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August 25, 2008

BY EMAIL

Ms. Billie C. Blanchard
 California Public Utilities Commission
 Ms. Lynda Kastoll, U.S. Bureau of Land Management
 EIR/EIS Project Managers
 C/o Aspen Environmental Group
sunrise@aspeneg.com

Re: A.06-08-010 Recirculated Draft Environmental Impact Report/Supplemental Draft Environmental Impact Statement

Dear Ms. Blanchard and Ms. Kastoll,

The Mussey Grade Road Alliance submits the attached comments in the above referenced matter. As the deadline for these comments is today, August 25th, these comments are submitted timely.

The Alliance is deeply disappointed in the decision to not include in this recirculated Draft EIR/EIS the issue of changed conditions in the aftermath of the October 2007 fires in the project area, particularly in the areas burned in both the 2003 and 2007 fires that are now subject to biological "type conversion."

There seems to be a misunderstanding regarding the facts concerning the massive changes that may occur in wide swaths of San Diego County should type conversion take place in connection with this proposed power line project. The facts are, simply put, that:

- 1. The severity of environmental impacts has substantially increased due to the October 2007 fires.**
- 2. Power line fires remain the greatest risk to the environment from the proposed project and this risk is increased due to the October 2007 fires.**
- 3. The risk of type conversion from power line fires satisfies CEQA requirements for recirculation based on substantial increase in the severity of an environmental impact, Trigger #2.**

Therefore, the Alliance rejects the completeness of the RDEIR based on the exclusion of updated biological surveys and other necessary work, including a detailed analysis of potential type conversion as a result of the proposed project. The Alliance objects to the rationalization that the probability of type conversion is small in this case and that any study of this type would be speculative. The Alliance has laid out for the Commission and the BLM the facts regarding the potential of type conversion. This was done *prior* to the October 2007 Firestorm. Now that the re-burning of large portions of San Diego County has occurred, a recirculated Draft EIR is critical to establishing baseline conditions on the ground in light of the possibility of the proposed project being built in re-burned areas subject to type conversion.

Finally, we outline this challenge to the RDEIR based on our best intention to give the Commission and the Bureau the tools needed to understand the gravity of the problem of type conversion and to measure that problem. The Alliance has never asked the Commission or the Bureau to do something that cannot be done. Furthermore, several of the arguments made in support of the decision not to recirculate lack merit. For example, the statement that:

The DRAFT EIR/EIS acknowledges that type conversion is a potential impact of the project, and it would be significant and unavoidable should it occur. Mitigation Measure B-3a Weed Control Plan, would help reduce the colonization of weeds in the project areas post fire. Further biological surveys to identify potential impacts of type conversion are unwarranted, and recirculation of the Draft EIR/EIS for this reason is not required. p. 1-5, RDEIR

Short of mapping out the parameters of a major type conversion problem, there is no explanation of how a weed control plan restricted to the project area would assist in reducing the damage to an entire biological system covering tens of thousands of acres.

The RDEIR is short-sighted and inadequate in its treatment of the potential destruction of whole pristine areas of San Diego backcountry brought on by future power line fires caused by this line. The Alliance requests that the Commission and the Bureau recognize that that CEQA test has been met regarding substantial increase in severity of an environmental impact and do the work to outline what that would look like and what mitigation would need to be established.

Thank you.

Sincerely,

/s/ Diane Conklin

Diane Conklin
Spokesperson

**Sunrise Powerlink Transmission Line Project
Application No. 06-08-010
MGRA Comment on Recirculated Draft EIR**

***MGRA Comment on the Recirculated Draft
Environmental Impact Report, August 2008***

Introduction

The Mussey Grade Road Alliance provided extensive commentary on the Draft Environmental Impact Report¹ and which was included both in the Alliance testimony and as a timely comment letter to the CPUC and BLM. In those comments the Alliance also requested a recirculation of the Draft EIR/EIS based on the substantial changes to the environment caused by the October 2007 fires that affected the project area and its surroundings.

The current recirculated draft EIR (RDEIR) specifically rejects recirculation based on changed environmental conditions due to the recent catastrophic fires in San Diego County, stating the reasons for non-inclusion in section 1.3 of the document². The Alliance believes that the arguments used are flawed, objects to the manner in which these changed environmental conditions have been conclusory dismissed in the RDEIR and requests a recirculation of the document for the reasons outlined below.

**Severity of Environmental Impacts Has Substantially Increased
Due to the October 2007 Fires**

In Section 1.1 of the RDEIR, the authors define the “triggers” for recirculation as defined under CEQA3:

- (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.”

¹ MG-20; PHASE 2 DIRECT TESTIMONY OF THE MUSSEY GRADE ROAD ALLIANCE; Appendix 2E.

² Recirculated Draft Environmental Impact Report/Supplemental Draft Environmental Impact Statement; San Diego Gas & Electric Company's Sunrise Powerlink Project (Applications A.05-12-014 and A.06-08-010); *Prepared for:* California Public Utilities Commission and Bureau of Land Management; *Prepared by:* Aspen Environmental Group, San Francisco, California; July 2008. (RDEIR). p. 1-4 – 1.6.

³ RDEIR; p. 1-1

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(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.”

Hence, recirculation is warranted if *any* of these trigger conditions are met. The Alliance maintains that it is the second trigger condition – that of severity – that has and still warrants additional study by Aspen on behalf of the CPUC and BLM, and subsequent recirculation.

The authors have argued that the severity of environmental impact – specifically the phenomenon of “type conversion”, or replacement of native habitat by invasive weeds – has already been designated as a “Class 1” environmental impact: “Type conversion is addressed in Section D.2.5 of Volume 1 and Section G.14 (Impact F-6) of Volume 5 of the Draft EIR/EIS, and is identified as a significant, unavoidable (Class I) impact...”⁴.

They also state the acknowledgement that type conversion is a cumulative phenomenon: “*Type conversion is largely a cumulative problem: it depends on the time since the last fire (ignited by any source), on the number of other ignitions from all other sources, and on such things as land use policy changes and road-building.*”⁵

The Alliance request for recirculation was specifically issued *because* of the cumulative nature of type conversion risk. **It was observed that a substantial portion of the proposed routes lie within the area burned by both the 2003 and 2007 fires**⁶. These areas are place under particular environmental stress, and even in the absence of the SPL project or any other disturbance may be hard-pressed to recover to their previous biological baselines⁷.

However, the RDEIR asserts that “*Although the fires of last fall did temporarily change the environmental setting of the region, especially in terms of biological resources and visual resources, the majority of the burn areas are expected to recover with similar habitat values, and eventually they will look similar to how they did before the fire.*”⁸

This statement is only true as insofar as: 1) the area in question did not burn in *both* fires (approximately 100,000 acres of San Diego County burned in 2003 re-burned in

⁴ RDEIR, p. 1-4.

⁵ Ibid.

⁶ MG-20; Appendix 2E; p. 8.

⁷ C-19; PHASE II DIRECT TESTIMONY OF RICHARD HALSEY ON BEHALF OF THE CENTER FOR BIOLOGICAL DIVERSITY AND THE SIERRA CLUB; p. 8.

⁸ RDEIR, p. 1-4.

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2007), and 2) the area in question is subject to no further disturbances during its recovery period. As shown in Figure 2E-1 of Appendix 2E of the MGRA Phase 2 testimony⁹, substantial segments of northern proposed routes and the southern alternative pass through areas that have been burned in both fires. Furthermore, the impacts due to “road building” mentioned in the RDEIR, and other disturbances, will be substantially increased by activities associated with Sunrise Powerlink construction and maintenance. These are now highly sensitized areas, *and the construction of maintenance roads and the power line itself can be expected to have dramatically greater impacts than if the project were being constructed in a robust ecosystem.* It is precisely the magnitude and type of this impact that needs to be addressed by the final EIR.

As far as the requirement for recirculation, the authors argue that the impact from potential type conversion has already been designated as a “Class I” impact with significant and unavoidable consequences. This is already the most severe classification. **However, there is still a difference in severity between potential Class I impacts (which would have still existed prior to the October 2007 fires, and which are addressed in the Draft EIR), and Class I impacts that have been actualized and now will definitely effect construction along the proposed routes (which have *not* been included in the Draft EIR).** The *likelihood* of permanent damage to the environment neighboring the SPL route due to line construction has increased substantially as a result of the fires – and therefore the severity of the impact has also increased. This falls under the “type 2” trigger for recirculation of the EIR.

Another increase in the severity of the potential impact is due to a substantive increase in the *size* of the area affected. This is addressed in the next section.

Power line fires remain the greatest risk to the environment from the proposed project and this risk has increased due to the October 2007 fires

The authors of the RDEIR argue that since the probability of power line fire is small, that the risk can be discounted: *“Since power line fires generally make up only 1% of ignitions, and high-voltage lines make up about 3% of these, and because few of these fires are large, it would be unduly burdensome to carry out a detailed analysis of potential type conversion as a result of the project, because the probability of it occurring is small, and depends on a number of complex, cumulative factors.”*¹⁰

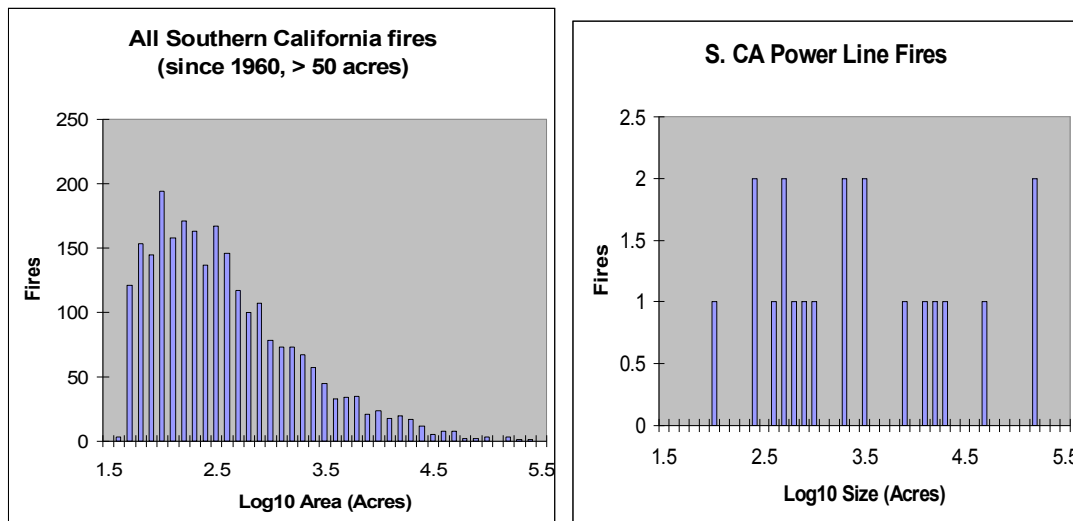
⁹ MG-20; Appendix 2E; p. 8.

¹⁰ RDEIR, p. 1-4.

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As pointed out repeatedly in the Alliance testimony and briefs, the probability that is most relevant to the discussion of environmental and economic risk from this project is how many fires *this project* would be expected to cause¹¹. The whole point of the MGRA testimony is to put this potential for a catastrophic fire event caused by this power line should it be built in a proper quantitative context.

Restating our arguments: this is a very long line that goes through flammable vegetation for a considerable portion of its length, and which will be in place for a very long period of time. Additionally, **power line fires are *not* like other fires. Because they tend to start under high wind conditions, they statistically tend to be much larger than other fires.** While the size distribution of all wildland fires tends to drop off rapidly (as a power-law) with increasing fire size, the size of power line fires tends to be “logarithmically flat” – the probability of having a fire between 100 and 200 acres appears to be the same as having one between 100,000 and 200,000 acres¹². Now that the combined fire datasets for 2007 have been released by Cal Fire, we can show that **the data from 2007 continues to support this assertion, as shown in the graphs below:**



It is virtually impossible that the power line fires shown in the second graph arise from the same causal effects responsible for the shape of the first graph. It should be pointed out that fire professionals gauge their expectation for fire size probabilities on their historical observations – and these will be represented by graph on the left. This is one reason that some fire professionals, such as SDG&E’s fire expert, tend to downplay the power line wildland fire threat. Hence the comment that “few of these fires are large”

¹¹ Mussey Grade Road Alliance; MUSSEY GRADE ROAD ALLIANCE REPLY BRIEF TO PHASE 2 OPENING BRIEF OF SAN DIEGO GAS & ELECTRIC COMPANY; A.06-08-010; June, 2007, p. 4.

¹² MG-1; Phase 1 Direct Testimony of the Mussey Grade Road Alliance; p. 38.

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(footnote or explanation of this quoted material?) should be restated – **few fires are large, but power line fires are *much* more likely to be large than other types of fires.**

The RDEIR comment that high voltage lines cause 3% of power line fires is deceptive, and should be removed in the final version or properly restated. This fraction is primarily the result of the fact that there are many more miles of distribution lines than transmission lines in San Diego County. Stated as it is in the RDEIR, it implies that transmission lines are 33X safer than distribution lines, an implication that would be grossly incorrect. If we normalize for the number of fires per unit time per mile, as the Alliance did in its Phase 1 and Phase 2 testimony, we find that the fire start rate is only 3 times larger for distribution lines than transmission lines¹³.

Because the Alliance performed these rate calculations, it allows an estimation of the total risk that fires could be started by the proposed line. Depending on assumptions made about the typicality of SDG&E's data set, the route chosen, safety of 500 kV lines and system expansion, **the MGRA estimated that between 1 and 10 ignitions could reasonably be expected for the line during its 40 year lifetime¹⁴. The risk of catastrophic fire was estimated to be between 2% and 10% over the lifetime of the line, a result fully consistent with those from SDG&E fire history data including the October 2007 fires¹⁵.**

Type conversion can occur when fires burn the same area too frequently. Hence there are two ways in which a catastrophic fire started by SPL can cause significant environmental damage: 1) the fire burns over scars of fires that occurred less than 15 years before, or 2) fires that occur up to 15 years after the SPL fire overlap the SPL fire scar. The October 2007 fires demonstrate how serious the problem of overlapping fire scars could be – 100,000 acres of land that burned in the October 2007 fires had previously burned in the October 2003 fires¹⁶. Between the October 2007 fire scars and the October 2003 fire scars, extensive areas of San Diego County have been left sensitized to future disturbances. Hence **the impact of a potential fire started by SPL is greatly increased by the presence of these burn areas in the vicinity of the line.**

In order for a catastrophic fire started by the SPL to cause significant and irreversible environmental damage, it must overlap scars left by the October 2003 or October 2007 fires, or any future fire scars within the lifetime of the line. This damage must also occur before the fire scar has time to recover – at least a period of 15-20 years¹⁷. Hence, not all potential fires, nor all of the areas subtended by these potential fires, are necessarily going to cause permanent environmental damage. However, the

¹³ MG-20; Phase 2 Testimony of the Mussey Grade Road Alliance; App. 2D; p. 10.

¹⁴ Ibid; p. 14.

¹⁵ MGRA Phase 2 Opening Brief; pp. 59-60.

¹⁶ MG-20; Phase 2 Testimony of the Mussey Grade Road Alliance; App. 2A; pp. 14-17.

¹⁷ C-19; PHASE II DIRECT TESTIMONY OF RICHARD HALSEY ON BEHALF OF THE CENTER FOR BIOLOGICAL DIVERSITY AND THE SIERRA CLUB; p. 8

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probability, especially in the aftermath of the recent firestorms, is significant, and the October 2007 fires increased this substantially.

The RDEIR argues that the probability of such damage is too small to be taken seriously. We have dismissed some of these probability arguments, showing that **the 3% value for transmission lines does not take into account the length of line strung, and showing that the probability of catastrophic fire is much larger for power line fires than for fires started by other means.** While overall probabilities may not be large, they are not negligible, and **should not be dismissed** as the RDEIR purports to do. As to the impacts, they can be extremely significant. Taking the example of the Witch Fire – a power line fire started by a 69 kV transmission line – 55,000 acres were burned that had burned in the October 2003 fires¹⁸, and which are now subject to type conversion. **No other environmental impact of the SPL has the potential for extensive harm outside of the immediate area of the line itself.**

By adding 55,000 acres of critically impacted (doubly burned) land and an additional 108,000 acres of sensitized land (burned in 2007 only)¹⁹ to the immediate vicinity of both the preferred and Environmentally Superior Southern Route, **the Witch Fire substantially increased the probability that fires caused by the power line or any activities associated with it will cause permanent environmental damage.**

The Alliance has suggested that one mitigation option that would reduce risk would be to avoid routes going through these areas: *“If a line is approved, transmission routes should be avoided which pass through the fire-scars of the 2003 and 2007 firestorms, including the Witch Fire, Harris Fire, Mine/Otay Fire, and Cedar Fire footprints.”*²⁰

The risk of type conversion from power line fires satisfies CEQA requirements for recirculation based on the substantial increase in the severity of an environmental impact, Trigger #2

Because circumstances have arisen which have increased the severity of environmental impacts unless mitigation measures are undertaken and due to the fact that no mitigation measures have been taken that reduce the impact to a level of insignificance, the second trigger condition for CEQA has been met, thus warranting recirculation.

¹⁸ MG-20; Phase 2 Testimony of the Mussey Grade Road Alliance; App. 2A; p. 10.

¹⁹ Ibid. and Ibid. p. 8.

²⁰ MGRA Phase 2 Opening Brief; p. 2.