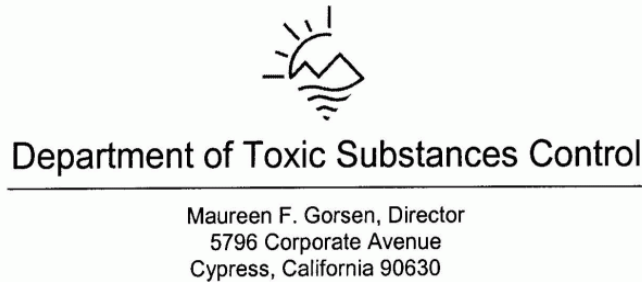


Comment Set A0026
California Department of Toxic Substances Control



April 8, 2008

Ms. Billie C. Blanchard
California Public Utilities Commission (CPUC)
235 Montgomery Street, Suite 935
San Francisco, California 94104

NOTICE OF PREPARATION OF A DRAFT ENVIRONMENTAL IMPACT REPORT
(EIR) FOR SUNRISE POWERLINK PROJECT (SCH#2006091071)

Dear Ms. Blanchard:

The Department of Toxic Substances Control (DTSC) has received your submitted (EIR) document for the above-mentioned project. As stated in your document: "SDG&E propose to construct a new 91-mile, 500 kilovolt (kV) electric transmission line from Imperial Valley Subdivision (in Imperial Valley, near the City of El Centro) to a new Central East Subdivision (in central San Diego County, southwest of the intersection of County Highways S22 and S2) and a new 59-mile 230 kV transmission line includes both overhead and underground segments from the new Central East Subdivision to SDG&E's existing Penasquitos Substation (in the City of San Diego)".

Based on the review of the submitted (EIR) document DTSC has comments as follow:

1. The draft EIR needs to identify and determine whether current or historic uses at the Project site have resulted in any release of hazardous wastes/substances at the Project area.
2. The draft EIR needs to identify any known or potentially contaminated sites within the proposed Project area. For all identified sites, the draft EIR should evaluate whether conditions at the site pose a threat to human health or the environment. A Phase I Assessment may be sufficient to identify these sites. Following are the databases of some of the regulatory agencies:
 - National Priorities List (NPL): A list is maintained by the United States Environmental Protection Agency (U.S.EPA).
 - CalSites: A Database primarily used by the California Department of Toxic Substances Control.

A0026-1

Comment Set A0026, cont.
California Department of Toxic Substances Control

Billie C. Blanchard
April 8, 2008
Page 2

- Resource Conservation and Recovery Information System (RCRIS): A database of RCRA facilities that is maintained by U.S. EPA.
 - Comprehensive Environmental Response Compensation and Liability Information System (CERCLIS): A database of CERCLA sites that is maintained by U.S.EPA.
 - Solid Waste Information System (SWIS): A database provided by the California Integrated Waste Management Board which consists of both open as well as closed and inactive solid waste disposal facilities and transfer stations.
 - Leaking Underground Storage Tanks (LUST) / Spills, Leaks, Investigations and Cleanups (SLIC): A list that is maintained by Regional Water Quality Control Boards (RWQCBs).
 - Local County and City maintain lists for hazardous substances cleanup sites and leaking underground storage tanks.
3. The draft EIR should identify the mechanism to initiate any required investigation and/or remediation for any site that may be contaminated, and the government agency to provide appropriate regulatory oversight. If hazardous materials or wastes were stored at the site, an environmental assessment should be conducted to determine if a release has occurred. If so, further studies should be carried out to delineate the nature and extent of the contamination, and the potential threat to public health and/or the environment should be evaluated. It may be necessary to determine if an expedited response action is required to reduce existing or potential threats to public health or the environment. If no immediate threat exists, the final remedy should be implemented in compliance with state laws, regulations and policies.
4. If the subject property was previously used for agriculture, onsite soils could contain pesticide residues. Proper investigation and remedial action may be necessary to ensure the site does not pose a risk to the future residents.
5. All environmental investigations, sampling and/or remediation should be conducted under a Workplan approved and overseen by a regulatory agency that has jurisdiction to oversee hazardous waste cleanup. The findings and sampling results from the subsequent report should be clearly summarized in the EIR.
- A0026-1 cont.

Comment Set A0026, cont.
California Department of Toxic Substances Control

Billie C. Blanchard
April 8, 2008
Page 3

6. Proper investigation, sampling and remedial actions, if necessary, should be conducted at the site prior to the new development or any construction, and overseen by a regulatory agency.
7. If any property adjacent to the project site is contaminated with hazardous chemicals, and if the proposed project is within 2,000 feet from a contaminated site, then the proposed development may fall within the "Border Zone of a Contaminated Property." Appropriate precautions should be taken prior to construction if the proposed project is within a "Border Zone Property"
8. Human health and the environment of sensitive receptors should be protected during the construction or demolition activities. A study of the site overseen by the appropriate government agency might have to be conducted to determine if there are, have been, or will be, any releases of hazardous materials that may pose a risk to human health or the environment.
9. If it is determined that hazardous wastes are, or will be, generated by the proposed operations, the wastes must be managed in accordance with the
10. California Hazardous Waste Control Law (California Health and Safety Code, Division 20, chapter 6.5) and the Hazardous Waste Control Regulations (California Code of Regulations, Title 22, Division 4.5).
11. If it is determined that hazardous wastes are or will be generated and the wastes are (a) stored in tanks or containers for more than ninety days, (b) treated onsite, or (c) disposed of onsite, then a permit from DTSC may be required. If so, the facility should contact DTSC at (818) 551-2171 to initiate pre application discussions and determine the permitting process applicable to the facility.
12. If it is determined that hazardous wastes are, or will be, generated by the proposed operations, the wastes must be managed in accordance with the California Hazardous Waste Control Law (California Health and Safety Code, Division 20, chapter 6.5) and the Hazardous Waste Control Regulations (California Code of Regulations, Title 22, Division 4.5). If so, the facility should obtain a United States Environmental Protection Agency Identification Number by contacting (800) 618-6942.
13. Certain hazardous waste treatment processes may require authorization from the local Certified Unified Program Agency (CUPA). Information about the requirement for authorization can be obtained by contacting your local CUPA.

A0026-1 cont.

Comment Set A0026, cont.
California Department of Toxic Substances Control

Billie C. Blanchard
April 8, 2008
Page 4

14. If during construction/demolition of the project, soil and/or groundwater contamination is suspected, construction/demolition in the area should cease and appropriate health and safety procedures should be implemented. If it is determined that contaminated soil and/or groundwater exist, the EIR should identify how any required investigation and/or remediation will be conducted, and the appropriate government agency to provide regulatory oversight.
15. In future CEQA documents, please provide the contact person's title and e-mail address.

A0026-1 cont.

If you have any questions regarding this letter, please contact me at (714) 484-5461 or call Mr. Al Shami, Project Manager, at (714) 484-5472 or at "ashami@dtsc.ca.gov".

Sincerely,



Greg Holmes
Unit Chief
Southern California Cleanup Operations Branch - Cypress Office

cc: Governor's Office of Planning and Research
State Clearinghouse
P.O. Box 3044
Sacramento, California 95812-3044

Mr. Guenther W. Moskat, Chief
Planning and Environmental Analysis Section
CEQA Tracking Center
Department of Toxic Substances Control
P.O. Box 806
Sacramento, California 95812-0806

CEQA # 2024

Responses to Comment Set A0026

California Department of Toxic Substances Control

- A0026-1 As discussed in Section D.10.3 of the Draft EIR/EIS, the Sunrise Powerlink Project would abide by all applicable regulations, plans, and standards at the federal, State and local levels and in accordance with CEQA and NEPA. The public safety mitigation measures related to contamination and hazardous materials listed in Table D.10-27 (Mitigation Monitoring Program – Public Health and Safety) would ensure that public safety impacts from contaminated sites and hazardous waste are minimized to the greatest extent possible, and compliance with all applicable regulations would be ensured as well. No further response is required because the comment does not address significant environmental issues of the Proposed Project or alternatives.

Comment Set A0027
U.S. Marine Corps Air Station Miramar



UNITED STATES MARINE CORPS

MARINE CORPS AIR STATION MIRAMAR
P.O. BOX 452001
SAN DIEGO CA 92145-2001

IN REPLY REFER TO:
5090 1751
10 APR 2008

California Public Utility Commission/Bureau of Land Management
C/o Aspen Environmental Group
235 Montgomery Street, Suite 935
San Francisco, CA 94104

SUBJECT: MARINE CORPS AIR STATION MIRAMAR COMMENTS ON
SUNRISE POWERLINK PROJECT DRAFT EIS/EIR

In-Area All-Source Generation Alternative

This new alternative identifies three power plants aboard Marine Corps Air Station (MCAS) Miramar. MCAS Miramar is a federal military installation dedicated to the national defense mission, which is of paramount importance in considering any land uses that may affect aircraft operations. The EIR/EIS should clarify that these power plants are merely notional examples of how such an alternative might be implemented if selected. The EIR/EIS should also clarify that the plants are located aboard Marine Corps property and that the Secretary of the Navy would determine whether such plants were an acceptable land use.

A0027-1

The San Diego Community Power Project (ENPEX) is a private proposal to build a 750 MW power plant somewhere aboard MCAS Miramar. The Secretary of the Navy has statutory authority to convey property to ENPEX for the project, but has not made a decision to do so. The proposal has not been the subject of an EIS, and an EIS is not scheduled for commencement. At this point, the eventual construction of the ENPEX power plant anywhere aboard MCAS Miramar is speculative.

A0027-2

The two "peaker" plants would be located aboard the Miramar Landfill, which is operated by the City of San Diego on land leased from the Department of the Navy. Any proposed development of the plants at this location would require detailed analysis of impacts to MCAS Miramar aircraft operations.

A0027-3

Any other power plants within the Airport Environs Overlay Zone surrounding MCAS Miramar would require detailed evaluation for compatibility with military operations.

A0027-4

Comment Set A0027, cont.
U.S. Marine Corps Air Station Miramar

Subj: MARINE CORPS AIR STATION MIRAMAR COMMENTS ON
SUNRISE POWERLINK PROJECT DRAFT EIS/EIR

Renewable Sources In-Area Alternative

A0027-5

Two "peaker" plants would be located aboard the Miramar Landfill, which is operated by the City of San Diego on land leased from the Department of the Navy. MCAS Miramar is a federal military installation dedicated to the national defense mission, which is of paramount importance in considering any land uses that may affect aircraft operations. The EIR/EIS should clarify that these power plants are merely notional examples of how such an alternative might be implemented if selected. The EIR/EIS should also clarify that the plants are located aboard Marine Corps property and that the Secretary of the Navy would determine whether such plants were an acceptable land use. Any proposed development of the plants at this location would require detailed analysis of impacts to MCAS Miramar aircraft operations.

Sincerely,



WILLIAM C. MOOG
Assistant Environmental
Management Officer
By direction of the
Commanding Officer

Copy to: Lynda Kastoll, BLM

Responses to Comment Set A0027

U.S. Marine Corps Air Station Miramar

- A0027-1 As discussed at the beginning of Section E.6 and in General Response GR-1, the projects considered under the New In-Area All-Source Generation Alternative in the Draft EIR/EIS are representative of reasonable generation scenarios, and are not intended to depend on the progress of contracts for individual utility projects. The capacity provided by conventional generation projects under this alternative would include at least 620 MW from a central station power plant plus 250 MW from multiple peaking power plants assumed to come online by 2008. Before a decision would be made on the design and location of the any facility on MCAS Miramar, each would be required to undergo a separate environmental review process as part of the permitting and decision process and the final decision on location would be determined by the Secretary of the Navy.
- A0027-2 The commenter's statement that an EIS has not been yet prepared for the ENPEX Project and his description of the ENPEX project as speculative are acknowledged. Please see General Response GR-1 for a discussion of the current status of the ENPEX project.
- A0027-3 As discussed under Response to Comment A0027-1, before a decision would be made on the design and location of the any peaking facility on MCAS Miramar, each would be required to undergo a separate environmental review process as part of the permitting and decision process and this would include an analysis of impacts to aircraft operations.
- A0027-4 Response A0027-3 would apply to any proposed power plant developed as part of the New In-Area All-Source Generation Alternative on MCAS Miramar.
- A0027-5 The beginning of Section E.6 in the Draft EIR/EIS and General Response GR-1 both state that the projects considered under the New In-Area All-Source Generation Alternative, such as the peaker plants on the Miramar Landfill, are representative of reasonable generation scenarios, and are not intended to depend on the progress of contracts for individual utility projects. Permitting of the peaker plants and legal feasibility of the projects would depend on approval from the Secretary of the Navy and MCAS Miramar.

Comment Set A0028
City of San Diego - City Attorney

OFFICE OF
THE CITY ATTORNEY
CITY OF SAN DIEGO
MICHAEL J. AGUIRRE
CITY ATTORNEY

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1200 THIRD AVENUE, SUITE 1620
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April 11, 2008

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

Re: Draft EIR/EIS for Sunrise Powerlink Project
CPUC Case No. 06-08-010

To Whom it May Concern:

Having reviewed the referenced Draft Environmental Impact Report/Environmental Impact Statement [DEIR], I must express my concerns about San Diego Gas & Electric's [SDG&E's] proposed Sunrise Powerlink Project [Project]. As a general matter, the Project's significant environmental impacts do not appear, from the DEIR, to be either susceptible to adequate mitigation or justifiable by overriding considerations. Further, the DEIR has failed to consider all necessary aspects of the Project, in that impermissible piecemealing is evident. Based upon substantial evidence in the DEIR's administrative record, including these comments, it is evident a fair argument can be and has been made that significant impacts may occur that have not yet been adequately evaluated. As a consequence, the DEIR, including the scope of the proposed project, other project alternatives and mitigation, should be amended and recirculated to reflect additional analysis and evidence. See CEQA Guidelines §§15065 and 15088.5.

I. The DEIR Suggests that a Statement of Overriding Considerations Cannot be Supported.

A fundamental tenet of environmental law in California, under the California Environmental Quality Act [CEQA], is that where a proposed project would have significant adverse environmental consequences that could not be mitigated, it may only be approved if, with respect to *each such effect*, the record contains substantial evidence to support a finding that "specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment." CEQA, §21081(b); *see also* CEQA Guidelines, §§15091(b) and 15093; *Village Laguna of Laguna Beach, Inc. v. Board of Supervisors* (1982) 134 Cal. App. 3d 1022 (finding must be stated and supported by substantial evidence, and accompanied by an explanation of how the evidence supports the finding).

A0028-1

Comment Set A0028, cont.
City of San Diego - City Attorney

CPUC/BLM

-2-

April 11, 2008

Thus, the CPUC is required to trace the "analytic route" from raw evidence to its conclusions. 11 Cal. 3d at 515, 113 Cal.Rptr. at 841. As highlighted by the California Supreme Court, these findings requirements will mean the lead agency will "draw legally relevant subconclusions supportive of its ultimate decision" that would "facilitate orderly analysis and minimize the likelihood that the agency will randomly leap from evidence to conclusions." 11 Cal. 3d at 516. Findings cannot simply contain bare conclusions. See CEQA Guideline Section 15091. *Rio Vista Farm Bureau Ctr. v. County of Solano* (1992) 5 Cal. App. 4th 351, 373; *Sacramento Old City Ass'n v. City Council* (1991) 229 Cal. App. 3d 1011, 1034; *Resource Defense Fund v. LAFCO* (1987) 191 Cal. App. 3d 886; *Citizens for Quality Growth v. City of Mt. Shasta* (1988) 198 Cal. App. 3d 433, 440; *Village Laguna of Laguna Beach, Inc. v. Board of Supervisors* (1982) 134 Cal.App. 3d 1022, 185 Cal.Rptr. 41. Findings can be supported by and incorporate by reference those facts found in the EIR or other documents in the record. However, this assumes that such facts exist in the record. Explicit written findings on an issue may be required when the record does not actually show the reason for the lead agency's action. See *Resource Defense Fund v. LAFCO* (1987) 191 Cal.App.3d 886, 236 Cal.Rptr. 794. See *CEB's Practice Under the California Environmental Quality Act*, V. 1, Ch. 17, Sections 17.22-17.28 (Rev. Nov. 2005).

A0028-1 cont.

At page ES-4 of the Executive Summary, the DEIR states that the Project would give rise to "50 significant, unmitigatable impacts." Most troubling among these, as stated at page ES-25, "because total construction GHG [greenhouse gas] emissions exceed the GHG reductions achieved due to avoided power plant emissions over 40 years of transmission line operation, the Proposed Project would cause an overall net increase in GHG emissions and a significant climate change impact." For a Project that has been sold to the public by the proponent as necessary to increase our reliance on renewable energy sources that reduce GHG emissions, this is a devastating conclusion. It calls into grave question the Project's environmental value, even if one assumes that the Project will lead to greatly increased use of renewable generation sources.

I see nothing in the DEIR that would suggest that overriding considerations would, or could, support approval of the Project despite this serious environmental harm, to say nothing of dozens of others. Indeed, the importance of this effect is underscored by the fact that California law, the Global Warming Solutions Act, AB 32, commits the state to a goal of an 80% reduction in GHG emissions by 2050 – exactly corresponding to the life of the proposed Project. It is difficult to imagine overriding considerations so powerful that they could justify knowingly moving California farther from this legislatively mandated goal. Certainly the DEIR reveals none. Unless such facts emerge in a manner that is not apparent in the DEIR, the law would potentially preclude Project approval as currently proposed.

**Comment Set A0028, cont.
City of San Diego - City Attorney**

CPUC/BLM

-3-

April 11, 2008

II. The DEIR Ignores an Obvious Foreseeable Expansion of the Project, Resulting in Unlawful “Piecemealing.”

A0028-2

It is fundamental law under CEQA that environmental analysis must consider not only the proposed Project as identified by its proponent, but also the “whole of the action” including any “future expansion” that is “a reasonably foreseeable consequence of the initial project” that will “likely change the scope or nature of the initial project or its environmental effects.” *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal. 3d 376, and *McQueen v. Board of Directors of the Mid-peninsula Regional Open Space District* (6th Dist. 1988) 202 Cal. App. 3d 1136, 1143; *see also* Remy & Thomas’ *Guide to CEQA* (11th Ed. 2007) at 92-93; *and see* CEQA § 21065 and CEQA Guidelines §15378.

The proponent’s application expressly states an intention that the Project will lead to a 500 kV “Full Loop” into Southern California Edison territory. *See* SDG&E August 4, 2006 Application, p. VI-4 (“The Full Loop would complete the 500kv loop through Southern California, connecting SCE’s 500kV Palo Verde-Devers-Valley-Serrano system to SWPL.”) As witness Bill Powers has observed in his Phase II testimony, “the Full Loop described by SDG&E is missing one piece, an interconnection between the Sunrise Powerlink’s Central substation near Lake Henshaw and the LEAPS 500 kV substation on Camp Pendleton’s northern boundary.” Bill Powers, March 12, 2008 Phase II Testimony for Powers Engineering, p. 15. Given that the Full Loop is a stated intention of the Project’s proponent, it can hardly be doubted that the interconnection that Mr. Powers describes is a “reasonably foreseeable” future expansion of the Project. The DEIR acknowledges the foreseeability of this expansion at page B-31, but fails to analyze it within the “whole of the action.” It is obvious that this foreseeable expansion would add environmental impacts beyond those of the Project as proposed. Even if not analyzed as a part of the Project, they should, at a minimum, have been analyzed as “cumulative impacts.” *Arviv Enterprises, Inc. v. South Valley Area Planning Commission* (2002) 101 Cal. App. 4th 1333; *see also* CEQA Guideline §§15064 and 15130. There is no reason to believe that the interconnection to SCE territory would, by itself, increase the use of renewables. However, construction of such a connection would likely produce GHG emissions in a manner similar to those resulting from the proposed Project. In all likelihood, then, the disturbing negative impact of the Project on overall GHG emissions over the Project’s life, described in Section I of this comment letter, would be exacerbated by the interconnection to SCE. The DEIR’s failure to analyze this possibility is a significant defect. *See also* CEQA Guidelines §§15082, 15121 and 15124.

In addition, the reasonably foreseeable consequence of the Project, with these additional transmission lines, is a potential environmental impact on or to the La Jolla Indian Reservation. Neither consultation with representatives of the La Jolla Indian Reservation nor analysis of these potential direct or cumulative impacts is reflected in the DEIR. *See* Bill Powers, March 12, 2008 Phase II Testimony, pp. 18, 20 and 21. *See* CEQA §§21104 and 21153, and CEQA Guidelines §§15064.5(d) and 15129.

A0028-3

**Comment Set A0028, cont.
City of San Diego - City Attorney**

CPUC/BLM

-4-

April 11, 2008

III. The DEIR Fails to Adequately Address an Aggressive, In-Basin Solar Rooftop Initiative.

A0028-4

As the ALJ reportedly recognized on the first day of testimony in Phase II, the March 27, 2008 application of Southern California Edison in Case No. A-08-03-015 demonstrated the viability of large scale deployment of solar rooftop installations in urbanized areas. Such installations would promote reliability, cost efficiency, and the use of renewables – three purported goals of the proposed Project – but would not require major transmission expansions like the proposed Project, and thus would likely involve few of the Project’s dozens of unmitigatable impacts. Despite this potential, evidenced by both the recent SCE application and the testimony of Bill Powers, the DEIR’s “New In-Area Renewable Generation Alternative,” presented at §E.5, fails to capture the very real possibility of hundreds of megawatts of rooftop solar installations in the San Diego load center, focusing instead on the possible deployment of a questionable solar technology near Borrego Springs. The failure of the DEIR to consider a large scale, in-basin solar deployment is a significant defect because it underestimates the potential for such a plan to achieve the proposed Project’s goals while minimizing environmental impacts. Under CEQA, the Project alternatives that must be considered “shall include those that could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects.” CEQA Guidelines §15126.6.

IV. The DEIR Fails to Adequately Analyze and Consider the Need for Reasonably Feasible Mitigation.

A0028-5

Many of the DEIR’s conclusions that certain impacts have been mitigated, or that other mitigation is infeasible, are not supported by the record. Furthermore, other reasonably feasible mitigation has yet to be fully explored. I refer the CPUC to the various comments in the record prepared by experts in their field to demonstrate why further analysis and clarification on the mitigation proposed is critical to a determination of the adequacy of the proposed Project and alternatives. Mitigation should consider reasonable and feasible on-site mitigation measures as well as appropriate off-site measures. See CEQA Guidelines §§15091, 15097 and 15126.4. For example, the Greenhouse Gas Emission impacts associated with the proposed project and its cumulative effect needed to be more fully analyzed. This would and should have included an analysis of the impacts associated with the Full Loop and the impacts associated with sources of energy generation.

The proposed project’s carbon dioxide emissions (both direct, indirect and cumulative) should be adequately quantified in order to determine appropriate on-site and off-site mitigation. For example, the project mitigation does not adequately address, where feasible, GHG indirect or cumulative impacts from sources of energy generation such as coal generation, other fossil fuels, liquefied natural gas and solar troughs. Solar troughs, for instance, require a substantial water supply which in turn will require substantial energy consumption to get the water to the solar thermal plant. See Bill Powers March 12, 2008 Phase II Direct Testimony pp. 3 and 4. Such energy reliance is a potential consequence of the Project as proposed. The GHG reduction

A0028-6

Comment Set A0028, cont.
City of San Diego - City Attorney

CPUC/BLM

-5-

April 11, 2008

benefits of the proposed Project should be compared against the GHG increases associated with the proposed Project, in order to analyze the net effect and feasible mitigation. *See Bill Powers San Diego Smart Energy 2020*. If, after analyzing and requiring all reasonable and feasible on-site mitigation measures for avoiding or reducing greenhouse gas-related impacts, the CPUC determines that additional mitigation is required, then the CPUC should consider additional off-site mitigation. Examples of off-site mitigation might include, after appropriate analysis, funding off-site mitigation projects (e.g., other alternative energy projects, or energy or water audits for existing projects) that will reduce carbon emissions; conducting an audit of SDG&E's other existing operations and agreeing to retrofit; or, purchasing carbon "credits" from another entity that will undertake mitigation. *See Office of the California Attorney General Global Warming Measures* at page 4, Updated: 3/11/08. For an example of concerns and recommendations raised by the California Attorney General on recent projects relating to GHG, see Attorney General Comments on the Chevron Energy and Hydrogen Renewal Project and Draft Environmental Impact Report (Project No. 1101974; SCH# 2005072117), dated July 9, 2007 and March 6, 2008; Attorney General Comments on the Great Valley Ethanol Final Environmental Impact Report, Hanford, Kings County, dated February 19, 2008; and, Attorney General Comments on the Notice of Preparation of EIR For American Ethanol Inc. Com Ethanol Plant, dated January 28, 2008.

A0028-6 cont.

V. Conclusion

The DEIR, despite the shortcomings outlined in these comments, reaches numerous important conclusions and raises and analyzes countless important issues. Most important, it concludes that the proposed Project ranks nearly at the bottom of the various alternatives in terms of environmental impacts. Further, it suggests nothing that would justify approval of this apparently environmentally inferior proposal in spite of the environmental harms identified. If anything, as discussed here, the DEIR may underestimate the environmental superiority of at least some alternatives. In light of this, it seems likely that, absent major new revelations, the Project cannot be approved as currently proposed.

A0028-7

In a March 25, 2008 letter, I expressed my concern to SDG&E over its apparently imminent failure (stated in a recent SEC filing) to meet state requirements to include 20% renewables in its generation portfolio by 2010. SDG&E, as a franchised utility, owes the City a contractual duty to comply with all applicable laws regarding the use of its facilities in City right-of-way. The City has, for years, been critical of SDG&E's exclusive reliance on transmission expansions as a means of increasing use of renewables.

A0028-8

Based upon substantial evidence in the DEIR's administrative record, including these comments, it is evident a fair argument can be and has been made that significant impacts may occur that have not yet been adequately evaluated. As a consequence, the DEIR, including the scope of the proposed project, other project alternatives and mitigation, should be amended and recirculated to reflect additional analysis and evidence. *See CEQA Guidelines* Section 15065 and 15088.5.

A0028-9

Comment Set A0028, cont.
City of San Diego - City Attorney

CPUC/BLM

-6-

April 11, 2008

Thank you for considering these comments.

Sincerely yours,

MICHAEL J. AGUIRRE, City Attorney

By



Michael J. Aguirre
City Attorney

MJA:MPC:sc

Responses to Comment Set A0028

City of San Diego - City Attorney

- A0028-1 If the CPUC approves a project with significant unavoidable impacts, the Findings and Statements of Overriding Considerations will fully comply with Pub. Res. Code § 21081(b) and CEQA Guidelines §§ 15091(b) and 15093 and all applicable case law.
- Please see General Response GR-8 (Greenhouse Gas (GHG) Impacts of Sunrise Powerlink Project and Non-Wires Alternatives) for an explanation of the conclusion that the Proposed Project would cause an overall net increase in GHG emissions.
- A0028-2 Please see Responses to Comments C0225-1, B0012-10 and B0012-12. See also General Response GR-8.
- A0028-3 Please see Response to Comment B0012-13.
- A0028-4 Although the CPUC policies on solar rooftops are not within the scope of the Sunrise Powerlink general proceeding, the Draft EIR/EIS considers expansion of the solar rooftops programs as part of the New In-Area Renewable Generation Alternative. Please see General Response GR-2, Solar Photovoltaic (PV) and Response to Comment C0081-3 for a discussion of solar rooftop initiatives.
- A0028-5 The Draft EIR/EIS includes an analysis of greenhouse gas impacts and identifies reasonable and feasible mitigation measures under Impact AQ-3 and Impact AQ-4 primarily in Section D.11.13.2, but also in Section D.11.11.4 where the impacts of the Full Loop or 500 kV Future Transmission System Expansion are identified. See General Response GR-8 for information on power plant-related GHG emissions.
- A0028-6 Sources of greenhouse gases that generate electricity are not part of the Proposed Project, but where they are part of alternatives, GHG impacts are identified (see Impact AQ-4 throughout, especially Mitigation Measure AQ-4d in Section E.6.11 for the New In-Area All-Source Generation Alternative). Please also see Responses A0013-11 and B0012-2. See Response A0028-5 and General Response GR-8 regarding purchasing carbon credits from another entity that will undertake mitigation.
- Mitigation Measures AQ-4a and AQ-4b provide a reasonable and feasible way to reduce the GHG impact. Onsite reductions, or avoiding GHG emissions that would otherwise occur, could be used for compliance with these measures so long as the reductions are measurable (this means real and surplus) and sufficient in quantity, but the analysis recognizes that an accurate and transparent market is evolving. One way for SDG&E to implement these measures could be by reducing the GHG emissions from its own activities. Generating power from renewable sources to offset operation of its fossil fuel-fired power plants, retrofitting or replacing its vehicle fleet, or by reducing energy consumption by its own facilities are all available options, provided they are creditable. Offsite reductions could also occur. Implementing the mitigation measures could also lead SDG&E into a carbon reduction market that would otherwise be voluntary. There is only a narrow range of carbon reduction project types that currently have established protocols with the California Climate Action Registry: landfills, forests, or livestock. These would be

considered by the CPUC during implementation. See also Response A0013-11 for revisions to the mitigation measures for the Final EIR/EIS.

A0028-7 The Draft EIR/DEIS analyses of alternatives comply with the requirements of CEQA, are comprehensive, and do not underestimate the environmental superiority of some of the alternatives.

A0028-8 Please see General Response GR-5: Status of Renewable Generation Projects in the Imperial Valley, Eastern San Diego County, and Northern Mexico for a discussion of the state requirements to include 20% renewable.

A0028-9 Pursuant to CEQA Guidelines § 15126.2, the EIR has identified and focused on the significant environmental effects of the Proposed Project and its alternatives. Direct and indirect significant effects of the project on the environment are clearly identified and described, giving due consideration to both the short- and long-term effects. Pursuant to CEQA Guidelines § 15126.4, all feasible mitigation measures were considered and discussed.

Under CEQA, recirculation is required when significant new information changes the EIR in a way that “deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect.” New information may include changes in the project or environmental setting as well as additional data or other information. The CEQA Guidelines provide the following four examples of “significant new information” that trigger recirculation:

(1) A disclosure that a “*new significant environmental impact* would result from the project or from a new mitigation measure proposed to be implemented.”

(2) A disclosure that a “*substantial increase in the severity of an environmental impact* would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.”

(3) A disclosure that a “*feasible project alternative or mitigation measure* considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project’s proponents decline to adopt it.”

(4) “The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.”

Recirculation of the Draft EIR resulted from the first two items above, as well as from the requirement to provide a meaningful opportunity to comment on certain route modifications that do not result in new significant impacts.

Under NEPA (40 CFR 15029(c)(1)), a Supplement to an EIS is required when there are significant new circumstances or information relevant to the environmental concerns related to the proposed project or its impacts. In this case, the new information involves changes to the “connected actions” analyzed in the Draft EIR/EIS and route revisions (“reroutes”) proposed by SDG&E in comments on the Draft EIR/EIS.

As a result, the Recirculated Draft EIR/Supplemental Draft EIS was published on July 8, 2008. Beyond what was included in the Recirculated Draft EIR/Supplemental Draft EIS, there is no new analysis or evidence which requires recirculation of the document.

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