

Comment Set A9
State of California, Department of Parks and Recreation



State of California • The Resources Agency

Arnold Schwarzenegger, Governor

DEPARTMENT OF PARKS AND RECREATION

Ruth Coleman, Director

Inland Empire District
17801 Lake Perris Drive
Perris, CA 92571
(951) 443-2423
<http://www.parks.ca.gov>

August 2, 2006

Ms. Billie C. Blanchard
California Public Utilities Commission/Bureau of Land Management
c/o Aspen Environmental Group
235 Montgomery Street, Suite 935
San Francisco, CA 92104

Re: Draft Environmental Impact Report/Environmental Impact Statement for the Proposed
Devers-Palo Verde No. 2 Transmission Line Project, SCH# 2005101104

Dear Ms. Blanchard:

The Inland Empire District of the Department of Parks and Recreation (State Parks) appreciates the opportunity to comment on the aforementioned project. State Parks is a trustee agency as defined by the California Environmental Quality Act (CEQA). State Parks' mission in part is to provide for the health, inspiration, and education of the people of California by preserving the state's extraordinary biodiversity and creating opportunities for high quality outdoor recreation.

A9-1

As the office responsible for the stewardship of State Parks property in the San Timoteo Canyon area, we have an interest and concern about the proposed project. Although San Timoteo Canyon has yet to be planned, we remain committed to preserving the biological, cultural and recreational integrity of the area.

We identified three topics of interest related to ingress and egress. It is acknowledged that rights exist to enter the property for improvements within the utility easement. We ask that actions be taken to limit the amount of disturbance on and off the easement. Specifically, we ask that if the towers are moved on and off the site by truck, that we be contacted well in advance to help establish an efficient route(s).

It is recognized that the road may need to be widened for the transport of materials and towers into and out of the sites within the State Parks holdings. Any widening and/or removal of existing vegetation should be coordinated with the State Parks Environmental Scientist in an effort to avoid disturbance of habitat for sensitive species.

A9-2

San Timoteo Canyon provides suitable habitat for Stephen's Kangaroo Rat. Prior to construction, surveys for sensitive species, including Stephen's Kangaroo Rat, should be conducted.

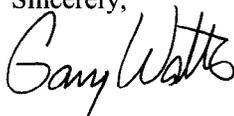
A9-3

Comment Set A9, cont.
State of California, Department of Parks and Recreation

Devers-Palo Verde DEIR/EIS
August 2, 2006
Page 2 of 3

Again, thank you for the opportunity to review this project. If you have any questions, please feel free to call Enrique Arroyo, District Planner at (951) 940-5664.

Sincerely,



Gary Watts
District Superintendent

cc: Rick Rayburn, State Parks
Andre Ramos, State Parks

Responses to Comment Set A9 State of California, Department of Parks and Recreation

A9-1 Biological resources setting and impacts in the Calimesa and San Timoteo Canyon segment are addressed in Sections D.2.3.3 and D.2.6, respectively. Mitigation Measure B-1a (Prepare and implement a Habitat Restoration/Compensation Plan) would require that SCE would restore all areas disturbed by project construction, including temporary disturbance areas around tower construction sites, laydown/staging areas, temporary access and spur roads, and existing tower locations that are removed during construction of the Proposed Project. Mitigation Measure B-6a: (Develop a transplanting plan) would require that SCE prepare a transplanting plan in compliance with both Arizona and California laws and regulations regarding native and sensitive plants, prior to project construction activities. As a result, biological resources impacts in San Timoteo Canyon would be less than significant.

Cultural resources setting and impacts in the San Timoteo area are discussed in Sections D.7.3.3 and D.7.7.3, respectively. No known cultural resources were discovered within the Area of Potential Effect (APE) for the Calimesa and San Timoteo segment of the Proposed Project (see page D.7-82 of the Draft EIR/EIS); however, because there is the potential to encounter unknown resources Mitigation Measures C-1c through C-5a should be implemented to ensure that impacts to cultural and paleontological resources would be less than significant. If a resource is discovered and cannot be avoided then that impact would be considered significant (Class I).

The wilderness and recreation setting for the Calimesa and San Timoteo areas is described in Section D.5.3.3 of the Draft EIR/EIS. Potential impacts in the area are addressed in Section D.5.7.3 of the Draft EIR/EIS and would be reduced to less than significant levels with the implementation of mitigation measures. Mitigation Measure L-1a (Prepare Construction Notification Plan) in Section D.4.6 of the Draft EIR/EIS requires that SCE prepare a construction notification plan. Mitigation Measure WR-1a (Coordinate construction schedule and activities with the authorized officer for the recreation area) in Section D.5.6 of the Draft EIR/EIS states that no less than 40 days prior to construction, SCE shall coordinate construction activities and the project construction schedule with the authorized officer of the recreation areas listed in the measure. San Timoteo State Park has been added to the mitigation measure, thus requiring consultation prior to construction and the movement of towers. Mitigation Measure WR-1a has been modified to add the following bullet:

- [San Timoteo State Park](#)

A9-2 Please refer to Response A9-1.

Because the Proposed Project would be located in an existing corridor, existing access roads would be used to the maximum extent feasible. Loss of vegetation is addressed in Section D.2 (Biological Resources), and specifically Impact B-1 (Construction activities would result in temporary and permanent loss of native vegetation), Impact B-6 (Construction activities would result in indirect or direct loss of listed plants), and Impact B-8 (Construction activities would result in indirect or direct loss of individuals or a direct loss of habitat for sensitive plants) address the disturbance of vegetation and would be reduced to less than significant levels with the implementation of Mitigation Measures B-1a (Prepare and implement a Habitat Restoration/Compensation Plan), B-6a (Develop a transplanting plan), and B-8a (Conduct surveys for listed plant species).

A9-3 As discussed in Section D.2.6.1.6 of the Draft EIR/EIS under Impact B-7 (Construction activities could result in the loss of listed wildlife or habitat), Mitigation Measure B-7f (Conduct focused surveys for Stephens' kangaroo rat and San Bernardino kangaroo rat) would require surveys prior to the implementation of construction in all areas that support suitable habitat for Stephens' kangaroo rat and San Bernardino kangaroo rat (Calimesa and San Timoteo Canyon).

In addition to Stephens' kangaroo rat surveys pre-construction surveys would be required under the following proposed mitigation measures in Section D.2 (Biological Resources) of the Draft EIR/EIS as well: Mitigation Measure B-2a: Conduct invasive and noxious weed inventory); Mitigation Measure B-5a(Conduct pre-construction surveys and monitoring for breeding birds); B-7b (Conduct pre-construction tortoise surveys); Mitigation Measure B-7e (Conduct focused surveys for California gnatcatchers); Mitigation Measure B-8a (Conduct surveys for listed plant species); Mitigation Measure B-9a (Conduct pre-construction surveys); Mitigation Measure B-9d (Conduct pre-construction reptile surveys); Mitigation Measure B-9e (Conduct pre-construction surveys and owl relocation); Mitigation Measure B-9g (Conduct pre-construction surveys and relocation for American badger); and Mitigation Measure B-9h (Conduct pre-construction surveys for roosting bats).

Comment Set A10
U.S. Department of the Interior, Fish & Wildlife Service



United States Department of the Interior



FISH AND WILDLIFE SERVICE

Sonny Bono Salton Sea National Wildlife Refuge Complex
906 West Sinclair Road
Calipatria, CA 92233-9744
760-348-5278 Fax 348-7245

Mr. John Kalish, BLM
c/o Aspen Environmental Group
235 Montgomery Street, Suite 935
San Francisco, CA 94104

August 10, 2006

Mr. Kalish,

This letter is intended to provide comment on the Draft Environmental Impact Report for the Devers-Palo Verde No.2 Transmission Line Project as far as it's potential impact on the Coachella Valley National Wildlife Refuge.

A10-1

First, a comment on the origins and status of the Right of Way through the refuge as I understand it: we are aware of Southern California Edison's acquisition of Rights of Way crossing through the mentioned refuge in 1979 and earlier for the purposes of operating and maintaining electrical transmission lines. This predates establishment of the refuge which occurred in 1985. However, in the draft EIR on page B-45 it states "In 1989, the BLM granted a ROW to SCE for the DPV2 transmission line proposed at that time. This ROW includes land managed by the BLM and USFWS." This discrepancy in date for the established ROW now is probably of minor significance in this matter, however it should be clarified for the record.

Our main concern in the proposed project is potential negative impacts on biological resources on the refuge. Generally speaking, threatened Coachella Valley fringe-toed lizards are not found in the ROW area. However, flat-tailed horned lizards are found in the ROW area and protecting this species from negative impacts associated with power line construction is our greatest concern. The Fish and Wildlife Service reopened the proposed listing of flat-tailed horned lizards under the Endangered Species Act to public comment in April 2006. In table D.2-6, Applicant Proposed Measures, APM B-34 identifies March 15 – May 15 as the appropriate period for surveying for either CVFTL or FTHL. March and April may be a little early in the year to adequately be able to locate FTHL. Depending on temperature, FTHL could be present but not detectable. The refuge suggests beginning surveys in May and continuing throughout the summer as long as construction lasts. Construction should not occur on the refuge outside the detection period for FTHL.

A10-2

Also recommended in APM B-34, "a qualified biologist will...clear work areas daily for CVFTL and FTHL..." The method isn't specified, but we presume this includes establishing a barrier on the boundary of the ROW and relocating lizards outside the ROW so that they are not able to re-enter in the construction zone.

A10-3

Comment Set A10, cont.
U.S. Department of the Interior, Fish & Wildlife Service

In table D.2-6, Applicant Proposed Measures, APM B-2 stipulates that the introduction of noxious weeds and/or other invasive species will be avoided through standard measures. "Avoid" alone is not an appropriate standard for a construction project where soil disturbance will likely result in weed establishment in many areas. On refuge areas, we prefer avoidance with post-construction follow-up weed abatement the following Spring, prior to flowering or seed establishment. This is a more pro-active approach that can ensure that construction activities do not cause the establishment of more weeds along the ROW.

We recognize SCE's ROW through the refuge for electricity distribution and look forward to possibly working with SCE on this project. Thank you for the opportunity to comment on this project.

A10-4

Sincerely,



Chris Schoneman
Project Leader

Responses to Comment Set A10 U.S. Department of the Interior, Fish & Wildlife Service

A10-1 The clarification in the date for the established ROW has been noted with the following footnote in Section B.3.3.1:

Note that the USFWS, Coachella Valley National Wildlife Refuge, states that SCE acquired rights-of-way through the Refuge in 1979, which pre-dated the creation of the Refuge, which occurred in 1985.

A10-2 Section D.2.6.1.6 (page D.2-132, Mitigation Measure B-7d) of the Draft EIR/EIS has been modified as follows:

B-7d Purchase mitigation lands for impacts to fringe-toed lizard habitat. SCE shall purchase or enhance lands for all permanent loss of habitat that are within the Coachella Valley fringe-toed lizard Critical Habitat unless otherwise directed by the USFWS Biological Opinion for the Proposed Project. Mitigation Lands shall be determined in consultation with the USFWS, CDFG, and CPUC.

Surveys and monitoring for CVFTL and flat tailed horned lizards (FTHL) shall be conducted in all areas that support suitable habitat during the appropriate time and weather conditions to allow the detection of these species (May 1 through the end of summer). The duration of the surveys and monitoring shall coincide with the duration of construction activities in potential habitat for these species (particularly on the Coachella Valley Preserve) that occurs during the summer season. Construction shall not occur on the Preserve or in other potential habitat areas outside of the detection period for CVFTL or FTHL.

Clearing work areas of CVFTL and FTHL in the Coachella Valley Preserve. A temporary fence or other effective barrier that does not allow lizards to enter the work areas shall be constructed around the perimeter of each of the work site in the refuge. Any lizards found within the barrier shall be relocated outside of the work areas by the qualified biologist.

A10-3 Please refer to Response A10-2.

A10-4 Section D.2.6.1.2 (page D.2-117, Mitigation Measure B-2b) of the Draft EIR/EIS has been modified as follows:

B-2b Implement control measures for invasive and noxious weeds. SCE shall adhere to the BLM management guidelines for reducing the potential for the introduction of noxious weeds and invasive, non-native plant species on the BLM lands by implementation of the following standards:

- **Wash all equipment and vehicles.** Vehicles and all equipment must be washed BEFORE AND AFTER entering all project sites unless otherwise directed in writing by the BLM. This includes wheels, undercarriages, bumpers and all parts of the vehicle. In addition, all tools such as chain saws, hand clippers, pruners, etc., must also be washed BEFORE AND AFTER entering all project area. For example, vehicles traveling into contaminated areas are the main dispersal mechanism for yellow star-thistle. All washing must take place where rinse water is collected and disposed of in either a sanitary sewer or a landfill.

- **Keep written logs.** When vehicles and equipment are washed, a daily log must be kept stating the location, date and time, types of equipment, methods used and staff present. The log shall contain the signature of the responsible crewmember.
- **Written logs will be available** for CPUC/BLM inspection and shall be turned in to BLM on a weekly basis.
- **Post-construction weed abatement on the Coachella Valley Preserve.** Post-construction follow-up weed abatement will be conducted on the work areas within the Coachella Valley Preserve. Weed abatement will be conducted during the Spring following construction and prior to when the weeds establish flowers or produce seeds.

Comment Set A11

U.S. Department of the Interior, Bureau of Indian Affairs



UNITED STATES OF AMERICA
DEPARTMENT OF THE INTERIOR

IN REPLY REFER TO:

BUREAU OF INDIAN AFFAIRS
Southern California Agency
1451 Research Park Dr., Suite 100
Riverside, CA 92507-2154
Telephone (951) 276-6624 Telefax (951) 276-6641

Via facsimile: (800) 886-1888

AUG 1 1 2006

CPUC/BLM

c/o Aspen Environmental Group
235 Montgomery Stret, Suite 935
San Francisco, CA 94104

Re: Devers-Palo Verde No. 2 Transmission Line Project

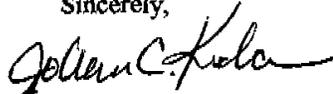
Dear Ms. Blanchard and Mr. Kalish:

Thank you for the opportunity to review and comment on the proposed Devers-Palo Verde No. 2 Transmission Line Project, which would potentially span 278 miles with 176 miles located in California and 102 miles in Arizona. We appreciated the opportunity to meet with you and the project proponent on June 27, 2006, regarding jurisdictional authorities for land held in trust by the United States government on behalf of the Morongo Band of Mission Indians.

We understand that the Devers-Valley No. 2 Alternative has become the preferred alternative for the portion of the alignment west of the Devers Substation and that no trust lands located on the Morongo Indian Reservation will be impacted by implementation of the selected alternative. Should the preferred project alternative for this section of the line become infeasible in the future and should the project proponent wish to revert to the West of Devers corridor alternative, we would encourage early consultation and coordination with the Morongo Tribe and the Bureau of Indian Affairs, Southern California Agency.

Once again, thank you for the opportunity to learn about your project. Please address questions or concerns about this letter to me or Lisa Northrop, Natural Resources Officer at (951) 276-6624, ext. 222 or 254.

Sincerely,


ACTING
James J. Fletcher
Superintendent

cc. Mr. Maurice Lyons, Morongo Band of Mission Indians
Mr. Tom Linton, Morongo Band of Mission Indians

TAKE PRIDE
IN AMERICA 

A11-1

Responses to Comment Set A11
U.S. Department of the Interior, Bureau of Indian Affairs

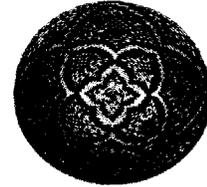
- A11-1 Should the West of Devers Upgrades be found feasible as a result of successful negotiations between SCE and the Morongo Tribe, the Bureau of Indian Affairs would be contacted.

Comment Set A12
Agua Caliente Band of Cahuilla Indians

AGUA CALIENTE BAND OF CAHUILLA INDIANS

TRIBAL PLANNING & DEVELOPMENT

August 10, 2006



CPUC and BLM
c/o Aspen Environmental Group
235 Montgomery St., Suite 935
San Francisco, CA 94104

RE: EIR/EIS for the Devers-Palo Verde No. 2 Transmission Line Project (DPV2) [SCH No. 2005101104]

Dear CPUC and BLM:

The Agua Caliente Band of Cahuilla Indians offers the following comments in opposition to the above-referenced project. Specifically, the Tribe is concerned with the preferred alternative for the West of Devers Segment that proposes to cross the boundaries of the Santa Rosa San Jacinto National Monument as well as Mt. San Jacinto.

EIS/EIR Exhibits

All exhibits in the document show the boundaries of the Agua Caliente Indian Reservation incorrectly. Because of these errors, the extent of the impacts to the Reservation are not fully analyzed in the document. The proposed project alignment crosses the boundaries of the Reservation. It is important to note that there are three types of land on the Reservation: fee, allotted trust and Tribal trust. The exhibits in the EIS/EIR incorrectly identify fee land on the Reservation as allotted and Tribal lands on the Reservation. Further, larger scale exhibits highlight only fee lands on the Reservation. The project crosses the Reservation through Sections 2 and 12, Township 4 South, Range 5 East, which total 1280 acres of Reservation land.

A12-1

Please include revised exhibits in the EIS/EIR that accurately show the extents of the Reservation and off-Reservation Tribal Trust Land. The Tribe's Interim GIS Manager, Beckie Mintzer, can provide accurate mapping and can be reached at 325-3400 x1911. I believe your representatives have communicated by email with Ms. Mintzer. This information can be verified by the Bureau of Indian Affairs.

Tribal Utility Ordinance

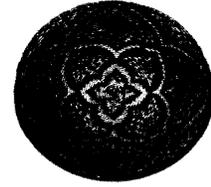
In 1979 the Tribe adopted an ordinance that regulates the development of public utility projects within the Reservation. This project is required to secure approval of a Tribal Conditional Use Permit (CUP) prior to construction of the project through the Reservation or Tribally-owned property. As part of the CUP application, the project proponent is required to provide a written explanation of the direct benefit to be realized or gained by the Tribe or its member through allowing the project to use or cross lands within the exterior boundaries of the Reservation.

A12-2

The Tribal Public Utility Ordinance (Tribal Code Chapter 7.04) applies to "those lands within the exterior boundaries of the Agua Caliente Indian Reservation..." The ordinance also defines a public utility project as "any utility project...including but not limited to...transmission lines...". The proposed project definition and location are such that the project proponent must secure approval of a Tribal Conditional Use Permit.

650 EAST TAHQUITZ CANYON WAY, PALM SPRINGS, CA 92262
T 760/325/3400 F 760/325/6952 AGUACALIENTE.ORG

Comment Set A12, cont.
Agua Caliente Band of Cahuilla Indians



Southern California Edison has indicated to Tribal Planning and Development that the project's proponents disagree and that SCE's written response to the CPUC includes a citation of federal law supporting this contention. SCE is flat wrong in claiming that "the requirement of a CUP would be inconsistent with Federal Law, [and] is therefore, inapplicable." Tribal Planning has requested a copy of Southern California Edison's response, however, was informed by SCE on Friday, August 4, 2006, that the written response, which includes the citation, would not be available until late in the week of August 7 to August 11, 2006 (Lin Juniper, SCE Local Public Affairs Department, 760-202-4231). As the deadline for input on the Final EIR/EIS is Friday, August 11, 2006, the inability of SCE to provide the purported citation(s) precludes a rational response to their objections by the Tribe within the stipulated time frame. However, approximately two miles of the proposed alignment traverses the jurisdictional area of Tribal Government, which has sovereign authority over land use within the exterior boundaries of the Reservation. Such authority is recognized under federal law to include regulatory functions on all lands, United States trust and non-trust alike, that are situated within the boundaries of the Reservation as long as they do not conflict with Federal Law. It is obvious that SCE and their representatives are ignorant of Indian Sovereignty and Indian Law. It is typical of the uneducated to confuse Tribal land use regulation and Federal Trust property management.

A12-2 cont.

And lastly, the Tribe requests a correction to the Draft EIR/EIS, section D5 Wilderness and Recreation, page D.5-54. The first bullet point on this page states "The 271,400-acre Santa Rosa and San Jacinto Mountains National Monument was established by Congress in 2000 and is managed by the BLM (BLM and USDA Forest Service, 2004)." Additionally, the Monument is managed under a Cooperative Agreement between the Bureau of Land Management and the Agua Caliente Band of Cahuilla Indians "...to coordinate and cooperate in management of Federal Lands within and outside the external boundaries of the Agua Caliente Indian Reservation within the...monument designation." (See attached.) The Final EIR/EIS should properly reflect this.

A12-3

Very Truly Yours,

Thomas J. Davis, AICP
Chief Planning & Development Officer
**AGUA CALIENTE BAND
OF CAHUILLA INDIANS**

TJD:jb

Attachments

C: Tribal Council
Gary Stopp, Chief of Staff
Margaret Park, Director of Planning
Art Bunce, Tribal Attorney
Dale Walters, Senior Engineer

AGUA CALIENTE BAND OF CAHUILLA INDIANS
AGUACALIENTE.ORG

Comment Set A12, cont. Agua Caliente Band of Cahuilla Indians

7.04.010

Chapter 7.04

PUBLIC UTILITY PROJECTS

Sections:

- 7.04.010 Purpose.
- 7.04.020 Definitions.
- 7.04.030 Statement of findings.
- 7.04.040 Use of the reservation for public utility projects.
- 7.04.050 Conditional use permits.

7.04.010 Purpose.

This chapter has the following purposes:

- A. To insure and promote the health, welfare, and safety of the members of the Band through controlling land use and regulating development of all the lands within the exterior boundaries of the reservation.
- B. To protect the present and traditional character of the reservation for the benefit of the members of the Band.
- C. To insure the quality of the environment of the reservation for the members of the Band by restricting the use of the lands within the exterior boundaries of the reservation by public utility projects which do not directly benefit and serve the members of the Band.
- D. To promote the orderly growth and development of the reservation. (Ord. 7 Art. 1, 1979)

7.04.020 Definitions.

For the purposes of this chapter the following definitions shall apply:

“Agua Caliente Band” or the “Band” means the Agua Caliente Band of Cahuilla Indians, a federally recognized tribe of Indians, acting through its duly constituted Tribal Council.

“Agua Caliente Indian Reservation” or the “reservation” means those lands within the exterior boundaries of the Agua Caliente Indian Reservation, as that reservation was established through: (1) Executive Order of President U.S. Grant (May 15, 1876); (2) Executive Order of President Rutherford B. Hayes (September 29, 1877); (3) Executive Order of President Grover Cleveland (May 14, 1896); (4) Executive Order of President Theodore Roosevelt (October 29, 1906); (5) Executive Order of President William H. Taft (January 5, 1911); (6) Executive Order of President Warren G. Harding (March 29, 1923); and (7) the Mission Indian Relief Act (Act of Congress of January 12, 1891; 26 Stat. 712), which are held in trust by the United States for either the Band itself, or for individuals.

“Land use authorization” means any right-of-way, easement, land use permit, lease, or other form of permission which grants any right to use or cross lands within the boundaries of the Agua Caliente Indian Reservation.

“Nonconforming use” means a land use which is in existence as of the date of adoption of the ordinance codified in this chapter and which does not conform to the regulations of this chapter. To be in existence as of the date of the enactment of said ordinance, such use must have been completed and in being rather than in the process of completion.

“Public utility project” means any utility project or public works project, including but not limited to railroads, highways, electrical transmission lines, telegraph or telephone lines, pipelines, canals, aqueducts, water lines, sewage systems, flood control projects, and/or rapid transit projects. As defined herein “public utility project” does not include those

Comment Set A12, cont. Agua Caliente Band of Cahuilla Indians

7.04.030

individual service or distribution facilities providing utility service to the lands within the boundaries of the Agua Caliente Indian Reservation.

“Tribal Council” means the duly elected Tribal Council of the Agua Caliente Band of Cahuilla Indians. (Ord. 7 Art. 2, 1979)

7.04.030 Statement of findings.

The Tribal Council hereby finds, determines, and declares the following facts:

A. The reservation was established for the exclusive use and benefit of the Band and its members.

B. The lands within the exterior boundaries of the reservation are and have been crossed by an interstate highway, railroad tracks and rights-of-way, numerous electrical transmission lines, numerous pipelines, and other public utility projects, which projects occupy lands that were set aside for the sole use and benefit of the Band and its members and preempt the use of such lands for the use and benefit of the Band and its members.

C. The proliferation of the various public utility projects on the reservation and the use of the reservation as a utility and transportation corridor have had a negative impact upon the reservation and are detrimental to the health, safety, and welfare of the members of the Band as well as to the present and future interests of the Band and its members.

D. The land use authorizations for the many public utility projects crossing the reservation lands extend, in most cases, for many years in the future, during which period the Band and its members will continue to suffer the adverse impacts and effects of these projects.

E. The use of the lands of the reservation for public utility projects is contrary to the purposes for which the reservation was created and interferes with the use of the reservation by the Band and its members.

F. It would be detrimental to the interests of the Band and its members to allow any additional public utility projects to pass within the exterior boundaries of the reservation unless those public utility projects will provide direct service and tangible benefits to the Band or its members. (Ord. 7 Art. 3, 1979)

7.04.040 Use of the reservation for public utility projects.

The following regulations shall govern the use of the lands within the exterior boundaries of the reservation for public utility projects:

A. The lands within the exterior boundaries of the reservation may not be used for public utility projects except as provided in this chapter.

B. Public utility projects in existence on the date of the adoption of the ordinance codified in this chapter are declared to be nonconforming uses under the terms of this chapter for the duration of their land use authorizations.

C. Any alterations of existing land use authorizations which provide for additions to or changes in the land use authorizations for public utility projects which are in existence on the date of adoption of the ordinance codified in this chapter shall be subject to the provisions of this chapter.

D. Land use authorizations for any public utility projects in existence at the time of the adoption of the ordinance codified in this chapter shall be subject to the provisions of

Comment Set A12, cont. Agua Caliente Band of Cahuilla Indians

7.04.050

this chapter at the expiration of their current land use authorizations.

E. If an applicant desires to renew or otherwise extend the land use authorization for any existing public utility projects which are nonconforming uses under the terms of this chapter, the extension or renewal thereof shall be granted pursuant to the procedures set forth below for the granting of a conditional use permit. In such cases, the conditional use status shall extend only for the term of years that the Tribal Council grants for such a project.

F. A nonconforming use shall be deemed discontinued or terminated under the terms of this chapter at such time as (1) its land use authorization expires and is not renewed or extended; or (2) it is abandoned for a period of sixty (60) days; or (3) any term or condition of the land use authorization is violated or not followed; or (4) the land is not used for its authorized purpose for a period of sixty (60) days; or (5) its right-of-way grant is terminated pursuant to the provisions of Title 25 of the Code of Federal Regulations, Section 161.19.

G. No new or altered public utility projects shall be built or allowed to operate on the reservation unless a conditional use permit is granted pursuant to the procedures set forth in Section 7.04.050. (Ord. 7 Art. 4, 1979)

7.04.050 Conditional use permits.

A. No new or altered public utility projects shall be allowed to operate on the reservation pursuant to currently existing land use authorizations or pursuant to any future land use authorization unless a conditional use permit is granted by the Tribal Council pur-

suant to the procedures set forth in this section.

B. Any applicant desiring permission to cross or otherwise use the lands within the exterior boundaries of the reservation for a public utility project or to alter an existing project must make written application to the Tribal Council for a conditional use permit for said project at the same time as making application to the Band or the allottee for a land use authorization. Said written application shall be accompanied by application fees in the amount set by the Tribal Council pursuant to subsection M of this section, and must include the following information:

1. Description of the proposed project;
2. Explanation of the direct benefit to be realized or gained by the Band or its members through allowing the project to use or cross lands within the exterior boundaries of the reservation;
3. Exact location of the proposed project, including a map thereof;
4. Effect of the project on land uses of those lands adjacent to the proposed utility project;
5. Effect of project on health and safety of persons living or working in vicinity of the project;
6. Amount of land to be used for proposed project;
7. Compensation to be offered to the allottee(s) or Band for the use of land for the proposed project;
8. Any other information desired by the Tribal Council that is included on the application for a conditional use permit which will be developed by the Tribal Council; and
9. Any other relevant information.

C. After said written application for a conditional use permit is submitted to the Tri-

Comment Set A12, cont. Agua Caliente Band of Cahuilla Indians

7.04.050

bal Council, the Tribal Council shall determine:

1. Whether the public utility project will provide a direct and tangible benefit to the Band or its members;

2. Whether the project is in the general welfare and for the convenience of the members of the Band;

3. Whether the project will promote and not have detrimental effects on the interests, health, safety, comfort and general welfare of persons residing on the reservation; and

4. Whether the use will not adversely affect adjoining lands.

D. If the Tribal Council by a majority vote makes an affirmative finding on each of the factors listed in subsection C of this section, and determines, in addition, that it would be in the best interests of the Band and its members to grant a conditional use permit for the said public utility project, then the Tribal Council may grant conditional use status to the public utility project. Prior to reaching its decision, the Tribal Council shall also solicit the views and input of the allottee(s) whose land is involved, which shall be considered in the decision-making process.

E. The Tribal Council shall require that such conditions be placed on the conditional use permit as are necessary and in the best interests of the Band.

F. If the Tribal Council does not make affirmative findings on all the factors listed in subsection C of this section, then the sponsor of the utility project shall be advised that the conditional use permit shall not be granted. The decision of the Tribal Council shall be final and nonappealable.

G. A conditional use permit shall issue for a term of not more than twenty-five (25) years and may be revoked if new land uses develop

that are incompatible with the use for which the permit was obtained.

H. If a public utility project is not begun within the time stated on the permit, or if no time is stated, then at the expiration of one year following the granting of a conditional use permit, said conditional use permit automatically shall be deemed to have expired.

I. Any conditional use permit may be revoked by the Band acting through its Tribal Council if any of the conditions or the terms of such permit are violated. If the Tribal Council finds that such a violation has occurred, it may either revoke the permit or give written notice of the violation to the permit holder. Said notice shall specify the violation and give the permit holder a prescribed time in which to correct the violation or appear before the Tribal Council and show that there is no violation or that additional time is necessary to make the correction. After a hearing on the matter, the Tribal Council may either revoke the permit or at its option give the permit holder a specific amount of time to cure the violation.

J. If any modification of the utility project conditional use permit is necessary, then the applicant shall file a new application for a conditional use permit in accordance with the provisions of this section.

K. If the public utility project for which such a conditional use permit has been granted has ceased to operate or has been suspended for one year, the Band, acting through its Tribal Council, may revoke the conditional use permit.

L. No land use authorization shall be granted on tribal land for a public utility project unless that project has been issued a conditional use permit by the Tribal Council.

Comment Set A12, cont.
Agua Caliente Band of Cahuilla Indians

7.04.050

M. The Tribal Council may set nonrefundable fees to be paid to the Band by the applicant upon submission of the application for a conditional use permit. These fees shall be set at an amount sufficient to cover the costs to the Band of reviewing and analyzing the application as well as processing the application. (Ord. 7 Art. 5, 1979)

Comment Set A12, cont.
Agua Caliente Band of Cahuilla Indians



**COOPERATIVE AGREEMENT
BETWEEN
THE U.S. DEPARTMENT OF INTERIOR-BUREAU OF LAND MANAGEMENT
AND
THE AGUA CALIENTE BAND OF CAHUILLA INDIANS
FOR THE SANTA ROSA AND SAN JACINTO MOUNTAINS**

AGREEMENT NO. _____

I. STATEMENT OF JOINT OBJECTIVES

- A. Purpose. This cooperative agreement is made and entered into between the USDI Bureau of Land Management (BLM) and the Agua Caliente Band of Cahuilla Indians, herein after referred to as the BLM and the Tribe, respectively, to coordinate and cooperate in management of Federal lands within and outside the external boundaries of the Agua Caliente Indian Reservation within the Santa Rosa and San Jacinto Mountains proposed for National Monument (Monument) designation. This relationship will provide for more consistent, effective, and collaborative management of these lands. Specific programs in natural resource management, land tenure adjustment and land use planning, will enhance the values underlying the proposed Monument designation.
- B. Objective. This agreement provides the mechanism to coordinate land use planning, budget priorities, cooperative allocation of resources and development of long term resource management and programmatic goals between the signatories. The agreement is anticipated to improve BLM service to the community by increasing the effectiveness of land management efforts through cooperation, addressing Tribal issues, and developing mechanisms for increasing the effectiveness of Tribal government coordination and outreach efforts at all organizational levels. The agreement also provides a foundation for a Memorandum of Understanding (MOU) between the BLM and the Tribe pursuant to authorities provided under Section 206 of the Federal Land Policy and Management Act, as amended. The MOU provides the opportunity for the Tribe to acquire Federal lands.
- C. Authority. Federal Land Policy and Management Act of 1976, Sections 202 (C)(9) and 307(b), Public Law 94-579, provides that the Secretary of Interior may undertake programs of resource management through Cooperative Agreements with Indian Tribes.

A handwritten signature in black ink, appearing to read "R. M. M." followed by a flourish.

Comment Set A12, cont.
Agua Caliente Band of Cahuilla Indians

- D. Benefits. This cooperative undertaking will result in increased public land management effectiveness, enhancement of natural resource program coordination, opportunity for joint public outreach, and a greater level of consistency and effectiveness in public and Tribal land use planning. This cooperative relationship provides the Bureau access to resources and services not otherwise obtainable and to the contributed involvement of Tribal officials, planners, resource specialists and general membership, in public land management. This relationship is critical to providing a higher level of service and to enhancing coordination and cooperation between the Tribal government and the BLM in the development of resource management programs, planning and opportunities.

II. DEFINITIONS

- A. BLM: Means the United States Department of Interior, Bureau of Land Management, California State Office. May be referred to as the Bureau.
- B. TRIBE: Means the Tribal Council of the Agua Caliente Band of Cahuilla Indians.
- C. Cooperative Agreement: Means this Cooperative Agreement.
- D. Agreement Area: Means all public lands managed by the BLM within the proposed Santa Rosa and San Jacinto Mountains National Monument.

III. SCOPE

- A. BLM agrees to:
1. Coordinate and consult with the Tribe at least annually, to seek their participation and support in the development of public land use planning and public land management actions.
 2. Identify opportunities for development of initiatives to cooperatively initiate and conduct land management programs.
 3. Seek specific opportunities to actively involve the Tribe in public land management activities.
 4. Coordinate, organize, and assure appropriate government, professional and management involvement in programs within the scope of this agreement.
- B. The TRIBE agrees to:
1. Coordinate and consult with BLM at least annually, to identify Tribal land management priorities, resources and opportunities for joint Tribal/BLM program development.

Rmm
AK

Comment Set A12, cont.
Agua Caliente Band of Cahuilla Indians

2. Coordinate, organize, and assure appropriate Tribal professional and executive involvement in programs within the scope of this agreement.
 3. Identify and provide appropriate staff for planning and implementation of initiatives developed pursuant to this agreement.
- C. The BLM and the Tribe agree to:
1. Cooperate in program development, budget preparation, and planning. Conduct specific programs for BLM managers, professional staff, Tribal officials and other appropriate parties to address critical resource management, Tribal and agency program priorities and comprehensive program issues.
 2. Maintain a joint commitment to address areas of Tribal concern, including:
 - a. The protection of the rights of the Tribe and the allottees to access, development, and enjoyment of their property, consistent with applicable Federal and Tribal laws and regulations.
 - b. The need to identify, preserve, protect and, where necessary, recover cultural resources and artifacts.
 - c. The need to identify, preserve and protect federal reserve water rights.
 - d. The need to preserve and protect cultural and traditional uses, including gathering and access to sacred places.
 3. Provide for review of projects, proposals, and management actions that may affect the other party's interests or management.
 4. Jointly contribute to implementation of coordinated strategies to improve law enforcement efforts to protect natural and cultural resources, and to enhance public outreach services, within the agreement area.
 5. Meet at least annually to identify specific resource management, land tenure adjustment and joint management goals, including but not limited to:
 - a. Implementation of a Memorandum of Understanding between BLM and the Tribe for acquisition and exchange of lands within the proposed Santa Rosa and San Jacinto Mountains National Monument.

RM.M.


Comment Set A12, cont.
Agua Caliente Band of Cahuilla Indians

- b. Actively seek funding for joint management efforts, land acquisitions, and exchanges which meet the goals of this agreement.
- c. Undertake a cadastral survey and other land surveying and engineering tasks to support land management, acquisitions and exchanges.
- d. Complete a cultural resource survey of the proposed National Monument area to identify significant cultural resources, and provide for the management and protection of those resources.
- e. Provide technology and resources to accomplish the above goals.

IV. TERM OF THE AGREEMENT

This Cooperative Agreement shall become effective on the date of signature of the BLM Field Manager and the Tribal Chairman and shall remain in effect until cancelled or modified as provided in Section VI.

V. FINANCIAL SUPPORT

This document does not authorize the transfer of funds or anything of intrinsic monetary value, nor does it confer upon any signatories the authority to commit the Federal Government to the expenditure of funds. It is anticipated that, at a future date, the transfer of funds will be necessary to implement the intent of this Cooperative Agreement. Such transfers must be accomplished by a separate appropriate procurement or financial assistance instrument.

VI. MODIFICATION OR TERMINATION OF THIS AGREEMENT

This agreement may be modified, amended or supplemented by mutual consent of the parties. Either party may propose modification by notifying the other in writing. The parties agree to seek a mutually acceptable schedule to negotiate any modifications in the agreement.

This agreement may be terminated only by mutual consent of the parties. Termination may be requested in writing by either party through notification of the other signatory. Notification shall include a description of the basis for the request. The notified party shall respond within 30 days, proposing a schedule to negotiate unresolved issues offered as the basis for termination.

VII. GENERAL PROVISIONS

Nothing in this agreement shall abrogate the statutory responsibility or other authority of either party signatory to this agreement.

R.M.M.


Comment Set A12, cont.
Agua Caliente Band of Cahuilla Indians

Each of the signatories warrants that he or she is authorized to enter into this agreement on behalf of the Party on whose behalf he or she has executed the agreement.

VIII. COUNTERPARTS

This agreement may be executed in counterpart originals and each copy will have the same force and effect as if signed by all the parties.

IN WITNESS WHEREOF, the parties have executed this agreement.

APPROVALS:

**U.S. DEPARTMENT OF INTERIOR
BUREAU OF LAND MANAGEMENT**

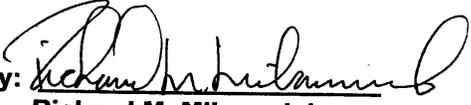
By:


James G. Kenna
Field Manager
South Coast/Palm Springs Field Office

10/13/99
Date

AGUA CALIENTE BAND OF CAHUILLA INDIANS

By:


Richard M. Milanovich
Chairman, Tribal Council

10-13-99
Date

Comment Set A12, cont.
Agua Caliente Band of Cahuilla Indians

AGUA CALIENTE BAND OF CAHUILLA INDIANS

TRIBAL HISTORIC PRESERVATION OFFICE



August 18, 2006

Billie C. Blanchard, CPUC
John Kalish, BLM
c/o Aspen Environmental Group
235 Montgomery Street, Suite 935
San Francisco, CA 94104

RE: Extension of Public Comment for 117 Devers-Palo Verde No. 2 Transmission Line Project, Agua Caliente Indian Reservation, Palm Springs, Riverside County, CA

Dear Sirs:

The Agua Caliente Band of Cahuilla Indians appreciates your efforts to include the Tribal Historic Preservation Office (THPO) in your project. On checking the Agua Caliente Cultural Register, it is clear that a portion of the proposed project area identified above is located within the Agua Caliente Indian Reservation boundaries, specifically Sections 2 and 12, Township 4 South, Range 5 East, *Cathedral City* U.S.G.S. Quadrangle map. Based on the project location, Agua Caliente THPO requires the following:

1. To insure that cultural resource information is current, the Agua Caliente THPO requires that an Archaeologist qualified according to the Secretary of the Interior's Standards and Guidelines perform a record search and appropriate level field investigations of the area prior to initiation of construction.
 - a. Two copies of all cultural resource documentation, including site records, survey reports (one copy bound, one loose) generated in connection with this project, other reports of investigations, record search results, maps, and site records/updates, shall be forwarded to the THPO for review and comment. Any records forwarded to the Tribe will be permanently curated in the Agua Caliente Cultural Register.
2. Given that buried resources may be present beneath the ground surface, an Approved Cultural Resource Monitor(s) shall be present during all ground disturbing activities (archaeological testing/data recovery and construction related actions). Should buried cultural deposits be encountered, the Monitor shall have the authority to halt destructive construction and shall notify a qualified archaeologist to investigate and, if necessary, to prepare a treatment plan, for submission to the State Historic Preservation Officer and/or the Agua Caliente THPO/Cultural Resource Coordinator for approval.

A records check of the Agua Caliente Cultural Register shows that portions of the project have

A12-4

A12-5

A12-6

650 EAST TAHQUITZ CANYON WAY, SUITE D, PALM SPRINGS, CA 92262
T 760/325/3400 F 760/325/6582 AGUACALIENTE.ORG

Comment Set A12, cont.
Agua Caliente Band of Cahuilla Indians



been subject to previous surveys. Our records do not show any cultural resources sites within the proposed project area. The information on previous surveys was obtained through the Eastern Information Center (EIC) located at University of California, Riverside. Your records check with EIC should reveal the same information.

Please contact our offices for further information about Approved Cultural Resource Monitors. Again, the Agua Caliente Tribe appreciates your interest in our Tribal heritage. If you have any questions, please call me at (760) 883-1368 or e-mail me at rbegay@aguacaliente.net.

Sincerely,

Pattie Tuck

Dr: Richard M. Begay
Director of Historic Preservation
**AGUA CALIENTE BAND
OF CAHUILLA INDIANS**

c: Agua Caliente Cultural Register

H:\THPO\correspondence\2006\External\On Reservation\BLM_EISCA660-06-32_8_18_06

A12-6

AGUA CALIENTE BAND OF CAHUILLA INDIANS
AGUACALIENTE.ORG

Responses to Comment Set A12 Agua Caliente Band of Cahuilla Indians

Letter dated August 10, 2006:

A12-1 The maps of the Proposed Project presented in Appendix 10 have been modified to show the correct boundaries of the Agua Caliente Indian Reservation. The corrected maps are Devers-Harquahala 500 kV Sheets 36, 37, and 38 and West of Devers Sheets 2 and 3. The maps of the Devers-Valley No. 2 Alternative in Appendix 1 (Figures Ap.1-8a and 1-8b) have also been updated. In addition, Figure B-7c (Agua Caliente Allottee Lands) has been updated to illustrate the correct boundaries for tribal properties.

A12-2 The attachment provided by the Agua Caliente Band of Tribal Code Chapter 7.04 is noted. EIR/EIS Table A-4 (Permits of Other Actions Required Prior to Construction of the DPV2 in Arizona and California) in Section A.3.4 of the EIR/EIS includes the Agua Caliente Indian Reservation and states the following regarding the required permit: “Conditional Use Permit or a land acquisition process to be determined by consultations between Agua Caliente Tribe and SCE.” A note at the end of the table addresses the December 16, 2005 letter submitted by the Tribe to the CPUC and BLM regarding the 1979 Tribal Public Utility Ordinance. The issue is also discussed in Section D.4.6.7 of the Draft EIR/EIS (pages D.4-36 and D.4-37). Implementation of Mitigation Measure L-1c would require that SCE provides proof of resolution of land acquisition issues for crossing Agua Caliente Band of Cahuilla Indians tribal lands 30 days prior to the start of construction. After discussions between BLM, SCE, and the Agua Caliente Band of Cahuilla Indians staff, Mitigation Measure L-1c has been modified as follows:

L-1c Provide proof of resolution of land acquisition issues for crossing of Agua Caliente Band of Cahuilla Indians tribal lands. SCE shall negotiate in good faith to reach a mutually acceptable agreement with the allottee. If an agreement is reached, SCE shall consult and coordinate with the Planning Department of the Agua Caliente to provide the information and/or fees requested by the Planning Department regarding land use matters. If SCE and the allottee reach an agreement then SCE shall notify the Planning Department of the Agua Caliente, and if SCE and the Planning Department agree on the legal requirements, including appropriate waivers, SCE shall notify the BLM and the CPUC of the agreement; however if SCE and the Planning Department are unable to reach an agreement, SCE shall notify the CPUC of the inability to reach agreement and the CPUC may hold a hearing within thirty days of notification. SCE reserves the right to institute eminent domain proceedings. SCE believes that a conditional use permit is not required. SCE shall ascertain the legal requirements for the crossing of Agua Caliente Band of Cahuilla Indians tribal lands, and shall provide documentation of the resolution of this issue to the CPUC and the BLM thirty days prior to the start of construction. SCE shall document its coordination with the Tribe and submit specific locations where the Proposed Project will cross tribal lands, and shall include any items that have been agreed to between the SCE and the Agua Caliente Band of Cahuilla Indians.

A12-3 The attachment of the Cooperative Agreement Between U.S. Department of Interior Bureau of Land Management and the Agua Caliente Band of Cahuilla Indians for the Santa Rosa and San Jacinto Mountains has been noted. Section D.5 (page D.5-54, first bullet) has been modified as follows:

- **Santa Rosa and San Jacinto Mountains National Monument.** The 271,400 acre Santa Rosa and San Jacinto Mountains National Monument was established by Congress in 2000 and is managed by the BLM (BLM and USDA Forest Service, 2004). Additionally the Monument is managed under a Cooperative Agreement between the BLM and the Agua Caliente Band of Cahuilla Indians (October 13, 1999) “...to coordinate and cooperate in management of Federal Lands within and outside the external boundaries of the Agua Caliente Indian Reservation within the...monument designation.”

Letter dated August 18, 2006:

A12-4 The Areas of Potential Effect (APE) for the segments of the Proposed Project that cross the Agua Caliente Indian Reservation have already been surveyed intensively by archaeologists qualified under the Secretary of the Interior’s standards. As indicated in comment letter, there are no cultural resources identified on tribal land. Two copies of the cultural resources survey report will be forwarded to the THPO. If additional surveys on tribal lands are required for the project, those will be conducted in consultation with the THPO.

A12-5 Mitigation Measures C-1a and C-1e have been modified as illustrated below to include a requirement for consultation with the THPO for any cultural resources management or monitoring on the Agua Caliente Indian Reservation.

C-1a **Inventory and evaluate cultural resources in Final APE.** Prior to construction and all other surface disturbing activities, the Applicant shall have conducted and submitted for approval by the BLM and CPUC (and the USFS, on San Bernardino National Forest land and the THPO on Agua Caliente land) an inventory of cultural resources within the project’s final Area of Potential Effect. The nature and extent of this inventory shall be determined by the BLM and CPUC in consultation with the appropriate State Historic Preservation Officer (SHPO) and shall be based upon project engineering specifications. Results of this inventory shall also be filed with appropriate State repositories and local governments. As part of the inventory, the Applicant shall conduct field surveys of sufficient nature and extent to identify cultural resources that would be affected by tower pad construction, reconductoring activities, access road installation, and transmission line construction and operation. At a minimum, field surveys shall be conducted along newly proposed access roads, new construction yards, new tower sites, and any other projected areas of potential ground disturbance outside of the previously surveyed potential impact areas. Site-specific field surveys also shall be undertaken at all projected areas of impact within the previously surveyed corridor that coincide with previously recorded resource locations. The selected right-of-way and tower locations shall be staked prior to the cultural resource field surveys. As part of the inventory report, the Applicant shall evaluate the significance of all affected cultural resources on the basis of surface observations and provide recommendations with regard to their eligibility for the National Register of Historic Places (NRHP) or local registers. Preliminary determinations of NRHP

eligibility will be made by the BLM, in consultation with the CPUC and appropriate local governments, the USFS (on USFS land), and the appropriate SHPO or THPO.

C-1e **Monitor construction.** [2nd paragraph] Compliance with and effectiveness of the cultural resources monitoring plan shall be documented by the Applicant in a monthly report to be submitted to the BLM and CPUC, and, on San Bernardino National Forest, to the USFS, and on Agua Caliente land to the THPO, for the duration of project construction. In the event that cultural resources are not properly protected by ESAs, all project work in the immediate vicinity shall be diverted by the archaeological monitor until authorization to resume work has been granted by the BLM and CPUC. The Applicant shall notify the BLM of any damage to cultural resource ESAs. The Applicant shall consult with the BLM and CPUC to mitigate damages and to increase effectiveness of ESAs. At the discretion of the BLM and CPUC, such mitigation may include, but not be limited to modification of protective measures, refinement of monitoring protocols, data-recovery investigations, or payment of compensatory damages in the form of non-destructive cultural resources studies or protection.

A12-6 Records searches and surveys for the Proposed Project resulted in findings that match the THPO's records; there are no known cultural resources in the APE on tribal lands. The Bureau of Land Management will continue consultation with the Agua Caliente Band of Cahuilla Indians throughout the course of the project. The issue of Native American monitoring during construction will be one important subject of that consultation.

Comment Set A13
U.S. Department of the Interior, Bureau of Reclamation



IN REPLY REFER TO:
LC-2600
ENV-1.10

United States Department of the Interior
BUREAU OF RECLAMATION
Lower Colorado Regional Office
P.O. Box 61470
Boulder City, NV 89006-1470



AUG 11 2006

California Public Utilities Commission
Bureau of Land Management
c/o Aspen Environmental Group
235 Montgomery Street, Suite 935
San Francisco, CA 94104

Subject: Comments on Devers-Palo Verde No. 2 Transmission Line Draft Environmental Impact Report/Environmental Impact Statement (DEIR/EIS)

Dear Project Managers:

The Bureau of Reclamation, Lower Colorado Regional Office in Boulder City, Nevada received a hard copy and electronic disc of the DEIR/EIS on May 18, 2005. Our Phoenix Area Office also received an electronic copy of the document last week. We are submitting the following comments and request:

The text and figures in the DEIR/EIS are not detailed enough to clearly determine the relative impact or resources affected by the proposal and alternatives on the lands or facilities managed by Reclamation.

In order to provide more substantive comments, we requested more detailed information on the following occasions:

- On June 8th, while attending the informational meeting in Palm Desert, California, our Yuma Area Office staff made a request to Mr. Claude Kirby and Mr. John Kalish of BLM's Palm Springs Office for detailed drawings of where the proposals crossed Reclamation facilities at the Colorado River and the Central Arizona Project (managed from our Phoenix Area Office).
- On June 15th, Mr. Roy Romines from the Yuma Area Office sent Mr. Kirby an e-mail again requesting the drawings and providing him the new address of the Phoenix Area Office.

To date, we have not received the requested information.

Please be aware that Reclamation must review and approve project design plans wherever it crosses its facilities. If Reclamation facilities and/or lands are impacted or authorization for crossing the same are required by Reclamation, environmental compliance with the National Environmental Policy Act, National Historic Preservation Act, Endangered Species Act, and possibly other environmental laws could be facilitated by this EIR/EIS process if Reclamation is afforded coordination and concurrence. If not, further environmental compliance may be required.

A13-1

Comment Set A13, cont.
U.S. Department of the Interior, Bureau of Reclamation

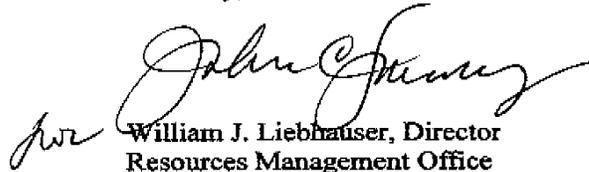
2

In order to evaluate the scope of our involvement or impact, we request an extension of time to receive the requested information and respond. Please provide the information to Mr. Koontz, Realty Specialist, at our Phoenix Area Office, 6150 W. Thunderbird Road, Glendale, Arizona 85306-4001; and Mr. Romines, Realty Specialist, at our Yuma Area Office, 7301 Calle Aqua Salada, Yuma, Arizona 85364. If you have questions regarding our request or comments you may reach Mr. Koontz at 623-773-7247, Mr. Romines at 928-343-8331 or Mr. John Jamrog at our Regional office in Boulder City, Nevada at 702-293- 8675.

A13-2

We look forward to coordinating with Bureau of Land Management on this project.

Sincerely,


William J. Liebhauser, Director
Resources Management Office

cc: Mr. John Kalish
EIR/EIS Project Manager
Palm Springs South Coast Field Office
Bureau of Land Management
690 West Garnet Avenue
North Palm Springs, CA 92258-1260

Responses to Comment Set A13 U.S. Department of the Interior, Bureau of Reclamation

- A13-1 On August 18, 2006 detailed maps (1 inch to 500 feet), along with an index, were sent to the Bureau of Reclamation. Table A-4 (Permits of Other Actions Required Prior to Construction of the DPV2 in Arizona and California) in Section A.3.4 of the Draft EIR/EIS includes the Bureau of Reclamation and states that construction on or in land administered by the U.S. Bureau of Reclamation would require a Right-of-Way Grant (including CAP Canal). This permit to cross Bureau of Reclamation facilities would include review and approval of project design plans prior to approval.
- A13-2 Several maps and diagrams have been provided to the Bureau of Reclamation staff between August 15, 2006 and August 22, 2006. This includes a series of aerial photographs at a scale of 1”to 500’ showing tower locations, and preliminary engineering diagrams provided by SCE. The EIR/EIS team also provided the Bureau with graphics from the EIR/EIS Project Description that illustrate the types of towers that would be constructed.

Comment Set A14
Forman & Associates, Attorneys at Law

FORMAN & ASSOCIATES
ATTORNEYS AT LAW
4340 REDWOOD HIGHWAY, SUITE F228
SAN RAFAEL, CALIFORNIA 94903

TELEPHONE: (415) 491-2310 FAX: (415) 491-2313

GEORGE FORMAN
KIMBERLY A. CLUFF

GEORGE@GFORMANLAW.COM
KCLUFF@GFORMANLAW.COM

August 11, 2006

VIA E-MAIL (dpv2@aspenerg.com) ONLY

CPUC/BLM
c/o Aspen Environmental Group
235 Montgomery Street, Suite 935
San Francisco, CA 94104

Re: Morongo Band of Mission Indians' Comments on D-PV2

Dear Sirs and Madams:

In their May 2006 Draft Environmental Impact Report/Environmental Impact Statement ("EIR/EIS"), the California Public Utilities Commission and the U.S. Bureau of Land Management (collectively "Reviewing Agencies") describe and evaluate Southern California Edison's ("SCE") proposed D-PV2 project, which contemplates, in part, significant upgrades to approximately 50 miles of 230 kV transmission lines west of the Devers substation ("Proposed Project"). As required by the environmental review process, SCE also proposed an alternative to its West of Devers segment ("D-V Alternative"). The Proposed Plan depends on SCE and the Morongo Band of Mission Indians ("Tribe") negotiating a renewal of SCE's rights-of-way to a nearly 5 mile stretch of Tribal land over which its transmission lines currently (and under the Proposed Project, would) run. The D-V Alternative would not cross Morongo land and thus could be constructed without negotiating with the Tribe.

Though the Reviewing Agencies concluded that the D-V Alternative was inferior to the Proposed Project in several respects,¹ SCE has decided, since the issuance of the EIR/EIS, to pursue the D-V Alternative rather than its originally Proposed Project. The D-V Alternative offers few advantages over the Proposed Project while creating several "significant and

A14-1

¹ ES 63-64. All subsequent page references are to the May 2006 EIR/EIS.

Comment Set A14, cont.
Forman & Associates, Attorneys at Law

CPUC/BLM
August 11, 2006
Page 2

unavoidable impacts"² as well as the prospect of considerable delays to accommodate "the extensive permitting and coordination with relevant federal land management agencies."³ In light of these considerations, the Tribe suggests that it is premature to conclude that SCE should be allowed to pursue the D-V Alternative option. Rather, the Tribe respectfully asks the Reviewing Agencies to postpone a final decision for a period of 12 months, during which time the Tribe will continue negotiating with SCE concerning the latter's rights-of-way across tribal land. Assuming an agreement is reached, SCE could go forward with its original Proposed Project, a result that would have great potential benefit for the environment, the parties, and SCE's ratepayers.

A14-1 cont.

Presently, SCE enjoys the use of a combination of rights-of-way 450 feet wide across nearly 5 miles of Morongo tribal lands to accommodate SCE's 230 kV transmission lines West of Devers. SCE's Proposed Project contemplates making significant upgrades to the lines within this right-of-way corridor. Specifically, SCE would:

A14-2

- **Remove** two existing single-circuit 230 kV lines [Devers-San Bernardino No. 1 and Devers-Vista No. 1];
- **Replace** those two lines with a new double-circuit 230 kV line;
- **Reconductor** an existing double-circuit 230 kV line for a distance of 40 miles between Devers Substation and San Bernardino Junction in San Bernardino County, California [Devers-San Bernardino No. 2 and Devers-Vista No. 2];
- **Reconductor** 4.8 miles of a 230 kV transmission line between San Bernardino Junction and Vista Substation, also located in San Bernardino County, California; and
- **Reconductor** 3.4 miles of a 230 kV transmission line between San Bernardino Junction and San Bernardino Substation located in San Bernardino County, California.⁴

The Devers-San Bernardino No. 1 230 kV line, which SCE proposes to remove and replace with a new double-circuit 230 kV line, operates on a right-of-way pursuant to a tribal license that expires in 2010.⁵ That license provides that SCE was to begin negotiations with the Tribe to renew its rights in 2008. The right-of-way for SCE's Devers-Vista No. 1 230 kV line also expires in 2010. The rights-of-way for SCE's other 230 kV lines that cross the Tribe's

² ES 63.

³ C 27.

⁴ ES 7; B 14.

⁵ That same license authorizes the Banning-Garrett-Maraschino 115kV line to operate until September 2010. The right-of-way for that line expired in 2005.

Comment Set A14, cont.
Forman & Associates, Attorneys at Law

CPUC/BLM
August 11, 2006
Page 3

Reservation - Devers-San Bernardino No. 2 and Devers-Vista No. 2 - expire in 2019. SCE also owns and operates several 115 kV electrical transmission lines across Tribal land, including those that provide transmission for various wind generation facilities east of the Reservation. The remaining 115 kV lines are on rights-of-way that expire on various dates between 2010 and 2019.

A14-2 cont.

Because SCE's tribal licenses and rights-of-way expire in 2010 and 2019, SCE and the Tribe still must negotiate renewals in order to make SCE's West of Devers upgrades feasible, particularly to the extent that SCE may need to upgrade those facilities in any event, whether to accommodate increased demand within its service area, or to meet the needs of other proposed generation or transmission projects that would send power through or near Devers.⁶ Otherwise, SCE would have no choice but to pursue the D-V Alternative, which does not cross tribal land and thus would not require SCE to renew its rights-of-way across the Tribe's Reservation, but which will not be adequate to alleviate the congestion that will occur as demand for transmission capacity West of Devers increases. Thus, the successful negotiation of renewals of SCE's current rights-of-way across Tribal land potentially has critical ramifications far beyond the D-PV2 project for Southern California energy consumers and their suppliers.

A14-3

Apart from facilitating the delivery of power from SCE's own and other currently-proposed sources of generation, the Proposed Project clearly is the preferred option because it would create several "beneficial impacts [that] would not occur if the [D-V Alternative] were construed."⁷ For example, the Proposed Project would offer "improved views at three visual resources viewpoints. And because the Proposed Project would necessitate renewal of SCE's rights-of-way, the "project operation would provide revenue to the Morongo Band of Mission Indians."⁸

A14-4

By contrast, the D-V Alternative⁹ has little to recommend it, other than that it would avoid the Tribe's Reservation¹⁰ and thus, for the moment, defer the need to negotiate a renewal of SCE's rights-of-way. In addition, the D-V Alternative would not entail removing any existing transmission line towers and would therefore require the disposal of less waste. Yet, the D-V Alternative's few potential advantages are dwarfed considerably by its drawbacks. As the

⁶ E.g., Blythe Energy, Desert-Southwest, Imperial & Irrigation District, and Los Angeles Department of Water & Power.

⁷ ES 63.

⁸ ES 63.

⁹ C 27.

¹⁰ But not the Agua Caliente Reservation.

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Reviewing Agencies recognized, not only would the D-V Alternative "not eliminate any significant impacts of the Proposed Project," but "it would create the following additional significant and unavoidable impacts:"

A14-4 cont.

- **Visual Resources:** Increased visual contrast and skylining from 5 key viewpoints along Devers-Valley alternative;
- **Visual Resources:** Inconsistency with BLM and San Bernardino National Forest scenic criteria;
- **Wilderness and Recreation:** Operation would change the character of a recreation or wilderness area, diminishing its recreational value;
- **Noise:** Permanent noise levels along the [right-of-way] would increase due to corona noise from operation of the transmission lines;¹¹
- **hazards** to fire-suppression aircraft that must navigate treacherous canyons traversed by the line. (These hazards were the subject of U.S. Forestry Service and the California Division of Forestry and Fire Protection concern when Devers-Vista No. 1 was proposed.)

Though these negative impacts would not render the D-V Alternative technically unfeasible, they likely would lead to numerous delays and uncertainty. For example, "the D-V Alternative would require a Special Use authorization from the USDA Forest Service for the portion of the [project] located on National Forest System lands."¹² The Forest Service, in turn, would need to ensure that the authorization, if granted, complied with NEPA - hardly a sure thing. Because the D-V Alternative likely "would not be consistent with Forest Plan direction for desired landscape characters or scenic integrity objects,"¹³ the D-V Alternative might well implicate, and thus require amendments to, the following plans:

- San Bernardino National Forest Land Management Plan
- Santa Rosa and San Jacinto Mountains National Monument Proposed Management Plan and Final EIS
- Memorandum of Understanding between Bureau of Land Management, Forest Service, and the Pacific Crest Trail Association.¹⁴

¹¹ ES 63; D.5 60.

¹² C 26.

¹³ C 27.

¹⁴ C 27.

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In sum, these considerations would not render the alternative plan unfeasible, but "construction could be delayed due to the requirement for extensive permitting and coordination with relevant federal land management agencies."¹⁵

A14-4 cont.

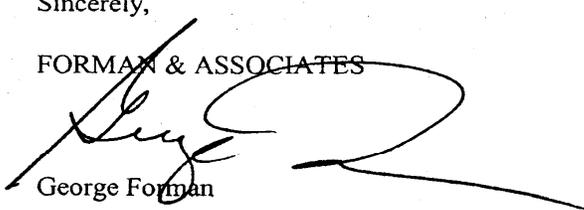
When one weighs the anticipated environmental benefits and drawbacks of SCE's options, the balance tips heavily in favor of its original Proposed Project. When one factors in the potential benefits arising from other currently proposed transmission projects that would rely on SCE's West of Devers operations on Tribal land, the choice becomes even clearer. Only the current absence of renewed rights-of-way stands in the way of realizing these rewards. In light of these considerations, the Tribe believes it is premature to conclude that the D-V Alternative merits selection over the Proposed Project. The Tribe proposes that the Reviewing Agencies postpone a decision on SCE's proposed transmission plans for a period of 12 months, during which time the Tribe will continue negotiating with SCE to renew the latter's rights-of-way across Tribal lands. Assuming the parties reach an agreement, SCE can pursue its Proposed Project and, with it, realize the manifold environmental benefits recognized in the EIR/EIS. Southern California's energy consumers will also benefit, not just in the short-term from D-PV2 but in the future, as SCE's West of Devers infrastructure and rights-of-way facilitate other transmission projects' delivery of power to the region. If the parties cannot come to terms, SCE will have lost only a few months to pursue an inferior option. Under the circumstances, this seems a small price to pay.

A14-5

As to the potential impacts on the Tribe's cultural resources, presently there is insufficient data on which to base any recommendations for either the Proposed Project or the A-V Alternative.¹⁶ Given the importance of these issues, the Tribe requests that SCE consult it on any matters potentially impacting the Tribe's cultural resources as they arise during construction of whichever project is ultimately selected, but in no case shall such consultation occur *after* SCE has already treated or otherwise disposed of the cultural resources(s) at issue.

Sincerely,

FORMAN & ASSOCIATES



George Forman

¹⁵ C 27.

¹⁶ See DPV2 Draft EIR-EIS Public Meetings and Hearings: Cultural Resources (June 2006.)

Responses to Comment Set A14 Forman & Associates, Attorneys at Law

- A14-1 Negotiations between the Morongo Tribe and SCE regarding the Right-of-Way Grant/Easement are independent of the EIR/EIS process. This EIR/EIS complies with the requirements of CEQA and NEPA and evaluates the environmental impacts of the project as proposed by SCE. The EIR/EIS is one component of the decision-making processes related to the Proposed Project. The commenter's request for a 12-month extension on the decision will be taken into consideration by the CPUC's Administrative Law Judge, CPUC Commissioners, and the BLM, who as the decision-making bodies have the power to grant that extension.
- A14-2 The existing transmission lines crossing the Morongo tribal lands in the 450-foot ROW and their associated license expiration dates have been noted.
- A14-3 The letter is correct that the existing transmission lines have rights-of-way expiring in 2010 and 2019, and that SCE will have to negotiate with the Tribe in order to retain those lines. However, if the Devers-Valley No. 2 Alternative is constructed as a result of the approval of the DPV2 Project, future renewals of the existing West of Devers transmission line rights-of-way will be completed outside of this EIR/EIS process.
- A14-4 The commenter is correct regarding the environmental disadvantages of the Devers-Valley No. 2 Alternative in comparison to the proposed West of Devers upgrades. The EIR/EIS supports this stated conclusion; Section E and the Executive Summary (Section ES.5.2.3) state that the proposed West of Devers Upgrades were found to be environmentally superior/preferable *unless* determined to be infeasible, in which case the Devers-Valley No. 2 Alternative would be constructed.
- A14-5 The commenter's preference for the Proposed Project has been noted. Please refer to Responses A14-4 and A14-1. BLM is in the process of completing the government-to-government consultation with the affected Native American groups, including the Morongo tribe. That consultation will determine if there are any TCPs within the segment on Tribal land that could be impacted. As discussed in Section D.7.7 of the Draft EIR/EIS, implementation of Mitigation Measure C-3a (Complete consultation with Native American and other Traditional Groups) should reduce any impacts to TCPs to a level that is less than significant (Class II). This measure would require Native American consultation and appropriate treatment of Native American resource values prior to, during, and after construction of the project.