District (District) provided USFWS with the requested information on December 17, 2010 and additionally initiated formal conference on the mountain plover, which may be listed as threatened in May 2011. The USFWS requested further additional information on February 18, 2011. The District provided USFWS with the requested information on October 5, 2011, and withdrew the consultation for the mountain plover since the May 11, 2011, federal register indicated that the listing of the mountain plover was withdrawn.

On December 14, 2010, the District issued a Public Notice for the proposed project alerting all adjacent property owners and interested parties of the proposed project and soliciting comments to be considered in the decision on whether to issue, modify, condition, or deny a Department of the Army Permit for the project. Because of technical delays in posting the public notice and at the request of several members of the public, the District extended the comment period for this Public Notice until February 14, 2011.

The District has determined that it is the lead federal agency. On January 28, 2011, the District mailed a letter to the USFWS requesting its participation as a cooperating agency for the development of the NEPA document for this proposed project. The USFWS has agreed to this request, but has not yet signed the proffered Memorandum of Understanding. The District is currently producing a NEPA Environmental Impact Statement (EIS) for the project, and has conducted scoping meetings for the public.

On January 10, 2013, the District met with the project applicants and the consulting group who the District has contracted to aid in the production of the EIS. The applicants explained that both the USFWS and the Department of Fish & Wildlife (formerly CDFG) have requested additional field surveys for endangered species and their habitat, and that the applicant expects the survey effort to continue until at least the fall of 2013.

CONGRESSIONAL DISTRICT:

* 16th District Rep. Jim Costa

POINTS OF CONTACT:

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