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February 12, 2008

VIA FEDEX

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

Re: Comments re Draft Environmental Impact Report/Environmental Impact Statement and Proposed Land Use Amendment for the Proposed Sunrise Powerlink Project ("Draft EIR/EIS")

Dear Sir/Madam:

This firm and Shawn Caine are counsel for David H. Batchelder individually and as Trustee of the David H. Batchelder 2007 Trust ("Trust") (collectively "Batchelder"). Batchelder previously moved for an order granting him party status in the Matter of the Application of San Diego Gas & Electric Company (U 902 E) for a Certificate of Public Convenience and Necessity for the Sunrise Powerlink Transmission Project, Application 06-08-010. Batchelder's Motion was denied without prejudice. This letter contains Batchelder's comments on the Draft EIR/EIS referenced above.

David H. Batchelder was and the Trust as of October 15, 2007, is the record owner of real property legally described in the Interspousal Transfer Deed attached hereto as **Exhibit "A"** ("Batchelder Ranch"). The property consists of approximately 700 acres located in northeast San Diego County. The Batchelder Ranch is located in what is referred to by San Diego Gas & Electric ("SDG&E") as the Central Link of the Sunrise Powerlink Transmission Project ("Project"). Prior to July 2006, the proposed portion of the Central Link of the Project located near the Batchelder Ranch ran essentially from north to south along a path that was approximately 3,000 feet decreasing to 300 feet west from the western property line of the Batchelder Ranch and continued directly south so as not to run along the southern property line of the Batchelder Ranch. Attached hereto as **Exhibit "B"** is SDG&E's Central Link map issued by SDG&E showing the original proposed route for the Project near the Batchelder Ranch, and although the Batchelder Ranch is not shown on that map, the proposed route is a dark blue color and reflects the foregoing facts.

In or about July 2006, SDG&E amended the proposed route for the Project to move it adjacent to the western and southern property lines of the Batchelder Ranch. Attached hereto as **Exhibit "C"** is SDG&E's Central Link map issued by SDG&E in July 2006 showing the proposed route for the project running along the western and southern property lines of the Batchelder Ranch which are colored in as a light green and which has a red asterisk in the middle of the Batchelder Ranch.

The movement of the proposed Project from where it appears on Exhibit "B" to where it appears on Exhibit "C" not only meant that a portion of the Project was being moved adjacent to the Batchelder Ranch, but in addition, on Exhibit "B" such portion of the Project would have been located in a valley area, whereas on Exhibit "C" such portion of the Project would be located on the crest of hills such that it would be clearly visible from the Batchelder Ranch.

In addition, in connection with its proposal to place a portion of the Central Link of the Project adjacent to the Batchelder Ranch as shown on Exhibit "C," SDG&E notified Batchelder that it wanted to construct an access road from Batchelder's improved Green Oaks Drive, which further access road would run west from Green Oaks Drive to where the Project runs adjacent to the western property line of the Batchelder Ranch ("Access Road"). Green Oaks Drive is shown on **Exhibit "D"** attached hereto as running generally to the north on the Batchelder Ranch. SDG&E was not clear in its communications to Batchelder as to whether it intended to acquire a fee interest or an easement interest in his private improved road, Green Oaks Drive, and for constructing its new Access Road from Green Oaks Drive to the Project all on the Batchelder Ranch.

As a result of the foregoing facts, Batchelder sent a letter dated February 23, 2007 to the CPUC c/o Aspen Environmental Group making comments on the scope and content of the EIR/EIS pursuant to the Notice of the Second Round of Scoping Meetings on Alternatives to the Project ("Letter"). In the Letter, as to the Central Link portion of the Project, Batchelder set forth his support for both the Santa Ysabel Existing ROW Alternative and the Santa Ysabel Partial Underground Alternative. He explained that if one of those two alternatives was not approved, then he requested that the Project near the Batchelder Ranch be modified as set forth in Paragraphs 3(a) and 3(b) of the Letter. He also requested that the CPUC eliminate from consideration as an access road Green Oaks Drive and the creation of one or more access roads from Green Oaks Drive to the Project. Finally, he noted that he had been in communications with SDG&E which was recommending to the CPUC a new route for the Central Link in the vicinity of the Batchelder Property referred to as the Mesa Grande Alternative, which routing had been provided to him. He concluded that he supported the Mesa Grande Alternative over the alternative set forth in Paragraphs 3(a) and 3(b) of the Letter. Batchelder included in the Letter the various reasons for his supporting the Santa Ysabel Existing ROW Alternative, the Santa Ysabel Partial Underground Alternative, the modifications to the Project set forth in Paragraphs 3(a) and (b) of the Letter, and finally for supporting the Mesa Grande Alternative over Paragraphs 3(a) and 3(b) of the Letter, as well as for the elimination of any access road from his private road Green Oaks Drive and the creation of one or more new access roads from Green Oaks Drive to the Project. A copy of the Letter with attachments is attached hereto as **Exhibit "E"**.

Subsequent to February 23, 2007, SDG&E did in fact recommend to the CPUC a new route for the Central Link in the vicinity of the Batchelder Property, namely the Mesa Grande Alternative. That recommendation is noted in the Draft EIR/EIS, which states in pertinent part as follows:

SDG&E Mesa Grande Alternative – a two-mile alternative [that] would diverge from the Proposed Project east of Mesa Grande Road and travel overhead along the lower portion of the slope, rejoining the Proposed Project, on the south side of Mesa Grande Road. This alternative was proposed by the landowner and SDG&E to reduce the visibility of the Proposed Project overhead line near Mesa Grande Road. The route would be slightly shorter, reducing ground disturbance and associated impacts. It would reduce impacts to oak woodlands and chaparral habitats and have a slight reduction in impacts to native vegetation. Its location, lower on the hill as compared to the Proposed Project, would reduce visual impacts. **Conclusion:** The SDG&E Mesa Grande Alternative is superior to the Proposed Project, because it reduces visual impacts and would be shorter. [Draft EIR/EIS, p. ES-50 (emphasis added).]

The conclusion as to the superiority of the Mesa Grande Alternative to the Proposed Project is incomplete as to the reasons for the superiority. Further, while the conclusion as to the superiority of the Mesa Grande Alternative refers to the fact that it is shorter than the Proposed Project, the Draft EIR/EIS makes no examination as to why a shorter line reduces the environmental impact on various environmental resources. The conclusion was incomplete because based upon the Full Draft EIR, the conclusion should have contained an additional reason for why the Mesa Grande Alternative is preferable, namely because of its lack of impact on Wilderness and Recreation Resources. Further, the Draft EIR/EIS was incomplete in that it failed to examine how and why the shorter length of the Mesa Grande Alternative versus the Proposed Project would have fewer impacts with respect to Land Use, Agriculture, Cultural and Paleontological Resources, Noise, Transportation, Traffic, Public Health and Safety, Air Quality, Water Resources, Geology, Mineral Resources, and Soils, Socioeconomics, Services, and Utilities, and Fires and Fuel Management.

The Draft EIR/EIS in concluding that the Mesa Grande Alternative is preferable to the Proposed Project because it is shorter either has no facts or at least inadequate facts for its support, lacks any analysis of the facts, and is either based on unarticulated, unsupported assumptions and speculations or is comprised of superficial and conclusionary analysis. As the Supreme Court recently emphasized “CEQA’s informational purposes are not satisfied by an EIR that simply ignores or assumes a solution” to a problem presented by a proposed project, “The reader attempting to understand “the means proposed to deal with an environmental issue must not be “left to rely on inference and speculation.” *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal. 4th 412, 430-431, 445. See also *California Oak Foundation v. City of Santa Clarita* (2005) 133 Cal. App. 4th 1219, 1237 (EIR legally inadequate if conclusion on an issue of significance is based on an unarticulated assumption, there must be “a forthright discussion of a significant factor” presented by the proposed project).

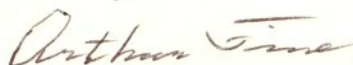
Batchelder concurs with the conclusion of the Draft EIR/EIS that the Mesa Grande Alternative is superior to the proposed Project. It certainly is environmentally superior, and Batchelder believes it to be economically superior as well. The line is slightly shorter (it is but 1.8 miles long) and, by virtue of being located lower on the slope, should be easier and less costly to construct. In addition, there will be no need for the Access Road or the acquisition of a property interest in Green Oaks Drive, both of which would constitute compensable takings of property and would otherwise be costly to construct, particularly as the Access Road would require the surveying, clearing, and grading of land.

The Draft EIR/EIS concludes that the Santa Ysabel All Underground Alternative, the Santa Ysabel Partial Underground Alternative, and the SDG&E Mesa Grande Alternative are all superior to the Proposed Project for the Central Link. While this letter emphasizes the fact that both SDG&E and Batchelder have recommended the Mesa Grande Alternative to the Proposed Project for the Central Link, that is not to say that the Mesa Grande Alternative from Batchelder's perspective is the only or best alternative. In fact in lieu of the Proposed Project for the Central Link, Batchelder's preference in order of priority is first, the Santa Ysabel All Underground Alternative; second, the Mesa Grande Alternative combined with the Santa Ysabel Partial Underground Alternative; and third, the Mesa Grande Alternative. If any of these three alternatives are selected in lieu of the Proposed Project for the Central Link, Batchelder does not anticipate taking any action to challenge the final EIR/EIS.

For the purpose of preserving and maintaining his right to challenge the final EIR/EIS, Batchelder notes that, for the reasons set forth in the Letter, the Project is seriously deficient and does not comply with CEQA. While Batchelder agrees with the Draft EIR/EIS that the Santa Ysabel Partial Underground Alternative and the Mesa Grande Alternative are preferable to the Project, the Draft EIR/EIS does not include all the reasons as to why those two alternatives are environmentally preferential as are included in the Letter and as set forth herein. In addition, the Draft EIR/EIS does not comply with CEQA because it does not discuss or address the Project in the vicinity of Batchelder's Property requiring an access road from Batchelder's private road, Green Oaks Drive, and the creation of one or more new access roads from Green Oaks Drive to that section of the Project which includes point 103.

Batchelder anticipates that other persons and entities will provide substantive comments on the Draft EIR/EIS. Batchelder incorporates by reference all well taken substantive comments and criticisms of other persons, and reserves his right to rely in any CEQA litigation which may hereafter be instituted by Batchelder on points raised by other persons with respect to the Draft EIR/EIS. *Galante Vinyards v. Monterey Peninsula Water Mgmt District* (1997) 60 Cal.App. 4th 1109, 119 (a petitioner who has taken part in the administrative process may assert [in litigation] any issues raised by other parties during the administrative proceeding").

Sincerely,



Arthur Fine
MITCHELL SILBERBERG & KNUPP LLP

ENCLS

ccs: David H. Batchelder
Shawn Caine, Esq.
San Diego Gas & Electric
Attn: Mike Niggli
David Geier
Laura McDonald
Lynn Trexel

EXHIBIT A

Jan-24-07 12:19P

619 696 1890

Sempra Energy

04:21:23 p.m. 01-23-2007

P. 10
P. 8
8/15

DOC # 2006-0602778



AUG 23, 2006 4:03 PM

OFFICIAL RECORDS
SAN DIEGO COUNTY RECORDER'S OFFICE
GREGORY J. SMITH, COUNTY RECORDER
FEES: \$00
DC: DC
PAGES: 1



2006-0602778

RECORDING REQUESTED BY:
Seltzer Caplan McMahon Vitek
Attorneys at Law
AND WHEN RECORDED MAIL TO:
Mr. David H. Batchelder
c/o Gerald L. McMahon, Esq.
Seltzer Caplan McMahon Vitek
750 B St., Ste. 2100
San Diego, CA 92101 **13988**

Title Order No.
Escrow No.

APN 242-030-10, 11, 12, 13, 14, 15, 16, 17, 19 Interspousal Transfer Deed

Grant Deed (Excluded from Reappraisal Under Proposition 13, i.e., Calif. Const. Art 13A(1) et. seq.)

The undersigned Grantor(s) declare(s) under penalty of perjury that the following is true and correct:

Documentary transfer tax is \$ 0.00

- Computed on full value of property conveyed, or Computed on full value less value of liens and encumbrances remaining at time of sale, or is exempt from imposition of the Documentary Transfer Tax pursuant to Revenue and Tax Code §11927(a), on transferring community, quasi-community, or quasi-marital property, assets between spouses, pursuant to a judgment, an order, or a written agreement between spouses in contemplation of any such judgment or order.
- Other exemptions: (state reason and give Code § or Ordinance number)
- Unincorporated area: City of _____ and This is an Interspousal Transfer under §83 of the Revenue and Taxation Code and Grantor(s) has (have) checked the applicable exclusion from Reappraisal under Proposition 13:
- A transfer to a trustee for the beneficial use of a spouse, or the surviving spouse of a deceased transferor, or by a trustee of such a trust to the spouse of the trustee.
- A transfer which takes effect upon the death of a spouse.
- A transfer to a spouse or former spouse in connection with a property settlement agreement or decree of dissolution of a marriage or legal separation, or
- A creation, transfer, or termination, solely between spouses, of any co-owner's interest.
- The distribution of a legal entity's property to a spouse or former spouse in exchange for the interest of such spouse in the legal entity in connection with a property settlement agreement or a decree of dissolution of a marriage or legal separation.
- Other:

GRANTOR(S): Mary J. Batchelder, a married woman,
hereby GRANT(S) to David H. Batchelder, a married man, as his sole and separate property,
the following described real property in the County of San Diego, State of California
Parcels 1 through 9, inclusive, of Parcel Map No. 13104, in the County of San Diego, State of California, according to Map filed in the office of the County Recorder of San Diego County, December 30, 1983.

Dated 6/30/06
STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

Mary J. Batchelder
MARY J. BATCHELDER

On June 29, 2006, before me,
Alex B. Scheringross, ALEX B. SCHERINGROSS,
(Type Grant name and title of the official a Notary Public
personally appeared: MARY J. BATCHELDER



I am personally known to the parties named in this instrument and on the basis of satisfactory evidence to be the persons(s) whose names are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signing(s) on the instrument(s) the person(s), in the capacity upon which he/she/they acted, executed the instrument.

WITNESS my hand and official seal
Signature Alex B. Scheringross



(This space for official notarial seal)

MAIL TAX STATEMENTS TO: Mr. David H. Batchelder, c/o Actational Investors, 12409 High Bluff Drive, Suite 400, San Diego, CA 92130

EXHIBIT B

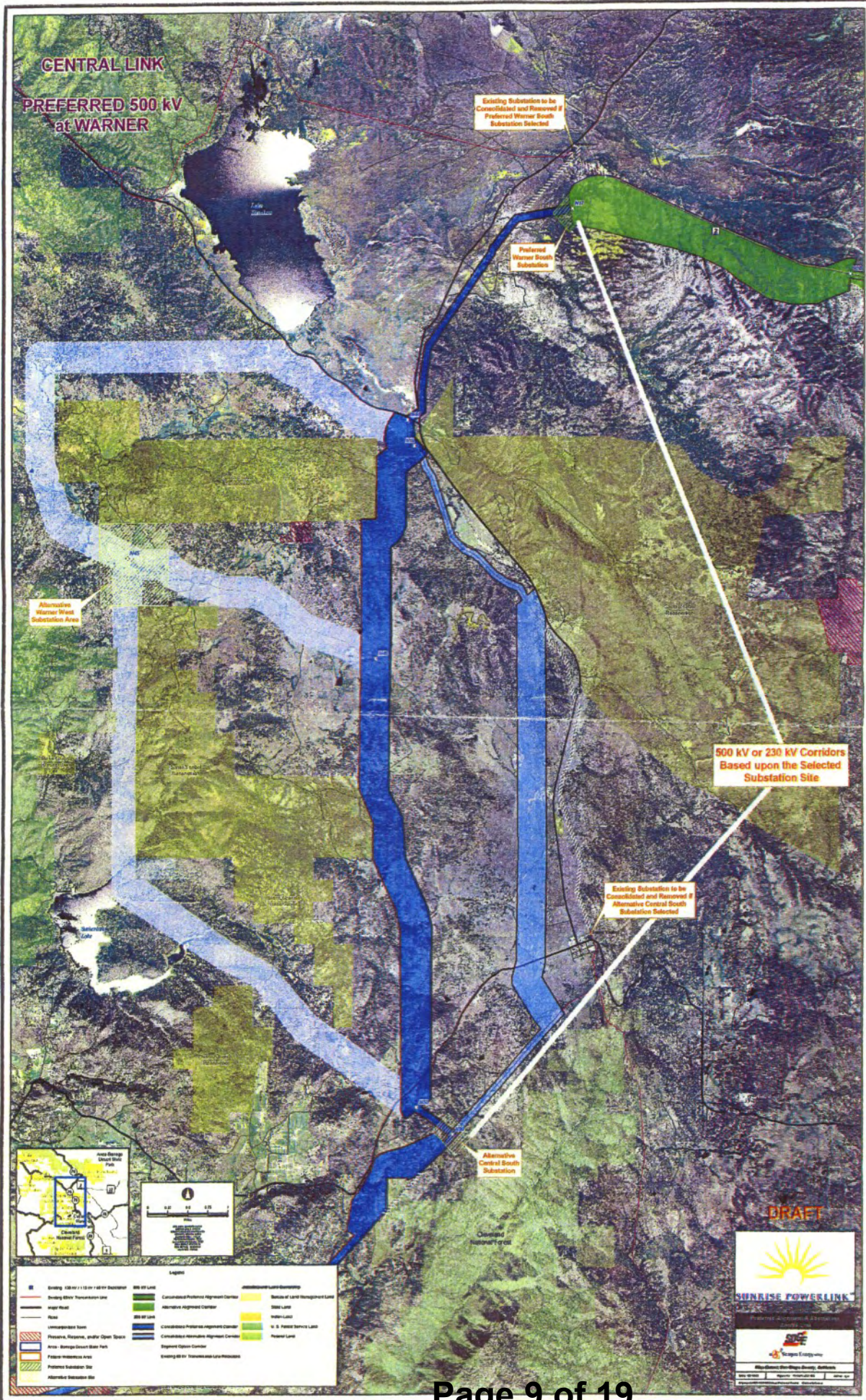


EXHIBIT C

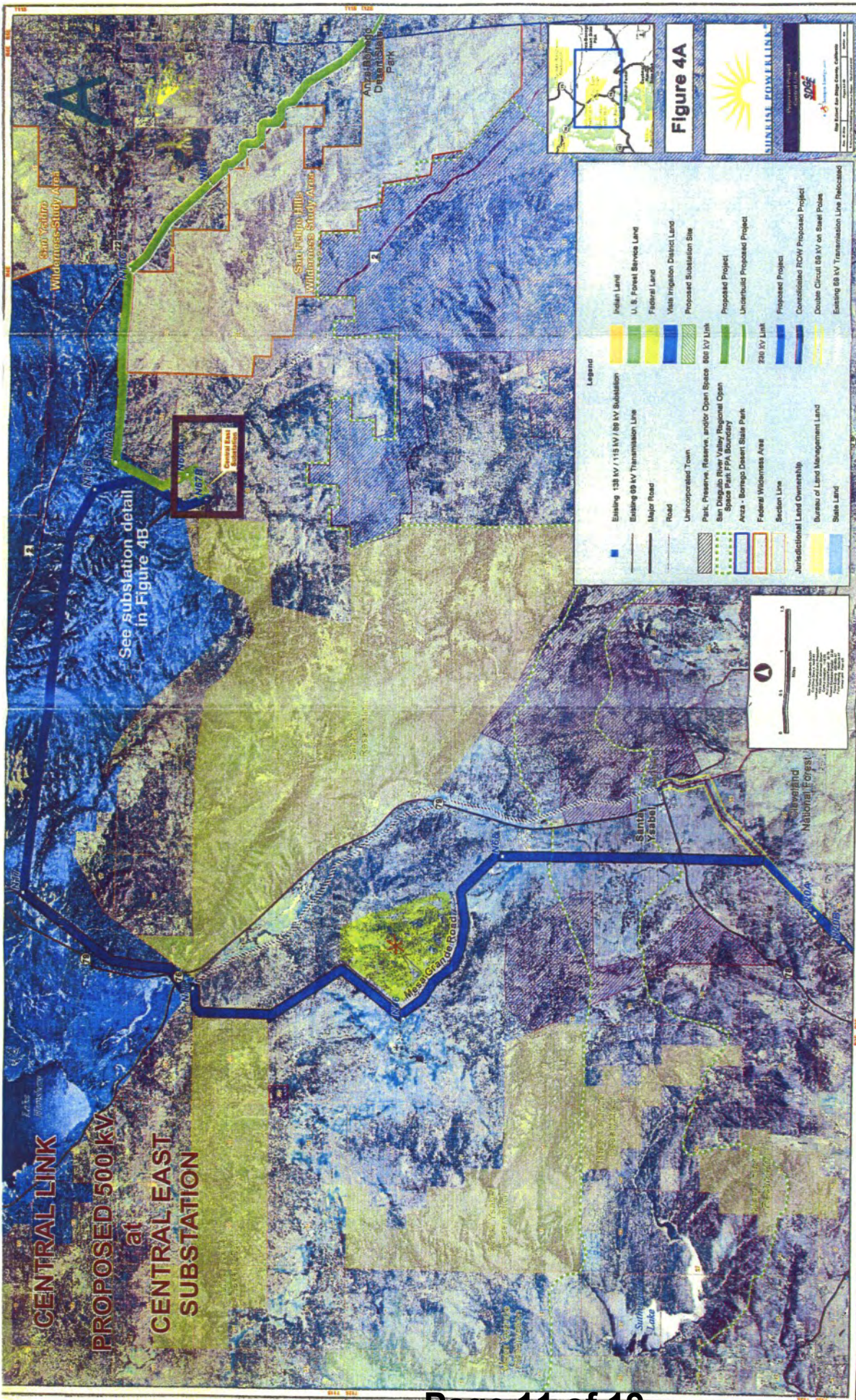


EXHIBIT D

EXHIBIT E

David H. Batchelder
12400 High Bluff Drive, Ste. 600
San Diego, CA 92130

February 23, 2007

Billie Blanchard, CPUC
Lynda Kastoll, BLM
c/o Aspen Environmental Group
235 Montgomery Street
Suite 935
San Francisco, CA 94104-3002

Dear Ms. Blanchard and Ms. Kastoll:

I am writing to comment on the scope and content of the EIR/EIS pursuant to the Notice of the Second Round of Scoping Meetings on Alternatives to the Proposed Sunrise Powerlink Project. My comments are as follows:

1. I support the Central Link alternatives retained – specifically, the Santa Ysabel Existing ROW Alternative and the Santa Ysabel Partial Underground Alternative (the “Retained Alternatives”) because either alternative would reduce visibility of the proposed 230kv lines as well as reduce agricultural impacts, safety and fire risk and impact on private property. Further, the retained alternatives would allow use of an existing transmission corridor.
2. The Retained Alternatives are superior to the loop from the intersection of Highways 76 and 79 to Mesa Grande Road and back to Santa Ysabel (from points 100 to 106 on the attached map) (the “Loop”), because the Loop (a) is about 1 3/4 miles longer; (b) climbs from 2500 feet at the intersection of Highways 76 and 79 to 4100 feet at its highest point, then back down to 3000 feet near Santa Ysabel; (c) crosses extremely difficult terrain and is therefore not inexpensive, especially along Mesa Grande Road; (d) is much more visually offensive since it travels along the crest of the hills for over one mile near point 103 on the attached map; and (e) as a result of its added length and higher elevation, it presents a greater safety and fire risk, and increases the agricultural impacts on nearby private property.
3. If the Loop is retained as the preferred route, I respectfully request that the route be modified in one of two ways as follows:
 - (a) straighten the proposed path between point 101 on the attached map and Mesa Grande Road (see red dotted line on the attached map) such that the proposed path remains along the base of the hills in the valley on the Cauzza property as opposed to the property line between Cauzza and Batchelder. This path would avoid the ponds and watershed in the valley on Cauzza’s property because the base of the hills is above the ponds and watershed. The property line between Cauzza and Batchelder is on the crest of hills and

would cause the transmission line towers to be placed at high points including a peak of 4100 feet with 360° views for miles including from Mesa Grande Road, Highway 79, Highway 78 and the Santa Ysabel Valley. It should be unacceptable for all involved to place the transmission lines and towers on the crest of the hills between the Cauzza and Batchelder properties for about one mile near point 103 on the attached map; or

(b) follow the more westerly property line between Cauzza and Bloomdale along the valley avoiding to the extent possible the ponds and watershed in the valley on Cauzza's property (see black dotted line on the attached map) and underground the line along Mesa Grande Road on the attached map to where the line would otherwise go over two homes.

4. Finally, I respectfully request that you eliminate from consideration as an access road my private road, Green Oaks Drive, and the creation of one or more new access roads from Green Oaks Drive to that section of the proposed transmission line which includes point 103. The reason for the elimination of my private road is that it is located 1000 to 2200 feet away from the proposed path of the transmission lines and is being considered solely out of convenience, and not necessity. The reason for the elimination of the creation of one or more new access roads from Green Oaks Drive is that such new access roads would physically and visually subdivide my property, and are being considered solely out of convenience, and not necessity. At best, use of my private road and the creation of one or more new access roads from my private road would run to between one and three points on the transmission line which includes point 103, and to reach any other locations on the line would still require an access road to be built under the transmission line. In order to minimize the impact on my private property, SDG&E should build their access road under the transmission lines to the extent possible, and not utilize my private road and create new access roads from my private road.

I have discussed the foregoing with representatives of San Diego Gas & Electric (Mike Niggli, Dave Geier, Laura McDonald and Lynn Trexel) as well as Mr. Tom Murphy and other representatives of The Aspen Environmental Group. I ask that you consult with them regarding this matter since they have seen firsthand the extreme visual impacts of the proposed path along the Cauzza/Batchelder property line.

During the preparation of this letter, I've been informed by San Diego Gas & Electric that it is recommending to the CPUC a new route for the Central Link in the vicinity of my property, which new route is referred to as the Mesa Grande Alternative. San Diego Gas & Electric courteously shared with me the routing of the Mesa Grande Alternative, and its reasons for that alternative. Based thereon, I support the Mesa Grande Alternative over the alternatives discussed in Paragraphs 3(a) and 3(b) of this letter.

I appreciate your serious consideration of my comments. Please contact me at 858-704-3301 if you desire any additional information.

Yours truly,



David H. Batchelder

ccs:

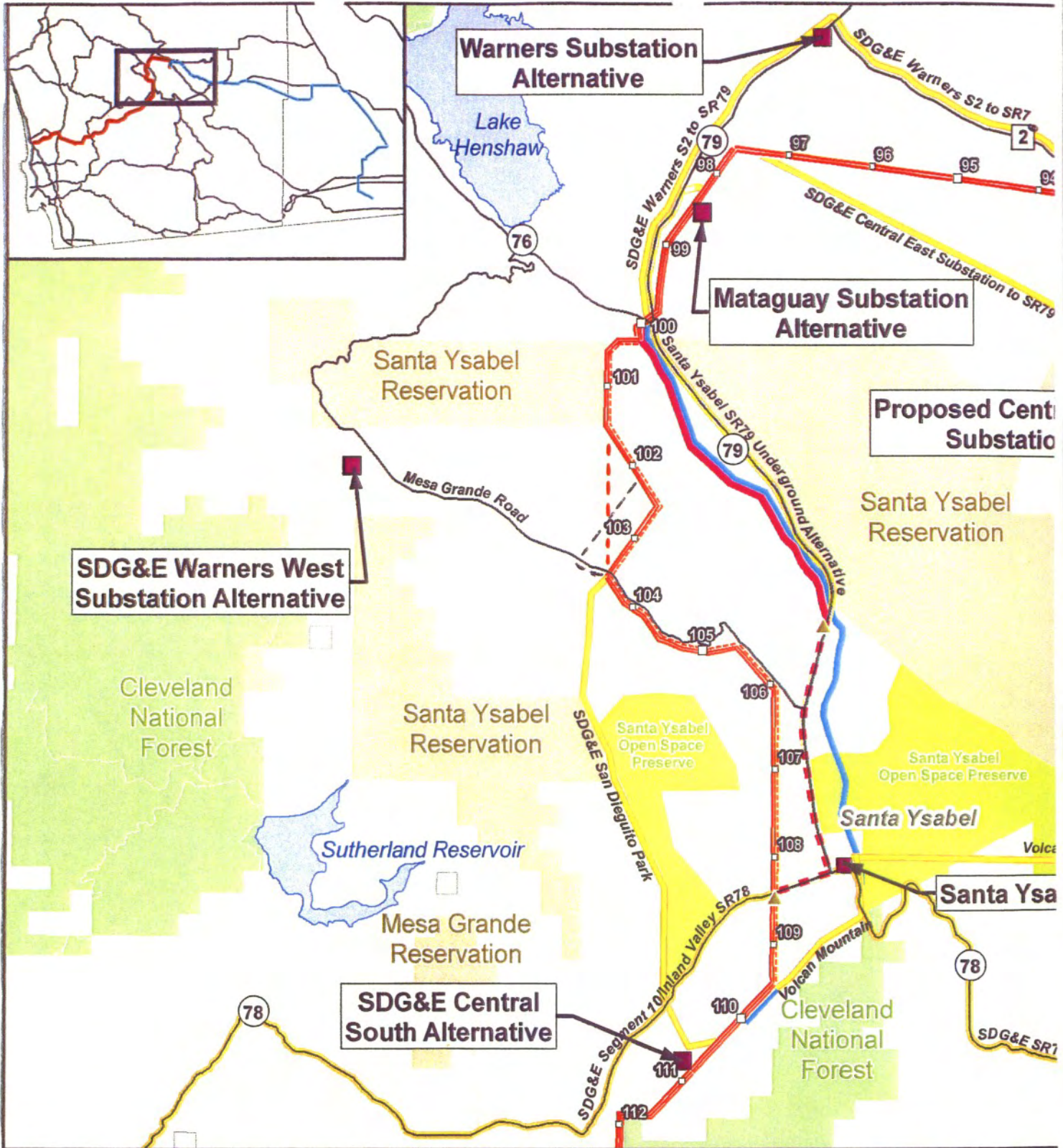
San Diego Gas & Electric

Attn: Mike Niggli

David Geier

Laura McDonald

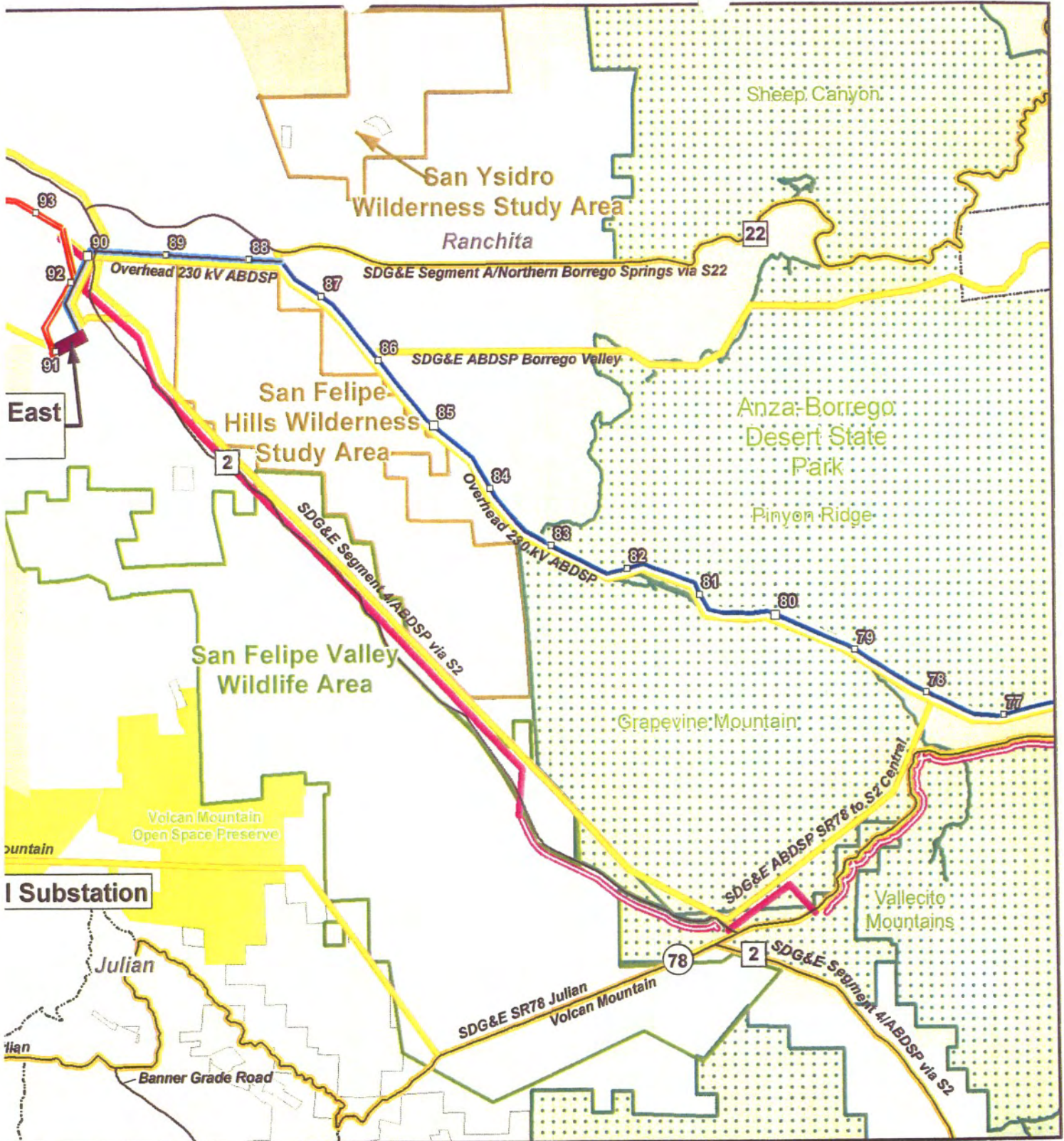
Lynn Trexel



PREPARED BY **Aspen Environmental Group**

0 1 Miles
0 7,000 Feet

- Proposed Project 500 kV Overhead with 69 kV Underbuild
- Proposed Project 500 kV Overhead
- Proposed Project Double-circuit 230 kV Overhead
- Proposed Project Double-circuit 230 kV Overhead Parallel to Existing 69 kV Line
- Proposed Project Double-circuit 230 kV Overhead Parallel to Relocated 69 kV Line
- 500 kV / 230 kV Substation
- 138 kV / 115 kV / 69 kV Substation
- ▲ Overhead-Underground Transition Structures
- 5 Milepost
- 1 Milepost
- Santa Ysabel Existing
- - - Santa Ysabel Partial
- Santa Ysabel Overhead
- Overhead Portion 2
- Underground Portion
- Alternative Routes
- Underground Alternative
- State Land
- State Park



OW Alternative		Tribal Land
derground Alternative		U.S. Forest Service Land
Portion		Federal Wilderness Area
V ABDSP SR78 to S2 Alternative		State Wilderness Area
0 kV ABDSP SR78 to S2 Alternative		Major Road
mmended for Elimination		Unincorporated Town
Routes Recommended for Elimination		Major Water Body
		Bureau of Land Management Land

Sunrise Powerlink Project

Figure 4
Central Link Alternatives