

PRESENTATION FOR CALIFORNIA PUBLIC UTILITIES COMMISSION  
WORKSHOP ON NESTING BIRD ISSUES  
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# BLM PERSPECTIVE ON PROTECTION OF NESTING BIRDS

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# Laws and Regulations

- Federal Land Policy Management Act
  - Authorizes rights-of-way
  - Stipulations are attached
  - Enforceable
- Migratory Bird Treaty Act
  - Directed towards intentional killing of birds
  - Led to gamebird and waterfowl hunting laws



# Other Utility Projects

- SCE – Leatherneck
- SCE – Water Valley
- LADWP – Barren Ridge
- IID – Dixieland
- WAPA – Rice
- SW Transmission Partners - North Gila-Imperial Valley #2



# Eagle Act

## Regulatory Requirements

- BLM policy (Instruction Memorandum) requires BLM to make a determination of likelihood of take for renewable energy projects and transmission projects
- FWS must respond in writing on its concurrence and the likelihood of an Avian Protection Plan (Eagle Conservation Plan) to meet the Eagle Act regulations



# Eagle Act

- **Recommendations:**
  - Conduct the surveys in accordance with protocol
  - Keep the FWS as the sole regulator
    - No additional stipulations by other agencies
  - Allow at least one year lead time for agreement on an Eagle Conservation Plan
  - Buffer distance from construction of at least one half mile from active nest



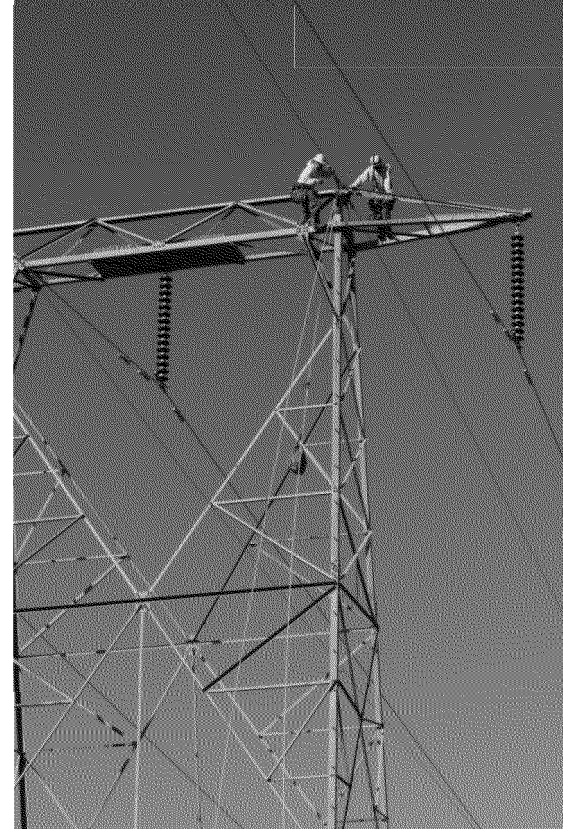
# Eagle Act

## Utility cooperation

### Avian Protection Specialist



### Eagle in the bag





# Endangered Species Acts

- **Recommendation:**
  - Do not create Mitigation Measures or Stipulations that go beyond the Biological Opinion or Incidental Take Permit



# Migratory Bird Treaty Act

- **Recommendation: Use Nesting Bird Management Plans**
  - Include as a general NEPA and CEQA mitigation measure
  - Require wildlife agency review and approval
  - Make specific to each project
    - Define the nesting season here
  - Enforce locally via avian monitors





# Biological Monitors

- **Recommendations:**
  - Implement uniform standards for qualifications
  - Designate one approving agency
  - Trust the monitors for unexpected situations
    - Buffer reductions
    - New nests
    - Late nests



# Jurisdictional Authority

- Projects crossing state lines create additional challenges
- Stipulations by state agencies governing federal agencies are inappropriate
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# What about Ravens?

- **Reasons for Concern:**

- Tortoise predation – “offending ravens”
- Abnormal population levels
- Nests are electrical hazards
- Ravens harass golden eagles

- **Recommendation:**

- Remove raven nests from towers in tortoise habitat



# Additional Recommendations

- Keep bird mitigation out of Streambed Alteration Agreements (other than seasonal restrictions on vegetation clearing)
- Utilize monopole towers to discourage nesting



# Additional Recommendations

- Do not destroy inactive nests off towers
- Do not fill in inactive burrowing owl burrows
- Do not specifically define the nesting season



# Reporting

- **Problems:**
  - Most nest outcomes are reported as “unknown”
  - Emphasis is on “not project related”
- **Recommendations:**
  - Continue to monitor active nests to determine outcome
  - Decrease the frequency of reporting (i.e. weekly) unless there is an incident



# Main Message

- Make the mitigation measures and stipulations consistent among all agencies
  - CPUC, CDFG, BLM, FWS, FS
- Enforce the mitigation measures locally
- Leave the nesting birds alone

# Questions?

