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TRIBAL GOVERNMENT

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August 25, 2008

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

SENT VIA FAX: 866-711-3106

RE: July 2008 Recirculated Draft EIR/Supplemental Draft EIS Sunrise Powerlink Project
(RDEIR/SDEIS July 2008)

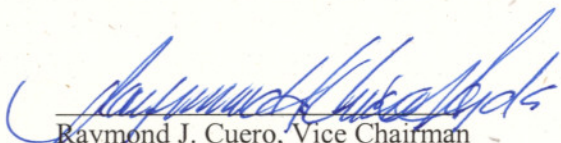
Dear Sir or Madam:

The Viejas Band of Kumeyaay Indians (hereinafter "Viejas Band") is a federally recognized Indian Tribe as evidenced by current listing in the Federal Register at Vol. 73, No. 66, p. 18553 as the Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California. The Viejas Band is a self-governing tribe exercising sovereign authority over the Viejas Indian Reservation, located on the eastern edge of Viejas Mountain. The Viejas Band also shares joint ownership (with the Barona Band) of the Capitan Grande Indian Reservation located to the north of Viejas Mountain.

In response to the RDEIR/SDEIS July 2008, the Viejas Band submits the following comments concerning the protection of cultural and natural resources, economic development and environmental justice. These comments are in addition to and incorporate by reference the comment letter submitted on April 11, 2008. In addition these comments will be followed by a fully inclusive and lengthier comment letter submitted as part of the government-to-government consultation process.

The Viejas Band also requests the CPUC and BLM formally respond to the issues raised in the comments during a government-to-government consultation meeting within the next 30-days.

Sincerely,


Raymond J. Cuero, Vice Chairman
Viejas Tribal Council

Cc: San Diego Gas and Electric
US Department of the Interior, Bureau of Land Management
US Department of the Interior, Bureau of Indian Affairs

JULY 2008 RECIRCULATED DRAFT EIR/
SUPPLEMENTAL DRAFT EIS SUNRISE POWERLINK PROJECT
(RDEIR/SDEIS JULY 2008)

The July 2008 Recirculated Draft EIR/Supplemental Draft EIS Sunrise Powerlink Project (RDEIR/SDEIS July 2008) continues to place the direct and indirect impacts of the Southern Environmentally Superior Route following the BCD Alternative and BCD South Options on the Viejas and Capitan Grande Indian Reservations and aboriginal homelands of the Viejas Band. The RDEIR/SDEIS July 2008 falsely concludes on page 2, *The Southern Environmentally Superior Route has therefore been modified to avoid all tribal lands*. This statement exemplifies the lack of equitable government-to-government consultation with the Viejas Band, the faulty environmental analysis and woefully inadequate technical management conducted to date by the California Public Utility Commission (CPUC), Bureau of Land Management (BLM) and the applicant in the preparation of the Draft EIR/EIS published in January 2008 and RDEIR/SDEIS July 2008. The Viejas and Capitan Grande Indian Reservations will be impacted.

The Viejas and Capitan Grande Indian Reservations are the last of the homelands over which the sovereign band exercises governmental authority. The Viejas Band literally has no place else to go to avoid the wide range of impacts the tribal community will face from the proposed alternatives. The alternative routes for San Diego Gas & Electric's proposed transmission line would severely impact the Viejas and Capitan Grande Reservations, the tribal members who live there and sacred Native American cultural sites, such as Viejas Mountain.

According to information provided in January and July 2008, the Viejas and Capitan Grande Indian Reservations remain at the crossroads for every alternative route being considered by the CPUC. The routes all converge at a point just east of Viejas. In addition, the alternate routes labeled "BDC", "D" and "I-8" are adjacent to the Viejas and Capitan Grande Reservations and/or directly cross other area reservations. The RDEIR/SDEIS July 2008 furthers compounds this point on Figure 2: "Environmentally Superior Northern Alternative and Modified Environmentally Superior Southern Alternative – Modified Route D Alternative and I-8 Alternative's Underground in Eastern Alpine Boulevard Would Be Used to Avoid Star Valley Option if Accepted by the Viejas Band." The underground in Eastern Alpine Boulevard is not acceptable to the Viejas Band. The language employed on Figure 2 demonstrates the superficial analysis used in selecting and prioritizing routes as well as creating a locally charged political environment advantageous only to the applicant. Should the CPUC select the Star Valley route, private land owners and long time neighbors of the Viejas Reservation will be adversely impacted.

Accuracy of Corridor Location

The Capitan Grande Reservation was established in 1875. The true boundaries of the reservation have not been surveyed by BLM cadastral surveyors or private surveyors. Without a survey, it is not known if the proposed transmission lines are located on tribal

lands or not. The BLM is fully aware of the Viejas Band's request for survey work as the Tribe has applied for cadastral survey funding for the past several years; held a meeting with the BLM to discuss the request for survey work; and, restated the request for survey work at the only CPUC/BLM government-to-government consultation meeting with the Viejas Band.

Moreover, the finding of any field investigation to determine impacts to tribal cultural and environmental resources would be incomplete and inaccurate. The BLM has surveyed the Viejas Reservation, but there are conflicting survey reports for lands in Section 21, which is a border section of the Reservation. The RDEIR/SDEIS July 2008 Modified Route D Alternative and Eastern Alpine Boulevard Underground depiction on maps and analysis of impact is inadequate. Interstate 8 was built in the 1960's prior to the establishment of the California Environmental Quality Act or National Environmental Policy Act. Interstate 8 passes over approximately four acres of the Viejas Reservation. The exact location of the southern boundary of trust land is unknown. In addition, the I-8 alternative running north of I-8 and crossing south of I-8 at East Willows is located on tribal trust lands and tribal fee lands that are subject to a pending fee-to-trust application. The Route D alternative running north and south on the border of the Viejas and Capitan Grande Indian Reservations is too close to determine on whose land it is located.

Should any of the Sunrise Powerlink Alternative within 25 miles of the Viejas and Capitan Grande Indian Reservations be selected by the CPUC for further analysis or implementation, the Viejas Band requires a comprehensive cadastral survey of both the Viejas and Capitan Grande Indian Reservations, prepared by the BLM in coordination with the Viejas Band. The Viejas Band also requires financial compensation to prepare a separate and independent survey by a qualified cadastral surveyor of the Viejas Band's selection for both the Viejas and Capitan Grande Indian Reservations. Discrepancies between the two surveys shall be resolved through review and analysis by a qualified third party. The Viejas Band further requires a comprehensive land, record, and title analysis conducted by the Bureau of Indian Affairs in coordination with the Viejas Band and approved by the Solicitor for all private, public, and trust lands within T.14 & 15 S – R.2&3E. –S.B.B.M, dating from the first European contact forward. Without conducting the land history and cadastral survey, the true locations of the alternatives and the impacts to tribal lands remains unknown. Conclusions regarding impacts and mitigations are based on speculation and not science.

Impacts to Historical Cultural Sites

The mountain slopes located to the east of the reservation, where the "D" and "BCD" routes are proposed, are historically significant cultural areas and within the view shed of Viejas Mountain, a sacred site to the Kumeyaay. Chiquito and Poser Peaks, located in the mountains to the east of Viejas Reservation may also be considered important sites to the Kumeyaay.

The Bureau of Indian Affairs has no records of a comprehensive cultural resource survey for the Capitan Grande Indian Reservation. The Viejas Band has requested that SWCA Environmental Consultants analyze the impact of energy corridors within a one mile radius of the Viejas and Capitan Grande Reservations as impacting historic properties of significant

religious and cultural importance to the Kumeyaay that would be eligible for listing on the National Register.

Neither the January EIR/DEIS, nor RDEIR/SDEIS July 2008 contained adequate analysis of cultural resources to qualify the Environmentally Superior Southern Routes. The consultant has conducted more extensive and thorough studies for the Environmentally Superior Northern Routes. Without equal treatment, recommendation of alternative routes should not be considered plausible. The Viejas Band requires that any route within a 25 mile of the Viejas and Capitan Grande Indian Reservation be analyzed to the fullest extent before any recommendations or conclusion are developed. This analysis should include: 100% pedestrian survey of all route; record searches of the National Archives, BLM, BIA, USFS, and CHRIS; interviews with Tribal Elders; and, participation of a Native American Monitor approved and recognized as an qualified expert by the Viejas Band.

Concerning Section 4.1.3 of the RDEIR/SDEIS July 2008, the Viejas Band continues to believe the construction of the project would cause an adverse change to sites known to contain human remains and demands the removal of the Alpine Blvd. Underground and Route D Alternatives should be removed from the Environmentally Superior Southern Routes. The RDEIR/SDEIS July 2008 incorrectly concludes that "research concluded by the CPUC/BLM after the public distribution of the Draft EIR/DEIS demonstrates that site CA-SDI-6706 does not extend south of Interstate 8 and into Alpine Blvd." The absence of evidence does not remove the likelihood of sites known to contain human remains. The "one study" referenced an investigation of site deposits potentially extending beyond the southern Reservation boundary, south of Interstate 8 is also known as the "February 2001 TRC Final Cultural Resources Report Results of Site Testing at Site CA-SDI-6706: Level (3) Communications Long Haul Fiber Optics Project Segment WD04 San Diego to Yuma." This report was conducted without consultation with the Viejas Band, without a qualified Native American Monitor on site, and was not filed with the South Coastal Information Center; all evidence that the report was prepared by an unqualified and irresponsible consulting firm. Upon further review, the consultant conducted the field testing in areas previously disturbed or unlikely to contain resources. Any conclusions or decisions based on the TRC report should be removed from the RDEIR/SDEIS July 2008 and January 2008 EIR/DEIS.

Severe Visual Impacts

The proposed route would place the transmission line on a mountain slope that is highly visible from the reservation. The line would degrade pristine view sheds for tribal members and visitors alike. The view shed is identified in the Alpine Community Plan and through the Alpine Revitalization process as a critical element of the scenic highways.

Routes Directly Impact Other Tribal Lands

The Interstate 8 routing alternative, which follows Interstate 8, crosses land owned by the Viejas Band which is subject to a pending fee-to-trust transfer. The CPUC is essentially misleading the public that this is a viable alternative as the property could potentially be placed in federal trust before the EIR/EIS is finalized. Project maps and newspapers provide conflicting reports on the need and location of a substation on land owned by the Viejas Band.

Proposed Wilderness Area

The north-south corridor also crosses forest service lands that have been proposed for “road less” and “wilderness designation” The Viejas Band has worked closely with volunteers and elected officials to increase the protection for tracts of forest land without roads to preserve pristine wilderness and to increase the protection of Capitan Grande Reservation from trespass. Energy corridors through these lands will severely impact the ability to preserve and protect tribal lands, increase trespass, and increase the risk of wild fires.

NEPA/CEQA Nexus

The analysis of additional alternatives to the preferred SDG&E route through Anza Borrego State Parks transfers the environmental impact of the corridor from State Parks to US Forest Service. The Viejas Band requests the BLM address the impacts on state versus federal lands and tribal trust lands.

Risk of Wildfires

Following the January 2007 Second Round of Scoping meetings, two alternatives were eliminated because of the risk of wildfires and concurrent power outages. Now that those routes have been eliminated, how does the risk of wildfires impact each of the corridors currently in analysis?

Environmental Reports

The Viejas Band has requested but not received copies of the confidential cultural resource report with site records for the routes adjacent to the Viejas and Capitan Grande Indian Reservations.

Additional Alternatives

The US Forest Service requested that an alternative be fully analyzed in the EIS/EIR that would not require an amendment to the Forest’s 2005 Land Management Plan. Equal consideration should be given to other federal governments and thus, the EIS/EIR should include alternatives that would not adversely impact the economic development, cultural resources, and land use plans of the Tribe. This request has not been considered in the RDEIR/SDEIS July 2008 although the US Forest Service request was acknowledged and many areas are not shown as roadless areas. The Viejas Band requires the CPUC consider further amendment to the environmental review that will not require amendment to the Viejas Land Mangement plans and economic development plans or the Viejas Fee-to-Trust Applications. In addition, the analysis does not include a discussion of the impacts to private lands currently included in the Forest Conservation Initiative.

In addition, the I-8 substation located on the Garabani property south of I-8 has enough capacity to accommodate both the Alternative D north south transmission line and the east west alternative. However, the environmental analysis evaluates only one line and does not consider the future use potential to maximize the capacity of the substation. The Viejas Band requires additional analysis to include the cumulative effects of maximum capacity at this substation.

Consideration of Cumulative Impacts or Segmentation of Environmental Analysis The National Environmental Policy Act requires that all known cumulative impacts of multiple projects be analyzed collectively. There are three additional corridor studies underway through the Energy Policy Act of 2005. The State of California is also designating suitable transmission corridors for high-voltage electric transmission lines to ensure reliable and efficient electricity delivery. How does the Sunrise Powerlink environmental analysis incorporate these additional projects? If they are not included, then this segmentation is inappropriate.

The RDEIR/SDEIS July 2008 compounds the lack of consideration of cumulative impacts and segmentation of environmental analysis. Not only are new additional and modified routes being considered, but additional routes not included in the RDEIR/SDEIS July 2008 are pending proposal by the applicant. Any additional alternative routes and/or modified routes currently proposed, pending proposal, or likely to be considered should require additional full public disclosure and environmental analysis.

Environmental Justice

The Environmental Justice evaluation is weak. Environmental Justice refers to locating facilities in minority or economically disadvantaged communities. The purpose of the Environmental Justice evaluation is to empower disadvantaged communities and those who do not have the political clout to get fair treatment. There is no substantive socioeconomic evaluation of the proposed routes. There should be a detailed comparative analysis of the routes based on income, education, and employment, as well as, racial minority populations. If alternative routes can be eliminated and rerouted to protect the recreational areas for hang gliders, then they can certainly be eliminated to protect the limited tribal lands of the Kumeyaay which have historically been economically disadvantaged and exploited for spurious purposes.

The CPUC and BLM have not treated the concerns of tribal government in an equitable and fair manner. Routes have been discussed and rerouted to preserve some tribal trust lands without the same attention and rerouting for other tribes. In addition, the CPUC and BLM have included the comments of several tribal governments in the appendix while only including the comments of others on-line. This is an apparent inequitable consideration of impacts from one reservation to another.

In the late nineteenth century, the Kumeyaay of Viejas Indian Reservation were originally relegated to the Capitan Grande Indian Reservation, frequently referred to as the "old" reservation. The Capitan Grande Indian Reservation was to be the permanent home of this group of Diegueno or Mission Indians, comprised of the ancestors of the current Viejas and Barona Bands of Kumeyaay Indians.

This permanent home did not last. As the non-Indian populations grew throughout the County of San Diego, demand for water increased. In the early 1930s, the most valuable part of the Capitan Grande Reservation (the San Diego River) was forcibly sold to the City of San Diego, requiring the inhabitants to find new homes. The heart of the Capitan Grande Reservation is now the site of the El Capitan Reservoir.

With the proceeds of the sale, the Bands bought new home sites including the former Baron Long Ranch in the Viejas Valley. This site became the Viejas Indian Reservation. When the Band moved to Viejas Valley in 1935, they changed their name to reflect their new home. The Viejas and Barona Bands remain the joint beneficial owners of the 16,000-acre Capitan Grande Indian Reservation. The traditional homelands have been reduced and sacred sites such as Viejas Mountain were taken from the Kumeyaay and the people were eventually confined to small reservations, which represent just a fraction of the Kumeyaay's former home. The Viejas Band will not let further fragmentation of its homelands occur.

Conclusion

The Viejas Band literally has no where else to go to avoid the wide range of impacts the community will face from the proposed alternatives. The alternative routes for San Diego Gas & Electric's proposed Sunrise Powerlink Project would severely impact the Viejas and Capitan Grande Reservations, the tribal members who live in the area and the sacred Native American cultural sites such as Viejas Mountain. The impacts cannot be mitigated and will severely impact the health, wellness and economic sustainability of the Viejas Band and future generations. For additional information regarding the Viejas Band, these comments or further information, please contact Lisa Haws, Land Use Manager at (619) 659-2341.