

## Comment Set C.177: Randy Banis and Kyra Sundance

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**Sent:** Tuesday, October 03, 2006 4:44 PM  
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**Subject:** Comments on the DEIR/DEIS for the Antelope-Pardee 500kV Transmission Project

October 3, 2006

Randy Banis & Kyra Sundance  
40089 98th St. W.  
Leona Valley, CA 93551

Julie M. Halligan  
EIR Project Manager  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

RE: Comments on the DEIR/DEIS for the Antelope-Pardee 500kV Transmission Project

Dear Ms Halligan,

We are homeowners in Leona Valley residing adjacent to the transmission line alignment proposed in Alternative 5 of the above referenced project. We are fully opposed to Alternative 5, and request that the project application be rejected entirely. C.177-1

### Notice and Scoping Violations

We've found numerous flaws in the CEQA and NEPA process as undertaken by the project proponents that require this project to return to the scoping phase.

First, the NOP, NOI and subsequent scoping failed to adequately notice the residents and Town Council of Leona Valley of the possibility of the alignment proposed by Alternative 5. Simply writing that there would be a "Non-National Forest System Land Alternative that would avoid National Forest lands" does not provide enough useful information for a reasonable person to conclude that an entirely new utility corridor might be established through the heart of the community of Leona Valley. NEPA and CEQA require that such notices contain enough information so as to be useful to the public in aiding their participation in the project. This statement does not meet this requirement. C.177-2

Due to this serious and severe flaw in the NEPA/CEQA process, this project must be returned to the scoping phase.

Second, NEPA & CEQA require that public meetings be held on the project, and that public meetings must conform to all federal, state and local laws. The public meeting conducted on August 28, 2006, at George Lane Park Auditorium at 5520 West Avenue L-8 in Quartz Hill, California, was conducted in violation of local fire safety laws. C.177-3

The maximum legal capacity of the room was greatly exceeded, and was done so purposefully. Representatives of the project proponent was well aware that the legal capacity of the room had been exceeded, yet rather than reschedule the meeting and conform to CEQA/NEPA requirements, they chose to put people's safety at risk, as well as risk serious consequences to the project proponents application. We request that the project proponents reconvene the public meeting in accordance with local laws.

Thirdly, not only was the August 28th meeting held in violation of local public safety laws, several affected residents of Leona Valley were turned away when there was no possible way to fit more people into the meeting room. The Quartz Hill location was the only location within a reasonable distance for Leona Valley residents to travel to and meaningfully participate. Because so many affected Leona Valley residents could not gain entry to the meeting, their right to fully participate in the NEPA and CEQA process was denied. Again, we urge the project proponents to reconvene a legal public meeting for the affected residents of Leona Valley.

C.177-3  
cont.

Alternative 5 is Not Necessary, Reasonable, or Feasible

Alternative 5 was developed according to a "special uses policy statements" of the USFS to require all projects to present an alternative that does not involve public lands. This is not a regulatory or statutory requirement, it is just a policy.

Furthermore, even this policy was misinterpreted in its application to the project. USFS Manual section 2703.2 directs that an authorized officer may deny a proposal if it "can reasonably be accommodated on non-NFS lands." There is absolutely no way that a reasonable person would conclude that Alternative 5 can "reasonably be accommodated".

NEPA and CEQA require that project alternatives be feasible. Alternative 5 is far from feasible which, as defined by American Heritage and Random House, means capable of being accomplished. The project proponents are entirely incapable of accomplishing Alternative 5 due to the extraordinary social, economic and political forces working against it. Regardless of the environmental consequences of the other alternatives, Alternative is entirely unfeasible and faces insurmountable obstacles.

C.177-4

Alternative 5 should never have been prepared and is not even legally required to be among the project alternatives. Furthermore, telling the residents of Leona Valley that Alternative 5 was required to be part of the proposal was at best misleading. Therefore, we urge the immediate rejection of Alternative 5.

No Wide Range of Alternatives

Both NEPA and CEQA require that a wide range of alternatives be considered for such projects. Project proponents claim that a non-public land alternative is necessary, but only one alternative Alternative 5, is suggested. In contrast, there are four alternatives for re-using the existing corridor. In order for this document to have truly considered a wide range of alternatives, there should have been more than one alternative that did not involve public lands.

C.177-5

Should the Forest Service decide to reject upgrading the power lines on public land, only one

alternative is left, and that is Alternative 5 -there is no other alternative. This is totally in violation of NEPA and CEQA.

C.177-5  
cont.

We urge that this document be returned so that additional alternatives be prepared for a range of non-National Forest alternatives.

No Action Alternative Not Ranked

NEPA and CEQA require the full consideration of a "no action" alternative. The document ranks alternatives according to various project criteria. In these rankings, only the action alternatives are ranked -the "no action" alternative is ignored. This defect requires the document to be returned to the project proponents for additional work.

C.177-6

National Forest Lands for Public Good

The lands of our country's National Forests have long been managed for the greater public good. Energy transmission corridors are a provident, appropriate and necessary use of our National Forests, more now than ever before in our country's history. Given that there is an existing power corridor, it should be re-used for this project. We urge the rejection of Alternative 5 altogether, and believe that Alternatives 1 through 4 provide a wide enough range of options to reasonably mitigate any impacts to sensitive resources.

C.177-7

BLM Not Noticed

Alternative 5 directly impacts public lands in Leona Valley that are managed by the Ridgecrest Field Office of the Bureau of Land Management. According to the Field Manager, the office was not consulted or noticed about the project. This is a serious defect in this projects unsuccessful attempt at complying with CEQA and NEPA.

C.177-8

Missing and Misleading Information on CPUC Web Site

The CPUC web page for the project still to this day has never provided a map for Alternative 5. The web page provides maps for the first four alternatives, but not the fifth. (<http://www.cpuc.ca.gov/environment/info/aspen/antelopepardee/antelopepardee.htm>) This has thwarted the public's ability to obtain timely and accurate information regarding this project. By not providing the map for Alternative 5 along with the other the public is led to believe that the fifth alternative does not exist or does not affect them. This violates the spirit, if not the provisions, of both NEPA and CEQA.

C.177-9

Based on the above NEPA and CEQA defects, we urge the rejection of Alternative 5 altogether, and urge that the project be returned to the scoping stage so that it can be advanced in full compliance with NEPA and CEQA.

Furthermore, we hereby incorporate by reference the comments submitted by: Ms. Marcy Walton; the Leona Valley Town Council; the Save Leona Valley Committee; Mr. Terry Kenney and Dr. David Gantenbein. We also wish to incorporate all of the public comments presented at the August 28, 2006, public meeting in Quartz Hill, California. The incorporation of all of their comments into our comments is to preserve our rights to fully participate in the CEQA and NEPA process through the entire project.

C.177-10

Thank you for your kind consideration of our requests.

Regards,

Randy Banis & Kyra Sundance

cc: Jody Noiron, USFS  
John Boccio, CPUC  
Aspen Environmental Group  
Congressman Howard McKeon  
Senator George Runner  
Assemblywoman Sharon Runner  
Supervisor Michael Antonovich  
Leona Valley Town Council  
Marian Kadota, USFS  
Governor Arnold Schwarzenegger

## Response to Comment Set C.177: Randy Banis and Kyra Sundance

- C.177-1 Thank you for your opinion regarding Alternative 5.
- C.177-2 The Notice of Intent (CFR 1508.22) is the first formal step in the EIS process. The NOI serves as the official notice that a federal agency is commencing preparation of an EIS. As stated in 1508.22 (a). The notice shall briefly describe the proposed action and possible alternatives. The Non-National Forest System Land Alternative that would avoid National Forest System lands identified in the NOI indicated that this alternative would be developed during the environmental review process. This is consistent with the requirements set forth in CFR 1501.7(2)
- C.177-3 Although formal scoping meetings were conducted for the proposed Project, scoping meetings are not required by CEQA or NEPA. Please see CEQA 15082(c) which states that formal scoping meetings are not required by CEQA if a lead agency has decided to prepare an EIR. NEPA 40 CFR 1501.7(b) (4) states, “As part of the scoping process the lead agency may: Hold an early scoping meeting.
- C.177-4 Alternative 5 is considered a “Reasonable Alternative”. In *Natural Resources Defense Council v. Morton*, 458 F.2d 827 (D.C. Cir. 1972), the court found that: “The discussion of alternatives need not be exhaustive. What is required is information sufficient to permit a reasoned choice of alternatives so far as environmental aspects are concerned, including alternatives not within the scope of authority of the responsible agency. Nor is it appropriate to disregard alternatives merely because they do not offer a complete solution to the problem”.
- C.177-5 NEPA and CEQA require that a “reasonable range of Project alternatives” be considered. Please see General Response GR-4 regarding alternatives identification, screening, and analysis. As noted, several alternatives located off public lands were considered; however, most of these were eliminated from consideration, as discussed in the Alternatives Screening Report (Appendix 1) of the Draft EIR/EIS.
- C.177-6 The No Project/Action alternative was not ignored. Five alternatives were selected for full analysis in the EIR/EIS, as well as the No Project/Action Alternative. For the No Project/Action Alternative it was determined for all issue areas that no impacts would occur. Based on an initial evaluation, this would make the No Project/Action Alternative the environmentally superior alternative; although, the No Project/Action Alternative would likely have indirect impacts, but the future transmission upgrades carried out under the No Project/Action Alternative are unknown at this time. CEQA (Section 15126.6(e) (2)) requires an EIR to identify an environmentally superior alternative from among the other alternatives when the environmentally superior alternative is the No Project Alternative. Therefore, including the No Project/Action Alternative would not assist decision-makers in ranking the remaining alternatives.
- C.177-7 We understand that you support Alternatives 1-4 as reasonable alternatives.
- C.177-8 The Bureau of Land Management was given notification. Please see Section F.1 of the EIR/EIS (Public Participation and Notification).
- C.177-9 Maps 1, 2, 3, and 4 referred to by the commenter were not alternative maps; they were identified as maps of the proposed transmission route. The maps for each alternative (including Alternative 5) were included and could be accessed by clicking the link for each alternative.

C.177-10 Comment noted.