

# I. Comments and Responses on the Draft SEIR

## I.1 Purpose of Response to Comments Document

This document, in conjunction with the SCE Devers–Palo Verde No. 2 Transmission Line Project Colorado Rivers Substation Expansion Draft Supplemental EIR (February 2011), constitutes the Final Supplemental EIR on the Proposed Project. The Final Supplemental EIR has been prepared pursuant to CEQA Section 21000 et seq., California Public Resources Code, and in accordance with the Guidelines for the Implementation of CEQA Section 15000 et seq., California Code of Regulations, Tit. 14. The Notice of Preparation (NOP) describing the Proposed Project was published in October 2010.

The Final Supplemental EIR will be used by the CPUC as part of its consideration of SCE’s application for a Permit to Construct (PTC), which includes consideration of project alternatives and mitigation measures. This Final Supplemental EIR contains all comments on the Draft Supplemental EIR and responses thereto. Comments on the Supplemental EIR were limited only to the topics included in the Draft Supplemental EIR document. The focus of the responses to comments is on the disposition of significant environmental issues as raised in the comments, as specified by Section 15088(b) of the State CEQA Guidelines.

Changes made since publication of the Draft SEIR are shown using underline (for added text) and ~~strikeout~~ (for deleted text).

## I.2 General Responses

This section presents detailed responses to comments that were made by several commenters. General Responses address the following topics:

GR-1 – Further Studies and Surveys are Not Required in Order to Adequately Assess Impacts of Alternatives

GR-2 – All Impacts to Biological Resources Were Adequately Assessed in Both the Prior DPV2 EIR/EIS and/or the Supplemental EIR

### **GR-1. Further Studies and Surveys are Not Required in Order to Adequately Assess Impacts**

Several reviewers (Sierra Club [Comment Letter B03] and Center for Biological Diversity [Comment Letter B06]) submitted comments questioning the adequacy of biological surveys used to assess the impacts of the Proposed Project and the substation site alternatives discussed in Section D.2 (Environmental Analysis, Biological Resources) of the Draft SEIR.

The regional environmental setting of the CRS, telecommunication linear facilities, and the project vicinity has been described in detail in the following documents:

- DPV2 Final EIR/EIS – Midpoint Substation, Section D.2.2.5 and Midpoint Substation to Cactus City Rest Area, Section D.2.2.6;
- Genesis Solar Energy Project (GSEP) EIS, Sections 3.18 and 3.23;
- Blythe Solar Power Project (BSPP) EIS, Sections 3.18 and 3.23;
- GSEP Revised Staff Assessment, Section D.2 and Revised Staff Assessment Supplement, Appendix A – Transmission System Engineering;

- BSPP Supplemental Staff Assessment – Reasonably Foreseeable Developments and Appendix A – Transmission System Engineering; and
- DPV2 Telecommunication System Route Biological Review.

These documents are incorporated by reference, as described in Section A.5.2 of the Supplemental EIR.

The descriptions of the environmental setting provided in these documents are based on expert review and analysis of databases and relevant literature and reconnaissance and protocol-level biological resources surveys that were performed in the Proposed Project area. In addition, new biological resource data has been collected at the proposed CRS expansion site and the vicinity since publication of the DPV2 Final EIR/EIS (2006), including:

- Comprehensive botanical and wildlife surveys conducted in spring 2010 by AECOM for interconnection of the BSPP to the CRS, including protocol surveys for desert tortoise;
- Botanical surveys conducted in fall 2010 by Aspen Environmental Group;
- Comprehensive botanical and wildlife surveys of the telecommunication route(s) conducted for SCE from 2007 to 2010 (CH2M Hill, 2010). These surveys included general reconnaissance (2007, 2008, 2009, 2010), focused surveys for several special-status species (2008, 2010), vegetation mapping (2008, 2009, 2010), and protocol surveys for desert tortoise (2008).
- Investigations by geomorphologists into Aeolian sand transport in the Chuckwalla Valley (e.g., ESA PWA, 2011, which is included as Appendix 3 in the SEIR).

In compliance with CEQA Guidelines § 15163(b), the Draft SEIR contains only the information necessary to make the previous EIR adequate for the project as revised. Because the DPV2 EIR/EIS adequately addressed impacts to numerous species, the Supplemental EIR is not required to, and does not, address impacts to such species in detail. See General Response GR-2 for additional information.

As noted in Section D.2.1 (Environmental Analysis, Biological Resources, Environmental Setting for the Proposed Project) of the Supplemental EIR, the project area contains stabilized and partially stabilized sand dunes that are part of the Chuckwalla sand transport corridor (Muhs et al., 2003); these sand dunes provide habitat for special-status species such as the MFTL and rare annual plants. The area also contains Sonoran creosote bush scrub, which may provide suitable breeding and foraging habitat for special-status species including desert tortoise and desert kit fox. A thorough discussion of vegetation types located along the telecommunication routes is provided in the *DPV2 Telecommunication System Route Biological Review*, which has been included in the Final Supplemental EIR as a new Appendix 9 (CH2MHill, 2010). The Draft Supplemental EIR notes in Section D.2.1 that:

The flora of the California deserts has not been well documented, due to its vast extent, many remote or inaccessible areas, and the short and undependable growing seasons for many species. Records of special-status species occurrences are sparse in the available data sources. Therefore, it is difficult to predict accurately what special-status plants have potential to occur in this region. For example, Abrams' spurge (*Chamaesyce abramsiana*; CRPR 2.1), flat-seeded spurge (*Chamaesyce platysperma*; BLM Sensitive, CRPR 1B.2), and lobed ground cherry (*Physalis lobata*; CRPR 2.3) were undetected during spring surveys, but could occur in the project area and adjacent sandfield or bajada habitat. These three species are also considered in this supplement.

To identify all potential special-status plants, the SEIR takes a conservative approach and requires both pre-construction surveys and compensatory mitigation for potential impacts. See Mitigation Measure B-8b: Minimize off-site impacts to Harwood's eriastrum, Harwood's milk-vetch, and flat-seeded spurge

habitat and Mitigation Measure B-9j (Provide compensatory mitigation and restoration/enhancement of protected lands for impacts to sand dune habitat).

In light of the extensive baseline data available, further studies are not required to adequately assess impacts to biological resources in the SEIR. "CEQA does not require a lead agency to conduct every recommended test and perform all recommended research to evaluate the impacts of a proposed project. The fact that additional studies might be helpful does not mean that they are required." (*Assoc. of Irrigated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1396.) Therefore, the Lead Agency is not required to conduct a particular study or follow a particular methodology simply because a commenter recommends it. In the case of this SEIR, there is no substantive evidence that further studies are essential for an adequate impact analysis. (See *Nat'l Parks & Conserv. Ass'n v. County of Riverside* (1999) 71 Cal. App. 4th 1341 [further study of potential impacts of scavenging animals to Joshua Tree National Park from construction of a landfill not required even though record contained difference of opinion on need for study].) This is the case particularly where, as here, there is sufficient information regarding the biological resources in the project area to determine potential impacts. In this case, the available survey results combined with the presence of suitable habitat for special-status species constitutes sufficient evidence that these species occur or potentially occur.

CEQA gives the Lead Agency that prepares an SEIR the responsibility to decide the appropriate way to investigate and evaluate a project's significant environmental impacts and to identify mitigation measures and alternatives that might reasonably be available to reduce to avoid those impacts. The Lead Agency has broad discretion to determine how environmental issues should be studied. Assertions that these impacts could have been analyzed in a different way or that other studies might provide additional information do not, alone, provide an adequate basis for challenging the SEIR. (*Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376.)

### Pre-construction Surveys

In some cases, the Draft Supplemental EIR identifies mitigation measures that call for pre-construction surveys. These studies will allow for refinements of the proposed mitigation. Preparation of these supplemental studies is not needed or appropriate at the SEIR stage in order to determine impacts.

The following mitigation measures in the SEIR require pre-construction surveys (list includes excerpts only, full text in Section D.2 [Environmental Analysis, Biological Resources]):

- **Mitigation Measure B-7b: Conduct preconstruction tortoise surveys.**
- **Mitigation Measure B-9d(rev): Conduct pre-construction reptile surveys.** Prior to construction, SCE shall conduct surveys in areas of suitable habitat for Mojave fringe-toed lizard, desert tortoise, common chuckwalla, banded Gila monster, and desert rosy boa within 48 hours prior to the start of construction activities.
- **Mitigation Measure B-8b: Minimize off-site impacts to Harwood's eriastrum, Harwood's milk-vetch, and flat-seeded spurge habitat.** The Plan shall include consideration of the following components:
  1. Delineation of the limits of construction disturbance area on-site prior to beginning of construction (the construction disturbance area includes equipment staging areas, spoils transport or storage areas, access routes and all other areas that may be temporarily disturbed by construction);
  2. Preconstruction surveys to identify and designate suitable habitat (whether occupied or not) for any of these species throughout the construction disturbance area and a 250-foot buffer are surrounding it;

- **Mitigation Measure B-9g(rev): Conduct pre-construction surveys and passive relocation for American badger and desert kit fox.** Prior to construction, SCE shall conduct pre-construction surveys for American badger and desert kit fox. Surveys will be conducted prior to ground disturbance activities in areas that contain habitat for ~~this~~ these species.

In addition, Mitigation Measure B-9j (Provide compensatory mitigation and restoration/enhancement of protected lands for impacts to sand dune habitat) would reduce impacts from the Proposed Project and project alternatives. The full text of this measure is included in Section D.2.4 (Environmental Impacts and Mitigation Measures for the Proposed Project) in the SEIR under Mitigation Measures for Impact B-9 (Construction activities would result in indirect or direct loss of individuals and/or habitat for sensitive wildlife).

## **GR-2 – All Impacts to Biological Resources Were Adequately Assessed in Both the Prior DPV2 EIR/EIS and/or the Supplemental EIR**

Several commenters (Basin and Range Watch [Comment Letter B02], Sierra Club [Comment Letter B03] and Center for Biological Diversity [Comment Letter B06]) imply or suggest that some biological resources were not considered in adequate detail in the Draft SEIR. As described in Section D.2.3 (Environmental Analysis, Biological Resources, Method of Analysis) in the Draft Supplemental EIR:

Certain potential impacts of the proposed CRS expansion would not be “substantially more severe” than the significant impacts of construction and operation of the original 44-acre CRS (Midpoint Substation) that were analyzed in the DPV2 EIR/EIS; therefore, these impacts do not require further analysis [CEQA guidelines § 15162 (a)(3)(B)]. However, impacts to certain rare plants, Mojave fringe-toed lizard (MFTL), and desert kit fox were not considered during analysis of the CRS in the DPV2 EIR/EIS or other CEQA review document (e.g., BSPP and/or GSEP Staff Assessments), and therefore, require analysis in this Supplemental EIR. In addition, the telecommunication linear facilities routes were not analyzed in the previous CEQA review documents, and impacts related to this portion of the Proposed Project are also addressed.

The large number of utility-scale solar generation projects proposed in the Mojave and Sonoran deserts has led to the need to complete detailed investigation into the ecology of desert dune species, including MFTL, to understand potential impacts. Recently, a quantitative model was developed to quantify indirect impacts of construction barriers on Aeolian and fluvial sand transport. As a result, impacts to sand transport corridors and the resulting impacts to sand-dune obligate species are analyzed in greater detail in this Supplemental EIR than was possible at the time the DPV2 EIR/EIS was prepared. Further, recent survey results identified three rare plants (ribbed cryptantha, winged cryptantha, Harwood’s eriastrum) and a greater concentration of MFTL than was identified during 2006 surveys for the DPV2 EIR/EIS. Accordingly, pertinent impacts of the entire expanded substation and telecommunication linear facilities are disclosed, rather than only the incremental impact of the proposed substation expansion and ancillary facilities.

To summarize, potential impacts to MFTL, desert kit fox, some rare plants, and impacts to sand transport are addressed in detail in the SEIR. However, potential impacts to desert tortoise, burrowing owl, and many other special-status species were adequately addressed in the DPV2 Final EIR/EIS and the BLM and CEC documents. These analyses have not substantially changed as a result of the CRS expansion project. Therefore, these species are not discussed in the same depth in the SEIR. The following text has been added for clarification to Section D.2.1 (Environmental Setting for the Proposed Project) in the Final SEIR:

Biological resources present within the proposed project area that have been adequately analyzed in other documents per the aforementioned criteria [CEQA guidelines § 15162 (a)(3)(B)] are presented in this environmental setting for disclosure purposes and to support the conclusion that impacts to these resources would not be substantially more severe than shown in the DPV2 EIR/EIS. These resources include desert tortoise, burrowing owl, loggerhead shrike, LeConte's thrasher, and American badger.

Similarly, in ten resource areas, there would be no additional significant impacts or substantial increases in the severity of significant impacts as a result of the substation expansion. As discussed in Section A.2.2 of the Supplemental EIR, no additional analysis is included in the Supplemental EIR for: Visual Resources, Land Use, Wilderness and Recreation, Agriculture, Noise, Transportation and Traffic, Public Health and Safety, Air Quality or Geology, Mineral Resources and Soils. In compliance with CEQA Guidelines § 15163(b), the Draft SEIR contains only the information necessary to make the previous EIR adequate for the project as revised. Because the DPV2 EIR/EIS adequately addressed impacts to these resource areas, the Supplemental EIR is not required to, and does not, address such impacts in detail.

### **I.3 List of Commenters and Responses**

This section provides responses to comments received during the Draft Supplemental EIR public review period, which commenced on February 22, 2011 and ended on April 8, 2011. Responses to issues and concerns raised by several commenters are addressed in two General Responses (GR-1 and GR-2) included in Section I.2. More detailed responses are provided to individual comments in Sections A through D, which provide copies of the comments submitted on the Draft Supplemental EIR. Each comment set is followed by the corresponding responses. Comment letters are presented chronologically, in the order of the date of the comment, followed by errata and minor text clarifications. The comments from the Applicant, SCE, are presented at the end of the comment letters as Comment Set D.

Comment letters are in the following categories:

- A. Public Agencies
- B. Community Groups, Non-Profit Organizations and Private Companies
- C. Private Individuals
- D. The Applicant

Table I-1 lists all parties that commented on the Draft Supplemental EIR, the date of their comments, and the comment set number that defines the organization of responses in this Final Supplemental EIR.

**Table I-1. Draft SEIR Commenters and Comment Set Numbers**

Agency/Affiliation	Commenter's Name/Title	Date of Comment	Comment Set No.
<b>Public Agencies</b>			
Department of Toxic Substances Control	Greg Holmes	3/23/11	A01
Riverside County Airport Land Use Commission	John Guerin, Principal Planner	4/5/11	A02
<b>Community Groups, Non-Profit Organizations and Private Companies</b>			
Snow Creek Homeowners' Association	Les Starks	3/3/11	B01
Basin & Range Watch	Michael Emmerich & Laura Cunningham	4/8/11	B02
Sierra Club, California/Nevada Desert Energy Committee	Joan Taylor	4/8/11	B03
Western Watersheds Project	Michael J. Connor PhD	4/8/11	B04
Solar Millennium LLC and NextEra Energy Resources	Josef Eichhammer, CEO, and Matt Handel, VP Solar Development	4/8/11	B05
Center for Biological Diversity	Ileene Anderson Biologist/Public Lands Desert Director	4/8/11	B06
Californians for Renewable Energy (CARE)	Cory J. Briggs (Briggs Law Corp)	4/8/11	B07
<b>Private Individuals</b>			
	Brendan Hughes	4/5/11	C01
<b>The Applicant</b>			
Southern California Edison	Jackson Horne	4/8/11	D01