

**Antelope-Pardee Transmission Project Draft EIS/R
Meeting w/ Leona Valley and Agua Dulce Town Councils
September 11, 2006, evening**

WHY Alternative 5?

National Policy, Forest Service Manual (FSM) 2703 – for all special use proposals
(*handout 1*)

Forest Service letter of direction (dated 1/24/03) specific direction on how to respond to energy related facilities (*handout 2*)

40 Code of Federal Regulations (CFR) 1502.14(a), Rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated.

How serious is the Forest Service considering Alternative 5?

Any Alternative (and the proposed action/project) that is being considered in detailed analysis (i.e., the Proposed Project and Alternatives 1-6) is seriously being considered.

What are the Forest's evaluation criteria for making a decision?

There are numerous factors:

- How well does it meet the Forest Service's Purpose and Need stated in the Draft EIS/EIR? (*handout 3*)
- We only have jurisdiction on NFS lands but we have a responsibility to disclose the effects of our possible actions regardless of where those effects occur. We need to consider cumulative effects and the effects of connected actions. In this case – we looked at the project as a whole by entering into a MOU with CPUC. Per the 1/24/03 letter: "The differences in the environmental, social, and economic effects between constructing an energy project or facility on non-National Forest System lands as opposed to where it is being proposed on National Forest System lands are important considerations."
- How well does it meet Forest Service objectives stated in laws, policy, plans, or letters of direction (e.g. National Energy Policy, letter dated 1/24/03, Forest Plan)
- How does the alternative address the significant issues?
- Political
- Substantive public comments and objections

What is a substantive public comment?

- It is meaningful and alerts an agency to the reviewer's position and contentions.
- Comments on the draft environmental impact statement should be as specific as possible.

- Comments may also address the adequacy of the draft environmental impact statement (EIS/EIR) or the merits of the alternatives formulated and discussed in the statement.
- Comments are within the scope of the project, are specific to the project, have a direct relationship to the project, and include supporting reasons for consideration

How did we come up with a 45-day comment period?

40 CFR 1506.10(c), agencies shall allow not less than 45 days for comments on the draft statements.

45 days starts the day after Environmental Protection Agency (EPA) publishes the Notice of Availability in the Federal Register (NOTE: the notice was published August 4, 2006)

What is the Forest Service policy on giving extensions?

ALL FEDERAL AGENCY Regulation

40 CFR 1502.19 - ...If the agency circulates the summary and thereafter receives a timely request for the entire statement and for additional time to comment, the time for the requestor only shall be extended by at least 15 days beyond the minimum period.

40 CFR 1506.10(d) - The lead agency (Forest Service) may extend the comment period. The EPA may upon a showing by the lead agency of compelling reasons of national policy reduce the prescribed periods and may upon a showing by any other Federal agency of compelling reasons of national policy also extend prescribed periods, but only after consultation with the lead agency Failure to file timely comments shall not be a sufficient reason for extending a period. If the lead agency does not concur with the extension of time, EPA may not extend it for more than 30 days . . .

FOREST SERVICE DIRECTION

Forest Service Handbook 1909.15, 23.4 - Extending the Comment Period on a Draft Environmental Impact Statement. When the responsible official (Jody Noiron) determines that an extension of the review period on a draft EIS is appropriate, notify interested and affected agencies, organizations, or persons in an appropriate manner. Forward one copy of the notice to EPA's Management Information Unit, Office of Federal Activities at the address listed in section 23.2. EPA will publish the notice of the extension of the comment period in the Federal Register on the Friday following the week the notice is received.

How can you develop alternatives and NOT inform affected parties until the Draft EIS/R is published?

Scoping (initial public meetings and notices) occurs when the proposed action has been developed and we are asking the public, agencies, persons or organizations that may be interested or affected for issues/input.

FSH 1909.15, 10.3, 2. The use of scoping applies to all **proposed actions** which require environmental analysis; it is not limited to the preparation of an environmental impact statement (EIS).

40 CFR 1501.7. There shall be an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a **proposed action**.

Forest Service standard process is to scope the proposed action and based on the input provided during scoping and analysis, we develop the alternatives. The public comment and review period for the alternatives occurs when we go out for public review for the entire document – including the environmental effects analysis (e.g. Draft EIS)

What is the Forest Service public comment process?

36 CFR 215.6 (*handout 4A*). NOTE: have been told this is no longer accurate due to case law – but it is still in the regulations so am sharing:

Name and address, title of the project, provide (substantive) comments with supporting reasons that the Deciding Officer should consider in reaching the decision, signature or other verification of identity upon request.

Can be submitted in writing, electronically (email or FAX), or orally

MUST be timely. Written comments MUST be postmarked by 11:59 pm on the deadline date; hand delivered comments MUST be time and date imprinted at the appropriate office by close of business on the deadline date, encourage if sent electronically, the sender should receive an automated acknowledgement of the receipt of the comments.

Consider sending the information to:

John Boccio/Marian Kadota
CPUC/USDA Forest Service
c/o Aspen Environmental Group
30423 Canwood Street, Suite 215
Agoura Hills, CA 91301
FAX: 661 215-5152
Email: antelope-pardee@aspeneg.com

Questions directly to Marian? Phone number: 805.961.5732; email address: mkadota@fs.fed.us

When will the Forest Service make a decision and how will I know?

Normally the decision is made as soon as the Final EIS is published through a Record of Decision.

36 CFR 215.7 (*handout 4A*). The Record of Decision is promptly mailed to those who requested the decision document AND those who submitted substantive comments during the comment period (so long as the name and address is provided). It is also published as a legal notice in the newspaper (Los Angeles Times)

Who can appeal?

36 CFR 215.13 (*handout 4B*). (again – I've been told this has changed due to case law – but it's still our regulations so am sharing)

Individuals and organizations who submitted substantive written and oral comments during the comment period can appeal.

What is the process to appeal?

36 CFR 215.14, Appeal content (*handout 4B*).

Provide sufficient project- or activity-specific evidence and rationale, focusing on the decision to who why the Responsible Official's decision should be reversed.

Must be filed with the Appeal Deciding Officer in writing. There are minimum requirements (see handout).

What is the appeal period?

36 CFR 215.15 (*handout 4B*). – 45 days following the publication date of the legal notice of the decision. It must be received in a timely manner.

Forest Service Laws, Regulations and Policies

National direction (all federal agencies)

National Environmental Policy Act (Federal environmental law).

Federal regulations for this law are 40 CFR 1500-1508

(<http://www.epa.gov/epacfr40/chapt-V.info/chv-toc.htm>)

Forest Service Direction

Environmental Impact Statements

http://www.fs.fed.us/cgi-bin/Directives/get_dirs/fsh?1909.15!.. (“1909.15, 20.doc”)

Special use policy

http://www.fs.fed.us/cgi-bin/Directives/get_dirs/fsm?2700!.. (“2700 zero code.doc”)

Letter of direction related to off forest alternative

(not on internet – only have hard copy)

Notice, comment, and appeal process (36 CFR 215)

http://www.access.gpo.gov/nara/cfr/waisidx_06/36cfr215_06.html