

July 31, 2009

Mr. Jensen Uchida  
San Joaquin Cross Valley Loop Transmission Project  
c/o Environmental Science Associates  
225 Bush Street, Suite 1700  
San Francisco, CA 941004

**Re: A.08-05-039 - Comments on Draft Environmental Impact Report**

Dear Mr. Uchida and the ESA Team:

We are pleased with the DEIR's recognition of, and understanding of, the importance of the scenic Highway 198 corridor and its ability to attract tourism and tourist dollars to Tulare County. We agree with your assessment that the environmentally superior route for Southern California Edison's new high voltage transmission line **is not SCE's Preferred Alternative 1!**

We do, however, take exception with your choice of Alternative 2 as the environmentally superior route, as we will point out in our comments on the DEIR that follow.

**Background, History**

But first, a little history lesson which may help you understand where we are coming from when we advocate for an altered Alternative 3 route as the environmentally preferred route that should be so designated when you write the Final Environmental Impact Report.

The Rector Line was constructed in 1913 from Big Creek, below Huntington Lake in the Sierra Nevada range, to Eagle Rock in Southern California, a distance of 241 miles.

The beauty of selecting PACE's revised Alternative 3 is that it will take advantage of an existing right of way and will provide Edison with the impetus to replace Rector's aging, substandard and sagging lines with taller poles and lines, resulting in a spectacular reduction in EMF, as described in the DEIR Chapt. 2.42 and illustrated by the graph in Figure 2-9.

For 95 years, the urban and agricultural development under and near the Rector line was done purposefully with the line in mind. Farmers who settled near and under it designed their farming infrastructure – wells, pumps, pipelines, filtration plants, drive roads, cropping patterns, etc. to accommodate, not compete with, the line.

On the other hand, Edison's proposed paths for Alternatives 1, 2 and 6 would introduce a new industrially-oriented concept through virgin territory. All of these routes have many unforeseen environmental impacts, which have not been discovered, identified or described in the DEIR, nor identified and acknowledged in SCE's cost studies and feasibility assessments.

The choice of Alternative 3 avoids the cumulative impacts of Edison's proposal. In reality, two projects – Rector's upgrade and the SJXV Loop – become one, thus avoiding the numerous and significant unavoidable impacts resulting from duplication of construction on two different rights of way.

### **Garamendi Principles**

The choice of Alternative 3 would also bring the project into compliance with adopted public policy of the State of California, referred to as The Garamendi Principles. These are referenced in Senate Bill 2431 (Stats. 1988, ch. 1457), regarding the role of transmission in California's future development. Briefly, the main points in this instance are:

1. Encourage the use of existing rights-of-way by upgrading existing transmission facilities where technically and economically justifiable.
2. When construction of new transmission lines is required, encourage expansion of existing rights-of-way, when technically and economically feasible.

\* \* \* \* \*

### **Alternative Comparisons - Biological Resources** - Chapter 5.3, bottom of page 5-7

The DEIR states, "Impacts would be significant and unmitigable for Alternative 3. While Alternative 3 would result in the least impacts on agricultural resources, due to its significant unmitigable impacts to biological resources, Alternative 3 would not be environmentally superior. The EIR team looked for a feasible alignment for Alternative 3 to bypass the sensitive habitat in the Stone Corral Ecological Reserve; however, (p.5-7) *a bypass was not feasible due to additional sensitive habitat, residential structures, and other physical constraints on both sides of the Reserve. Since the significant unmitigable impact to biological resources for Alternative 3 could not be avoided though rerouting, Alternative 2 is the Environmentally Superior Alternative.*"

### **Designation of the Environmentally Superior Alternative (Alt 2 vs. Alt 3) hangs in the balance of this sentence!**

John requested information from the CPUC regarding the specifics of the italicized statement. The reply was delivered by the Public Records Act (PRA) Unit of the Legal Division of the CPUC, file reference number PRA-0138. (Attachment A – Letter from John Kirkpatrick to Jensen Uchida email 6/27/09 and the 7/15/09 reply transmitted by the CPUC PRA Unit – a memorandum dated July 9, 2009 from Brian Pittman, CWB. The Pittman memorandum describes three alternative alignments around the Ecological Reserve that range far outside the Reserve boundaries resulting in transection of neighborhoods or a portion of the Reserve. Blue color fills arbitrarily delineated rectilinear areas, suggesting they are in their entirety identified as Designated Critical Habitat, or otherwise constrained from supporting High Voltage Transmission Lines.

The memorandum depicts and describes the three alignments as 3A, 3B and 3C (Pittman alignment 3A should not be confused with Consultant Hank Zaininger's PACE re-routing alignment 3A).

Questions contained in the request for information of 6/27/09 and our comments regarding the Pittman response are as follows:

Q 1. What specific properties on both sides of the preserve displayed sufficient additional sensitive habitat to cause rerouting not feasible? Alignment 3A is pushed so far west that it clearly passes through the hamlet of Yettem. Alignment 3B fails by reason of transecting a portion of the Reserve that is said to also traverse federal designed (sic) critical habitat for Hoover's spurge and vernal pool fairy shrimp and vernal pool tadpole shrimp beyond the

northern limit of the Reserve. There is no indication that this alignment was surveyed for the primary constituent elements of habitat outside of the Reserve. The band identified as habitat is so narrow that it could be easily spanned without disturbing the underlying land. Alignment 3C was deemed the nearest available alternative, but fails to resolve location on previously disturbed lands and opportunities for spanning critical biological resources.

Q 2. What specific properties on both sides of the preserve contained building improvements of sufficient sizes and values to cause rerouting not feasible? Although this question was not answered in writing, the choice of Alignments 3A and 3C transect neighborhoods in the hamlets of Yettem and Seville, indicating there was no effort made to route around the residences.

Q 3. Please list the other physical constraints on both sides of the preserve that cause rerouting alignment to be infeasible? The reply failed to respond to this question by identifying any other physical constraints.

Q 4. For each physical constraint listed in the answer(s) to Q 3 above, please indicate which specific properties cause rerouting alignment to be infeasible? See commentary 3 above.

Q 5. Please detail the analysis by which the conclusion is reached that a bypass around the Stone Corral Ecological is not feasible. The memorandum's analysis indicates all three alignments fail to locate a feasible reroute alternative.

The alignments 3A, 3B and 3C depicted in figure 1 of the memo, fail to demonstrate a good faith effort to avoid any of the potential biological and other constraints to location of a feasible routing alternative. In light of the importance and the consequences of this determination, **the response of the ESA biologist is woefully inadequate and misleading.** It falls short of the CEQA requirement that there be a good faith effort to inform decision makers and users of this EIR.

And, as Shirley told you in the Woodlake scoping session, our son Greg would be happy to identify sources information acquired during a biological study of the region made specifically for acquisition of habitat property by the California Department of Fish and Game. This work served as the biological assessment for the location and acquisition of the Ecological Reserve. He would have provided names, dates and specifics for your consideration. Nobody called.

### **Hydrogeology and Agricultural Resources**

The DEIR chapters on Agricultural Resources, Hazards and Hydrology (4.7-11k) are woefully misleading by indicating that all direct and consequential impacts to underground water supplies can be mitigated by closing, abandoning and relocating existing wells and underground transport and delivery systems. The suggested mitigation is: "SCE shall identify wells that would not have the required minimum ground clearance to perform any necessary well maintenance and shall engage a qualified water well drilling contractor to relocate those identified wells to another location. Well relocation shall include all drilling and well development activities, including relocating the associated pumping equipment and pipeline to the new location."

Thus, the DEIR implies an aquifer of uniform hydraulic dimensions and quality uniform throughout the study area. There is a convincing body of factual data, knowledge and expert

opinion to the contrary. Missing from the Bibliography (P. 4.6-3) are these important hydrogeologic reference works:

- Technical Studies in Support of Factual Report – Exeter Irrigation District, United State Department of the Interior - Bureau of Reclamation Jack W. Rodner November 1949
- Technical Studies in Support of Factual Report , Ivanhoe Irrigation District, USBR 1942
- Nicely, Timothy and Gardner, David A., December 2003, *Water Resources Investigation of the Kaweah Delta Water Conservation District- Final Report*, prepared for the Kaweah Delta Water Conservation District, <http://www.kdwd.com>
- Bookman & Edmonston Engineering, February 1972, *Investigation on the Water Resources of the Kaweah Delta Water Conservation District*, unpublished report prepared for the Kaweah Delta Water Conservation District, <http://www.kdwd.com>

**Agricultural Resources – Agricultural Impacts 4.2-5, p.4.2-16**

The DEIR Chapter on Agricultural Resources misinforms by not emphasizing importance of water supplies. It does not recognize that irrigation water supply is the first and most critically essential element in the agricultural systems of the study area.

The DEIR states the “Proposed Project could result in temporary or permanent removal, relocation, and/or replacement of ancillary farming systems such as water pumps, irrigation pipelines and gas lines. Removing farmers’ ability to irrigate crops and orchards could effectively render formerly productive Farmland unusable, resulting in the conversion of additional Farmland to nonagricultural use”. The water pumps and irrigation pipelines are not *ancillary*. They are essential components of functioning agricultural systems. Mitigation does not make them less than significant.

The DEIR statements about scheduling conclude that, because the lands would continue to be available for agriculture, the temporary disturbance of these lands would be less than significant after implementation of mitigation measures.

Mitigation Measure 4.2-1b declares, contractors shall ... “*Coordinate construction scheduling as practicable so as to minimize disruption of agricultural operations by scheduling excavation to occur before or after the growing season.*”

“Before or after the growing season?” The citrus growing season is year-around 24/7/365. Limiting the time of use of the operating and management practice as well as the integrated components essential to the highest and best use of the unique locations of the study area would destroy the special character and appropriate agricultural use of the lands. Significant and unmitigable

The DEIR states, “*However, the CPUC recognizes that the temporary impacts to some crops (i.e., walnuts and orange orchards) could last for upwards of 10 years. While not an impact consideration in this CEQA analysis, it is noted here that the fiscal impacts related to loss of agricultural production would be addressed by SCE during its ROW acquisition process.*”



The Right of Way acquisition Cost Testimony of SCE unequivocally fails to recognize the ongoing cost of destruction of small tracts of orchard trees to make way for construction operations. The fiscal impact of marginal income reduction and tree re-establishment cost are not addressed by SCE's proposal to provide replant trees on a one for one basis.

The University of California Cooperative Extension Service of the Division of Agriculture and Natural Resources provides several spreadsheet models that are useful in analyzing the present value of the costs and lost income for re-establishing small plantings of lost trees and vines.

### **Aesthetics**

Clearly, the DEIR preparers do not understand the people of Eastern Tulare County and the intense "Sense of Place" they feel for their land, their spectacular views of the Sierra Nevada range, their communities and their families' futures. This love of the region was articulated over and over in the two CPUC scoping sessions and the Public Participation Hearing before Judge Hallie Yaknin.

The DEIR is particularly disappointing because the author(s) failed to do their own work, relying instead on the Edison company's PEA for a number of misleading Visual Simulations - "before and after" graphics of how the lines will impact the unique regional character this pristine rural area. Granted, ESA took a few pictures, but the one we're intimately familiar with is from SCE and it is completely misleading, if not simply fraudulent.

We refer specifically to Figures 4.1-11a and 4.1-11b. This is an Alternative 1 illustration that shows lines and poles along Cottage Post Office Road (Ave. 320) looking west near our neighbor's house. Instead of using a side-by-side comparison, SCE chose to simulate Pole #82, which is some distance from the house. From that angle and that perspective, of course it does not appear as large and visually intrusive as it should. Nevertheless, we did the same.

Curious about just how high a 120'-160' pole might be, we tethered a helium-filled balloon on a 150 foot line from the exact location of the proposed pole identified as Structure 82 in the Road Story illustrations. It's humongous! "Attachment B" Includes a picture we took of the balloon and several corrected versions of Figure 4.1-11b.

A web search revealed that the use of brightly colored helium filled balloons tethered at pole and tower sites and observed from all viewing points is an accepted professional method for evaluating the aesthetic impacts of pole and tower construction.

Taking the process a step further, we decided to apply it to our own viewshed – using both the tethered balloon and a friend flying his helicopter at the 150' elevation while we took pictures from our deck. The panoramic view with poles added is included.

The visual quality from our home can be classified as "Distinctive," in your terminology. *"Defined as visual resources that are unique or exemplary of the region's natural or cultural scenic amenities."* See Attachment C – the view from our deck following a Sierra snowstorm. The DEIR dismisses this view from our deck, implying the *"Proposed Project would appear co-dominant with the existing agricultural landscape features (primarily the citrus orchards and associated equipment and infrastructure).* Baloney!

Perhaps we need to remind you the existing wooden utility distribution poles on Cottage PO Road are 35 feet high. Wind machines are 35-feet high. The new poles and towers are 120'-160' high. This is NOT an incremental change, as SCE would like you and everyone else to believe. Incremental, is in my dictionary. Incremental is defined as a small, or slight change ... by degrees. Four times the height of existing infrastructure is not incremental!

Sincerely,

A handwritten signature in cursive script, appearing to read "John O. Kirkpatrick and Shirley B. Kirkpatrick". The signature is written in dark ink and is positioned above the printed names.

John O. Kirkpatrick and Shirley B. Kirkpatrick

Encls:



## **“ATTACHMENT A”**

Comment Letter I79

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Mr. Jensen Uchida, Mr. Doug Cover and Jason Reiger  
San Joaquin Cross Valley Loop Transmission Project  
c/o Environmental Science Associates  
225 Bush Street, Suite 1700  
San Francisco, CA 94104-4207  
Via E-mail: [sjxvl@esassoc.com](mailto:sjxvl@esassoc.com)

Re: Draft Environmental Impact Report for CPUC A.08-05-039

Gentlemen and Environmental Team:

We have received the DEIR for this project and have begun to work through it.

Shirley and I, as well as many of our friends, neighbors, members and leaders of PACE wish thank you for the courtesy, respect and patience all of you have extended to us over the past year as you have worked your way through the study and compilation of this DEIR.

We are hopeful that we can continue this kind of relationship as we move forward submitting comments on the environmental work and the administrative proceedings ahead. It is our wish that civil discourse will continue to be the rule of the day as we critique the published work with agreement and disagreement.

It is early for an overall evaluation or rating of the work, but certainly we must acknowledge the amount of work effort that the DEIR reveals. It demonstrates that the CPUC and ESA have taken public input seriously and acknowledges the huge level of public interest in the project's impact on agriculture, communities and the environment.

It should not be a surprise that initially I am intently focused on the most important impacts, their avoidance or other mitigation possibilities. We are keenly interested in how matters bear on selection of an environmentally superior route alternative.

I have some questions about details of some of your investigations and how your conclusions were drawn from them. I don't know whether a letter inquiry is adequate, or formal Data Requests are in order. Your guidance concerning this will be appreciated. In the meantime I will ask a few initial questions in this letter. If you prefer Data Requests, I will reformat the questions as data requests.

As an aid in answering my questions, supplementing the answers with inclusion of specific Tulare County Assessor's Parcel Numbers and annotated Google images could be useful in depicting subject property and vicinity locations.

**Background:** In Chapter 5 – Comparison of the Alternatives, the last paragraph on page 5-7 states in part:

**Biological Resources - . . . . .** *The EIR team looked for a feasible alignment for Alternative 3 to bypass the sensitive habitat in the Stone Corral Ecological Reserve; however, a bypass was not*

*feasible due to additional sensitive habitat, residential structures, and other physical constraints on both sides of the Reserve.*

Comment Letter I79

Q 1. What specific properties on both sides of the preserve displayed sufficient additional sensitive habitat to cause rerouting not feasible?

Q 2. What specific properties on both sides of the preserve contained building improvements of sufficient sizes and values to cause rerouting not feasible?

Q 3. Please list the other physical constraints on both sides of the preserve that cause rerouting alignment to be infeasible?

Q 4. For each physical constraint listed in the answer(s) to Q 3 above, please indicate which specific properties cause rerouting alignment to be infeasible?

Q 5. Please detail the analysis by which the conclusion is reached that a bypass around the Stone Corral Ecological is not feasible.

Thank you very much for your anticipated response to this inquiry.

Sincerely,

John Kirkpatrick

**PUBLIC UTILITIES COMMISSION  
LEGAL DIVISION**

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298  
ID 94-3031353



July 15, 2009

John Kirkpatrick  
23114 Carson Avenue  
Exeter, CA 93221

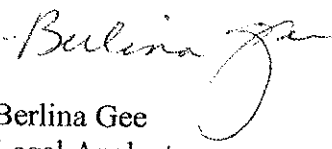
**Re: Draft Environmental Impact Report for CPUC A.08-05-039  
CPUC Reference No.: PRA 0138**

Dear Mr. Kirkpatrick:

Enclosed are the records that we mentioned in the letter we sent you on July 9, 2009.

I hope this is helpful. Please refer to PRA 0138 in all of your communications with the Commission regarding the above referenced subject matter. If you have any questions regarding this matter, please do not hesitate to call me at 415-703-3942 or email me at [bwg@cpuc.ca.gov](mailto:bwg@cpuc.ca.gov).

Sincerely yours,

  
Berlina Gee  
Legal Analyst

Enc.

# memorandum

date July 9, 2009  
to San Joaquin Loop (207584.01) Project File  
from Brian Pittman, CWB  
subject Alternative 3 alignment analysis near Stone Corral Ecological Reserve

Several variations to SJXVL Alternative 3 in the vicinity of the Stone Corral Ecological Reserve (Reserve) were examined to identify whether potentially significant impacts on wetland and biological resources at the Reserve could be substantially reduced or avoided through route modification. A reconnaissance level field survey of the Alternative 3 alignment and portions of the examined alternatives provided the basis for this analysis, and was supplemented by other resource studies that were performed during the CEQA analysis. The field review was conducted on February 11, 2009 and April 6 to 8, 2009 by ESA wildlife biologist Brian Pittman, CWB.

The Alternative 3 alignment and three examined alternative alignments that are considered in this analysis are illustrated in Figure 1. The three alternative alignments are identified in this memorandum as Alignments 3A, 3B and 3C. As the figure indicates, the existing alignment traverses the Reserve for a linear distance of 1.0 mile and parallels a portion of the Reserve for another 0.5 mile. The three alternative alignments are considered below.

## Alignment 3A

Alignment 3A is the westernmost of the three examined alternative alignments and was identified as the shortest possible line configuration on lands located west of the Reserve. This alignment would add 1.0 linear mile to the length of Alternative 3. As identified in Figure 1, the alignment would traverse the community of Yettem near the intersection of Avenue 384 and Road 144, and would pass the historic St. Mary Armenian Apostolic Church of Yettem. The presence of residences within the alignment presents a significant constraint to Alignment 3A. In examining this route, the possibility of extending Alignment 3A further west to avoid Yettem was also considered; however, scattered residential development was identified well to the west such that a complex and lengthy zig-zag alignment would be required to avoid multiple condemnations. Such a route would still pass close to residential areas and would impact a variety of agricultural lands along with multiple road crossings.

## Alignment 3B

Alignment 3B was identified as a possible route that roughly maintained the proposed Alternative 3 alignment, while minimizing direct project impacts to the Reserve (see Figure 1). This alignment would keep about 0.75 miles of the transmission line outside of the Reserve, while about 0.25 mile would remain within the Reserve.

However, the revised alignment would traverse undisturbed grassland habitat that currently supports vernal pools and, based on this habitat assessment, would impact many of the same threatened and endangered plant and wildlife species found in the adjacent Reserve. As Figure 1 shows, the revised alignment also traverses federal designed critical habitat for Hoover's spurge, vernal pool fairy shrimp and vernal pool tadpole shrimp within an area that provides habitat for these species. Thus, while project effects to the Reserve would be minimized, the overall impact of this alignment to special status plant and wildlife species would remain essentially the same as for Alternative 3. One residence was identified within Alignment 3B.

#### Alignment 3C

Alignment 3C was considered as the nearest available alternative that would route the proposed transmission line into areas located east of the Reserve and designated critical habitat. As presented in Figure 1, the revised alignment would be 2.0 miles longer than the Alternative 3 alignment. While this alignment would successfully avoid impacts to critical habitat and biological resources within the Reserve, the 1.0 mile northern portion of the alignment would traverse annual grassland habitat that is considered to support special status biological resources similar to those that occur within the Reserve. Thus, this alignment would not avoid impacts to wetlands and special status plants and wildlife, and so would have essentially the same significant impacts as Alternative 3.

In addition to impacts to sensitive biological resources, the middle portion of Alignment 3C would traverse the farming community of Seville and would therefore be constrained by numerous residences within or immediately adjacent to the proposed alignment. In examining this route, the possibility of extending Alignment 3C further east was also considered; however, such a complex and lengthy zig-zag alignment would still pass close to multiple residences and would impact a variety of agricultural lands along with multiple road crossings.



Existing Electrical Facilities

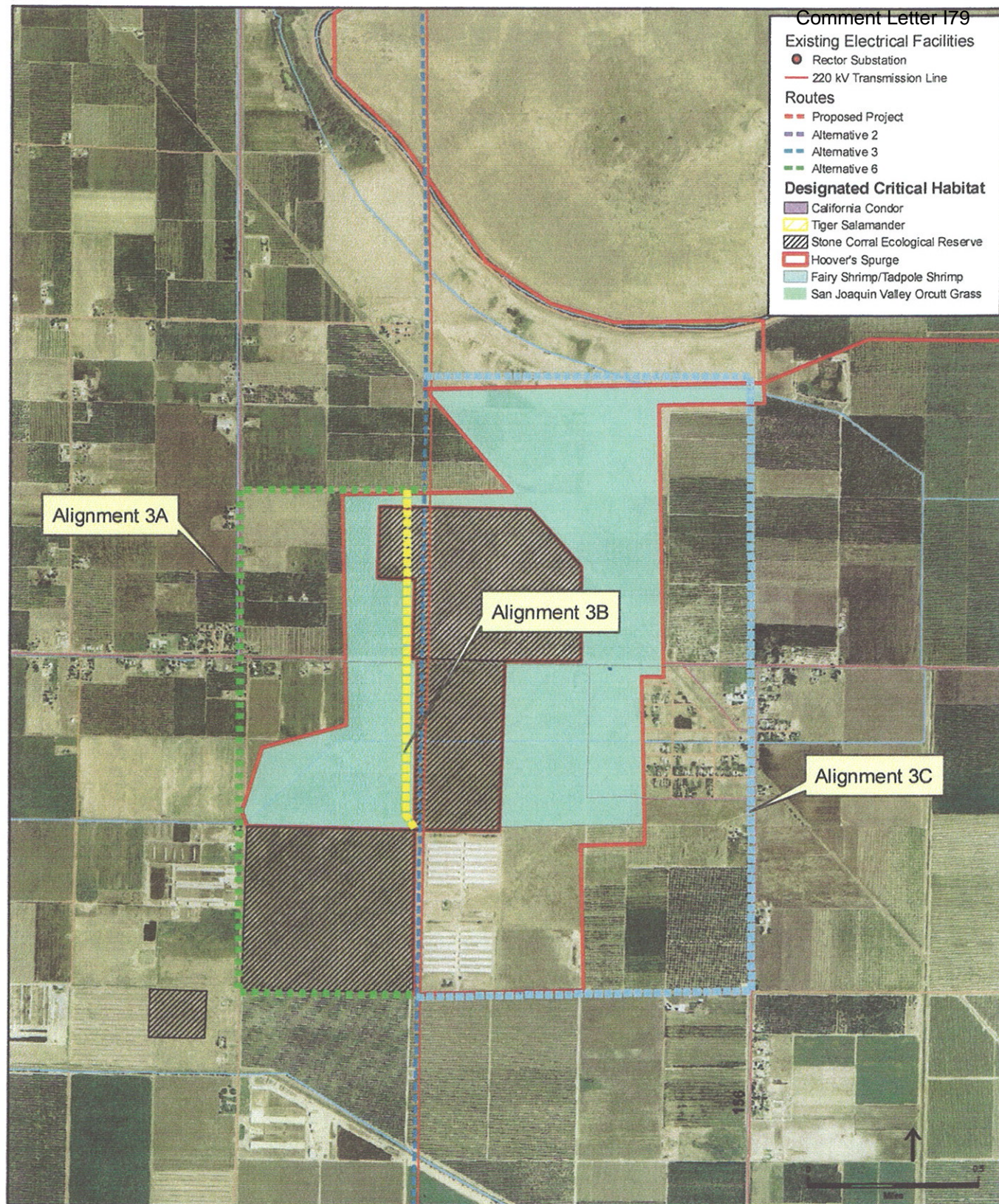
- Rectifier Substation
- 220 kV Transmission Line

Routes

- Proposed Project
- Alternative 2
- Alternative 3
- Alternative 6

Designated Critical Habitat

- California Condor
- Tiger Salamander
- Stone Corral Ecological Reserve
- Hoover's Spurge
- Fairy Shrimp/Tadpole Shrimp
- San Joaquin Valley Orcutt Grass



San Joaquin Cross Valley Loop Transmission Project. 207584.01

SOURCE: ESRI, 2008; SCE, 2008; Thomas Bros. Maps, 2008; USFWS, 1993, 2005, 2006, 2008; CDFG, 2008

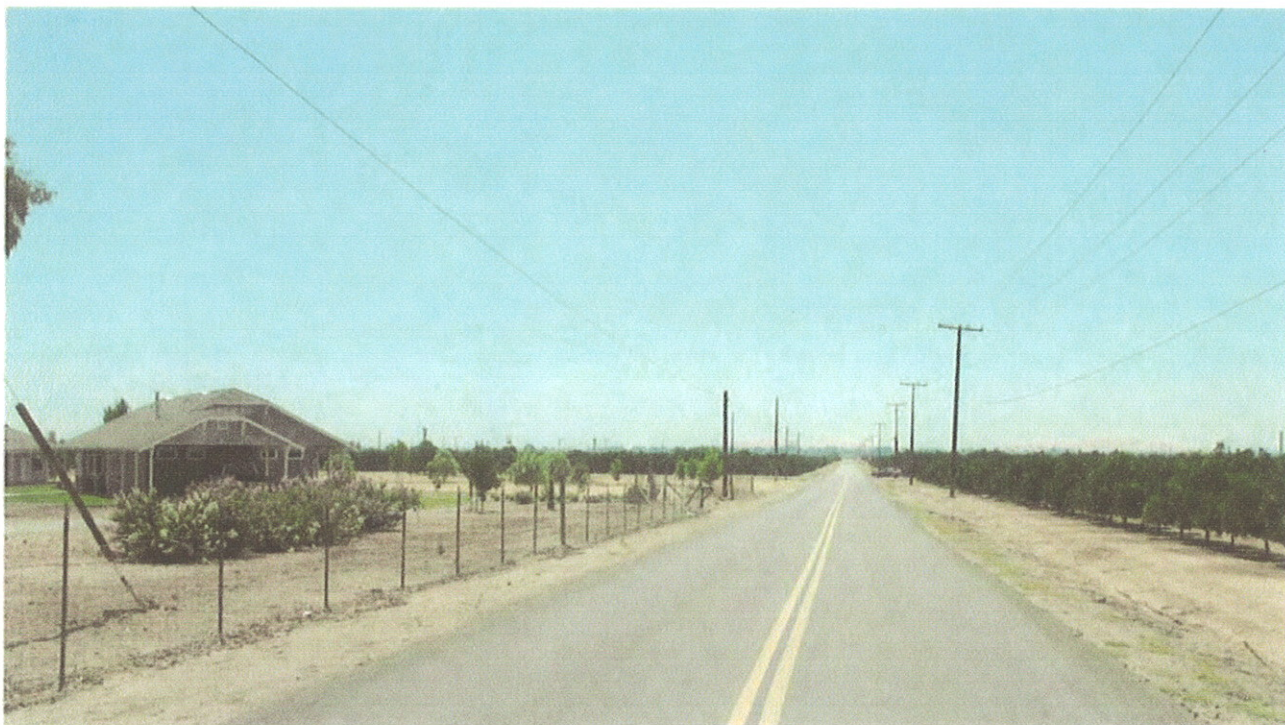
**Figure 1**

Stone Corral Ecological Reserve, Alignment 3 Alternative Routes

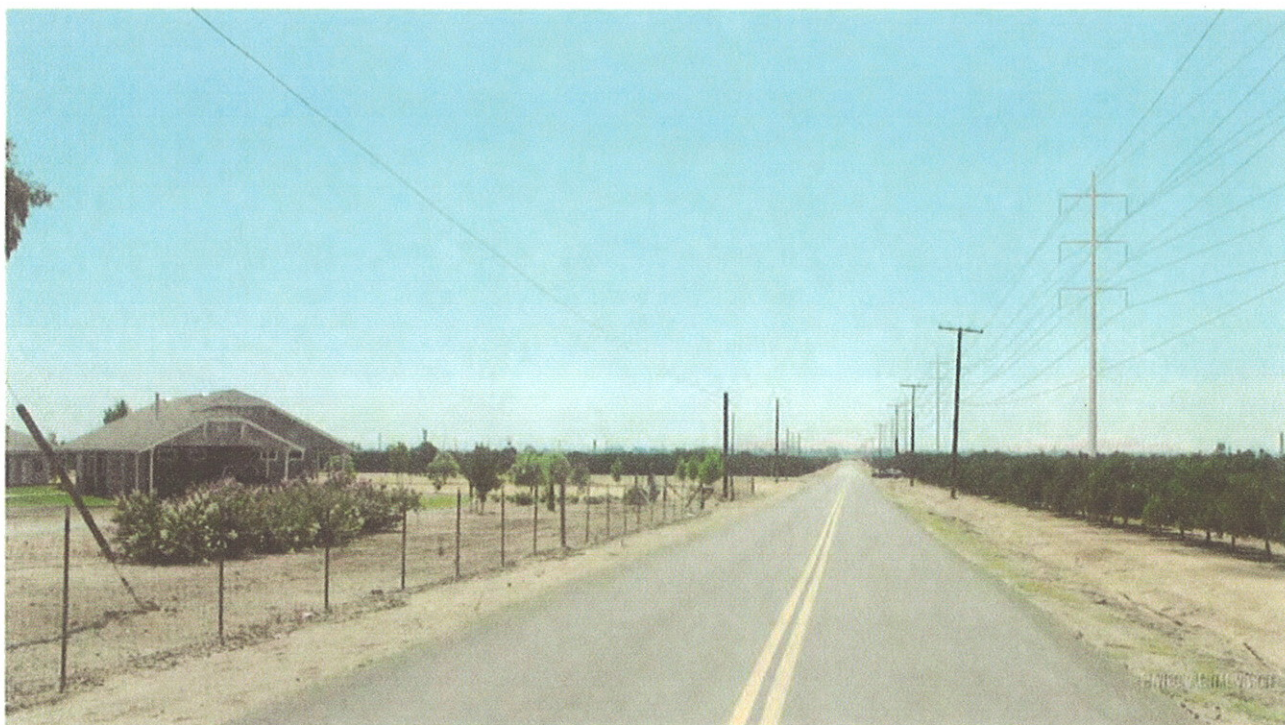


## “ATTACHMENT B”





Existing view from Avenue 320 looking west



Simulation I: View from Avenue 320 looking west

SOURCE: SCE, 2008.

San Joaquin Cross Valley Loop Transmission Project . 207584.01

**Figure 4.1-11a and 4.1-11b**  
Visual Simulation of Project Site

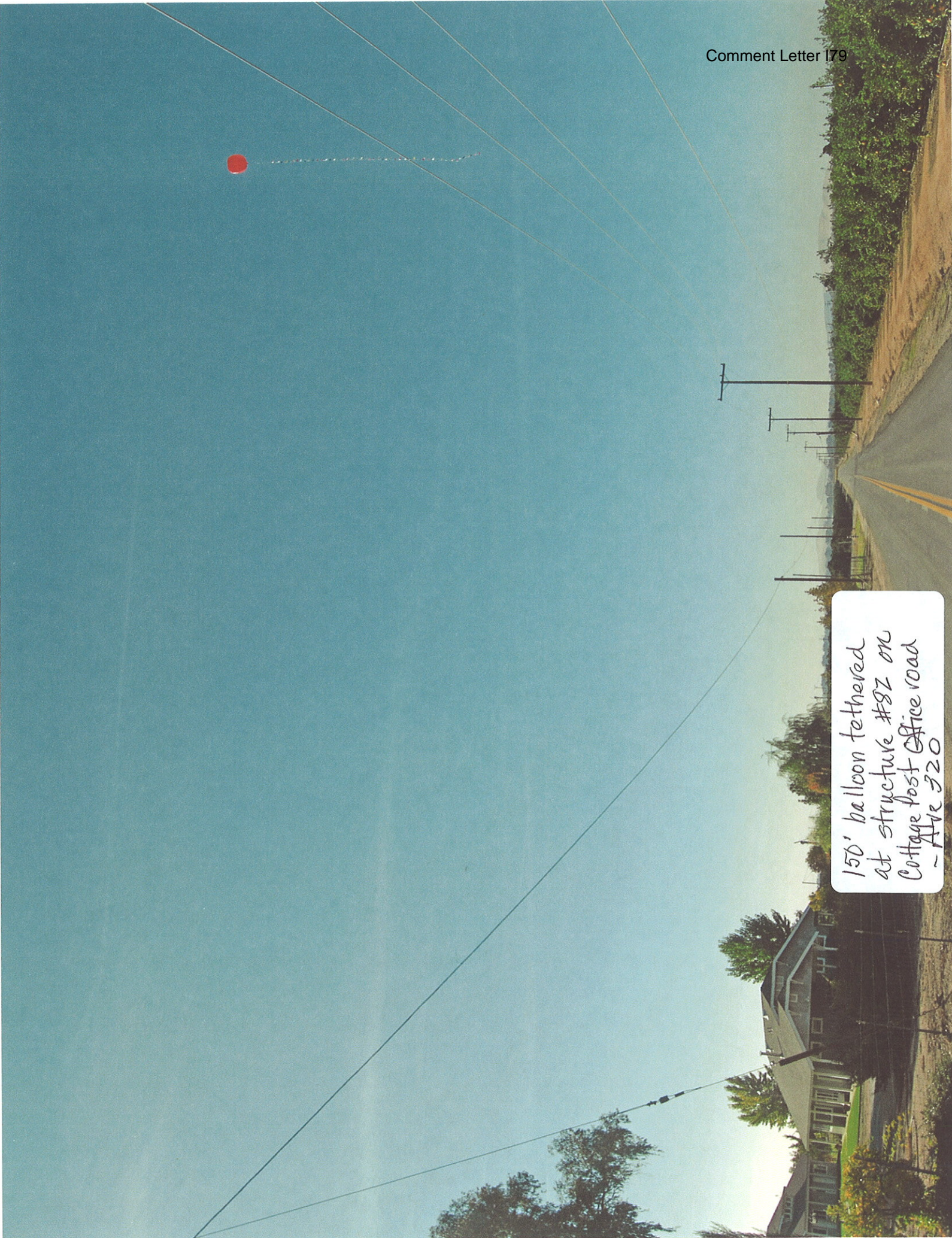




**Simulation of the proposed double-circuit 220 kilovolt transmission line from Avenue 320 looking west.**



150' balloon tethered  
at structure #82 on  
Cottage Post Office road  
- Ave 320





150' balloon on Cottage  
Hd. Road, looking north  
from Kirkpatrick's deck

SEE DIS-35  
105-35  
110-35  
110-35





























## “ATTACHMENT C”





Comment Letter To

"Distinctive" view from Kirkpatrick home - northeast toward location of proposed Project's poles & towers -