

CPUC NESTING BIRD WORKSHOP
SUMMARY OF POTENTIAL SOLUTIONS PRESENTED AT 8/30/12 WORKSHOP

Instructions for Providing Input in Tables

Two tables are provided here, so please be sure to provide input in the appropriate table:

- Table 1: Solutions Already Implemented on current/ongoing projects
- Table 2: Additional Solutions for Future (or Ongoing) Projects

Instructions for each table are included in the header on each page. Note that input is requested in the following ways:

1. Define **Priority** for your entity for each issue. Either define “high” or “low” for each item, or only define which items you consider to be high priority.
2. Insert **Comments** next to each solution, and track changes for any suggested modifications to solutions listed in table.

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INSTRUCTIONS: Table 1 (Solutions Already Implemented) -

Write in "Notes" column your entity's comments as to whether this solution should continue to be used. If it should be modified, explain how, or use tracking to modify text in the Solutions column.. Under "Priority" write "High" or "Low" for each item

This Documented Completed by: YOUR ENTITY'S NAME HERE

Priority	Table 1: Solutions Already Implemented	Comment Source	Implementing Entities	Notes: Continue to use? Modify? Explain.
APPLICANT PROPOSED MEASURES				
	Continue to use APMs to address bird nesting issues	CPUC	Utilities	•
MITIGATION MEASURES				
	Prepare detailed MMs to supplement APMs, as necessary, incorporating "lessons learned" from previous projects	CPUC	CPUC or CPUC/NEPA lead agencies	• CPUC or CPUC/NEPA joint agencies apply to future environmental documents for transmission projects •
	Make MM components consistent with CA Fish & Game Code	CPUC	"	•
	Provide detail on survey requirements and more flexibility with buffer requirements in MMs	CPUC	"	•
	Continue existing avoidance and minimization measures	DFG	"	•
NESTING BIRD MANAGEMENT PLANS				
	Continue to use NBMPs and improve them based on lessons learned during construction	ALL	Utilities	• Utilities prepare plan; agencies review and approve •
PRIOR TO CONSTRUCTION - PLANNING				
	Plan construction activities in the off season (non-breeding season) to extent feasible	CPUC & FWS	Utilities	•

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INSTRUCTIONS: Table 1 (Solutions Already Implemented) -

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	Conduct eagle surveys in accordance with approved protocol	BLM	Utilities	•
DURING CONSTRUCTION				
	Continue using effective nesting deterrents:	ALL	Utilities	•
	1. Remove vegetation in active construction areas prior to nesting season (i.e., during non-breeding season)	Utilities & FWS	"	•
	2. Maintain vegetation-free construction areas to discourage bird use	FWS	"	•
	3. Cover equipment, materials, pipe ends, cavities, and other potential nesting sites with netting (and properly maintaining netting)	CPUC/ FWS	"	•
	4. Cover straw wattles to prevent birds from using straw as nesting material	CPUC	"	•
	5. Remove nest material for nests under construction	FWS	"	•
	6. Place deterrents in locations where birds continually build nests (NB: deterrents placed inside nests would require MBTA permit)	FWS	"	•
				•

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Priority	TABLE 2: Add'l Solutions for FUTURE Projects	Comment Source	Implementing Entities	Notes: Use this solution? Modify? Explain.
APPLICANT PROPOSED MEASURES				
	Prepare detailed, robust APMs that: <ol style="list-style-type: none"> 1. Provide sufficient information so that environmental review can determine whether impacts would less than significant (details include: e.g., specified buffer distances, survey timing, seasons when nest avoidance is required, monitoring procedures, and verification procedures) 2. Address all bird species covered by MBTA, F&G Code, etc. 3. Do not include actions that violate laws protecting birds 4. Require development and approval of NBMPs 	CPUC	Utilities	•
				•
MITIGATION MEASURES				
	Modify or clarify EIR significance criteria for bird nesting issues; ensure that DFG/FWS agree	Utilities (verbal 8/30)	CPUC	•
	Ensure that EIR MMs do not duplicate laws/regs that already apply	Utilities (verbal 8/30)	CPUC	•
	Provide greater visibility and collaboration in development of MMs in order to provide needed flexibility and resource protection during construction	Utilities	CPUC / NEPA Lead Agency	• CPUC agrees

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	Make MMs & stipulations consistent among all agencies	BLM	"	<ul style="list-style-type: none"> • CPUC agrees
	Continue to prepare MMs to supplement APMs as necessary	CPUC	"	<ul style="list-style-type: none"> • CPUC agrees
	Ensure early coordination among Applicant, NEPA authors, and Agencies	USFS	ALL	<ul style="list-style-type: none"> •
	Clarify intent of MM language in CEQA documents	PG&E	"	<ul style="list-style-type: none"> • DEIR comments provided by utilities can be incorporated in FEIR
	Provide MM flexibility to allow: <ol style="list-style-type: none"> 1. Adjusting nest buffers without prior agency concurrence 2. Removing unoccupied nests of non-threatened/non-endangered avian species without advanced agency concurrence 3. Limited vegetation removal (trimming) during breeding season 4. Permitting vehicle use within nest buffers on existing roads 	Utilities	"	<p>CPUC Comments:</p> <ol style="list-style-type: none"> 1. CPUC does not agree. 2. CPUC would like DFG to comment. If the NBMP has an adequately detailed "nest removal" discussion, this could be acceptable. 3. Agreed and already allowed on many current projects given adequate surveys and monitoring. 4. Agreed, and implemented on TRTP.
	Require use monopole towers to discourage nesting	BLM	"	<ul style="list-style-type: none"> • CPUC can consider; depends on terrain and construction techniques
	Do not create MMs or Stipulations that go beyond the Biological Opinion or Incidental Take Permit	BLM	"	<ul style="list-style-type: none"> • CPUC agrees with this goal, but DEIR/S and MMs are written many months prior to BO and ITP; need agency comments for consistency
				<ul style="list-style-type: none"> •
BIRD NESTING MANAGEMENT PLANS				

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	<p>Provide for NBMPs:</p> <ol style="list-style-type: none"> 1. Require NBMPs to be developed in coordination with CPUC/NEPA Lead Agency and wildlife agencies 2. Obtain CPUC/NEPA Lead Agency and wildlife agency reviews and concurrence as early in the process as possible (i.e., prior to project approval) 3. Define the minimum components of an NBMP 	All	Utilities	<ul style="list-style-type: none"> • Utilities prepare plan; agencies review and approve
	Make NBMPs specific to each project area	BLM	Utilities	<ul style="list-style-type: none"> •
	Approve NBMPs in timely manner	Utilities	CPUC and Agencies	<ul style="list-style-type: none"> •
	CPUC acknowledge that NBMPs are adaptive and can change during construction with resource agency concurrence	Utilities	CPUC and Agencies	<ul style="list-style-type: none"> • CPUC supports adaptive NBMPs (evolving based on nest success data and lessons learned on nesting deterrents)
	CPUC defer to collaborative resource agency consultation, guideline interpretation, and reasonable recommendations	Utilities	CPUC and Agencies	<ul style="list-style-type: none"> •
	Provide Draft NBMP as part of PEAs through development under an APM <i>or</i> require development under an MM	CPUC	Utilities (if PEA) or CPUC (if MM)	<ul style="list-style-type: none"> •
	<p>Establish basic NBMP content. Draft NBMPs requirements:</p> <ol style="list-style-type: none"> 1. Identify buffers that are tailored to species and consider the range of construction activities to be used, including helicopters 	CPUC	Utilities	<ul style="list-style-type: none"> •

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2. Do not specify nesting season (BLM). Identify local breeding season during which surveys are required (with flexibility to adjust dates in coordination with agencies) (CPUC).			•
3. Specify survey timing in relation to construction activity, survey area, protocols/methods, and surveyor qualifications			•
4. Specify specific nest deterrent methodologies			•
5. Specify monitoring and reporting protocols during construction	CPUC	Utilities	•
6. Provide for post - construction monitoring plan to determine nest outcome and assess effectiveness of buffers according to pre - established performance criteria (developed in coordination with CDFG and FWS)			•
7. Schedule NBMP review/revision to incorporate lessons learned and previous season's data on nest success			•
8. Identify protocol for determining whether a nest is active			•
9. Identify specific situations where buffer reductions could occur beyond the defined NBMP programmatic buffers	CPUC	Utilities	•
10. Require that all requests for buffer reductions (below those established in the NBMP) be approved by the CPUC/NEPA Lead Agency in consultation with resource agencies.			•

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	11. Specify that buffer reductions are temporary for low - impact activities, and nests within reduced buffers have full - time monitoring by an avian biologist			•
	12. Define terms, such as: a. “Active construction” or what keeps a site “active” (focused surveys do not need to be repeated in active work areas) b. “Sweeps” (levels, types of activities, breadth of surveys, etc.) and how they differ from a focused nest survey	CPUC	Utilities	•
	13. Clearly state what happens when a bird nest is found in an active site	CPUC	Utilities	•
	14. Stipulate qualifications required for avian biologists charged with monitoring and for considering buffer reduction requests	CPUC	Utilities	•
	Specify noise thresholds and work within these (varies by species) & if can't do then do pre-construction surveys to identify nests at specified distance	FWS	Utilities	•
	Enforce NBMP locally via avian monitors	BLM	Utilities	•
	Allow utilities to self-manage buffer reductions around active nest during construction, relying on resource agency-approved utility avian biologists	SDG&E	Utilities	• Agencies must review and approve
	Develop process for relocation or removal of active nests in critical construction situations	Utilities	Utilities	• Agencies must review and approve
	Define or list acceptable physical deterrents at existing inactive nests	Utilities	Utilities	• Agencies must review and approve

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	Use professional judgment when no species-specific buffer distances are known. Define using credible peer reviewed information.	USFS	Utilities & Agency Monitors	•
	Consider timing of all activities, including any potential schedule changes.	USFS	Utilities	•
PRIOR TO CONSTRUCTION - PLANNING				
	Develop a prompt process for addressing raptor and sensitive species issues in the field	Utilities	All	• Utilities request; agencies review and respond
	Require buffer distance from construction of at least half mile from active eagle nests	BLM	FWS	• Utilities request variance; agencies review and respond
	Continue to plan construction to avoid highly sensitive avian areas during nesting season to the extent feasible	Utilities	Utilities	• Utilities request; agencies review and respond
	Work with FWS to develop bird conservation strategies to help lessen take incidents to otherwise lawful activities	FWS	Utilities	• Utilities request; agencies review and respond
	Allow at least one year lead time for agreement on an Eagle Conservation Plan	BLM	Utilities	• Utilities request; agencies review and respond
	Consider use of innovative methods (e.g., Ultrasonic deterrents confuse, disorient, and intimidate birds within range so they avoid the area. These technologies may have other impacts that would need to be assessed if this technology is proposed.)	CPUC	Utilities	• Utilities request; agencies review and respond

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	<p>Plan construction schedule to minimize restrictions imposed by buffers. Project should:</p> <ol style="list-style-type: none"> 1. Anticipate need for deterrents at specific locations 2. Install deterrents in time to be effective 3. Plan construction - related activity, especially vegetation removal, to occur outside of the bird breeding season, but consider impacts to other sensitive species (e.g., listed amphibians) 4. Remove nests prior to breeding season only in accordance with laws, and only for species that re - use nests 	CPUC	Utilities	•
				•
DURING CONSTRUCTION - IMPLEMENTATION				

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	<p>For common species, use nest deterrents to inhibit nest construction prior to nest becoming “active” (USFWS definition):</p> <ul style="list-style-type: none"> • Use behavioral deterrents to encourage nesting outside work areas • Develop process for relocation or removal of active nests in critical construction situations • Use physical deterrents for existing inactive nests • Where deterrents are not effective, allow reduced buffers • Consult with resource agencies for raptors and sensitive species 	Utilities	Utilities	<ul style="list-style-type: none"> • Utilities request; agencies review and respond
	Inspect and maintain nesting deterrents, including netting, caps, etc., regularly to avoid incidental impacts to wildlife	CPUC	Utilities	<ul style="list-style-type: none"> •
	<p>Implement and maintain an easy to use nest mapping system:</p> <ol style="list-style-type: none"> 1. Identify location, species, and any special circumstances regarding the nest 2. Indicate on maps the location of work areas and buffers 3. Share maps with CPUC and agencies 	CPUC	Utilities	<ul style="list-style-type: none"> •
	Harass birds using various hazing techniques to clear them from work areas	FWS	Utilities	<ul style="list-style-type: none"> •
	Do not destroy inactive nest that are not on towers	BLM	Utilities	<ul style="list-style-type: none"> •
	Do not fill in inactive burrowing owl burrows	BLM	Utilities	<ul style="list-style-type: none"> •
	Remove inactive raven nests outside of the breeding season in tortoise habitat	FWS/BLM	Utilities	<ul style="list-style-type: none"> •

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	Enforce MMs locally	BLM	CPUC and/or NEPA Lead Agencies	•
	Conduct surveys using well-trained avian biologists and appropriate protocols	USFS	Utilities	•
	Verify that protocol is not going to create disturbance in and of itself (e.g., too many helicopter surveys for golden eagles)	USFS	Utilities & FWS	•
	Submit resumes of biologists early; options for training in field	USFS	Utilities	•
	Submit documents before starting construction	USFS	Utilities	•
DURING CONSTRUCTION – MONITORING / REPORTING				
	Continue to monitor active nests to determine outcome	BLM	Utility & Agency Monitors	•
	Decrease the frequency of reporting unless there is an incident	BLM	Utility & Agency Monitors	•
	Implement uniform standards for biological monitor qualifications	BLM	FWS / DFG	•
	Designate one approving agency for biological monitor	BLM	FWS / DFG (CPUC / BLM?)	•
	Increase utility use of qualified ornithologists to monitor bird behavior	CPUC	Utility	•
	Ensure utility monitors are trained in nest detection to maximize early nest detection and to ensure buffers are established or adjusted as needed to prevent a take	CPUC	Utilities	• Agencies review and approve

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	Add an avian biologist to CPUC compliance monitoring team	CPUC	CPUC	•
	Monitor 7 days/week during peak breeding season	FWS	Utility & Agency monitors	•
	Allow reduced buffers where deterrents are not effective	Utilities	Utilities	• Agencies review and approve
				•
REGULATORY STRATEGIES				
	Establish consistent definition of 'nest' and what can and cannot occur, and when	Multiple	DFG & USFWS	•
	Develop regulations to implement F&G Code 3503 and 3503.5	DFG	DFG	•
	CDFG provides guidance on Fish and Game Code protections, specifically on the terms "active nest" and "needless destruction", and review MMs to ensure they do not include components that are inconsistent with F&G Code	DFG	DFG	•
	Use USFWS special purpose permits and F&G Code 3513 for proactive nest management	Utilities	FWS / DFG	•
	Keep bird mitigation out of Streambed Alteration Agreements (other than seasonal restrictions on vegetation clearing)	BLM	DFG	•
	Keep FWS as the sole regulator of eagles; no additional stipulations by other agencies	BLM	FWS & CPUC / NEPA Lead Agencies	• CEQA/NEPA documents must assess all impacts and present mitigation to reduce to less than significant levels

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	Provide for reasonable exemptions: <ul style="list-style-type: none"> • Clearly defined emergencies • Non-native species • Activities outside the breeding season • Scientific, educational, propagation, etc. 	DFG	DFG	•
	Develop a permitting program that includes: <ul style="list-style-type: none"> • Nest and egg take authorization • Focus on declining and vulnerable species • Greater protection for listed and sensitive species • Minimization and avoidance measures tailored to impacts • Mitigation measures tailored to impacts • Improved wildlife management action opportunities 	DFG	DFG	•
	Submit findings on regular timed basis	USFS	Utilities	•
	Do not assume that a nest failure is not associated with construction. State facts and define any associated activities occurring in the vicinity. Do not infer cause and effect	USFS	Utilities	•
Other				
				•
				•
				•
				•