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*Working to protect and restore Western Watersheds*

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June 21, 2010

Sent by E-mail to: < [ivanpah@ene.com](mailto:ivanpah@ene.com) >

CPUC/BLM  
Eldorado-Ivanpah Transmission Project  
130 Battery Street, 4th Floor  
San Francisco, CA 94111

Draft Environmental Impact Report/Environmental Impact Statement Eldorado–Ivanpah  
Transmission Project

Dear Planners,

Western Watersheds Project is pleased to provide the following comments on the Draft Environmental Impact Report/Environmental Impact Statement (DEIR/DEIS) for the Eldorado–Ivanpah Transmission Project proposed by Southern California Edison Company.

The proposed Eldorado–Ivanpah Transmission Project will cross fragile desert lands and will have lasting, multiple direct, indirect and cumulative effects on sensitive desert resources. The DEIR/DEIS concludes that “the proposed project would still result in major adverse unavoidable effects to desert tortoise habitat and major adverse impacts to aesthetics, air quality, hydrology, and public services” (DEIR/DEIS at 4-8).

We have also attached a copy of our scoping comments to this letter and incorporate its entire content by reference. Please consider all the issues we raised in that letter regarding Alternatives, Air Quality, Biological Resources, Horse Management Areas, Invasive Species, Cultural & Paleontological Resources, Hazards and Hazardous Materials, Fire Prevention and Suppression, Geology and Soils, Riparian Resources, Hydrology, and Water Quality, Climate Change, Cumulative Effects and Mitigation that were not addressed in the DEIR/DEIS in developing the Final DEIR/DEIS. We have also identified the following specific issues and environmental concerns that should be addressed in the DEIR/DEIS review process.

***Livestock Grazing***

The DEIR/DEIS at 3.9-5 (and associated Table 3.9-3) incorrectly states “The Clark Mountain Allotment is open, but not currently in use” and this is repeated in the analysis at 3.9-19. This allotment is currently being grazed by cattle.

## ***Project Description and Biological Resources***

The proposed transmission project will impact desert tortoises within the Northeastern Mojave Desert Tortoise Recovery Unit in Nevada and California. The 1994 Desert Tortoise (Mojave Population) Recovery Plan identified six distinct desert tortoise populations west and north of the Colorado River.<sup>1</sup> These six populations were identified based on genetics, behavior, ecology, geographic isolation, and morphology. Five of these populations occur wholly or partly in California. The Recovery Team that wrote the plan clearly equated the term Recovery Unit with the terms “Evolutionary Significant Unit” and “Distinct Population Segment”. [FWS 1994, at i and 19-22] The Recovery Plan also recognized that the desert tortoise populations within the different Recovery Units faced a suite of threats, the degree and quality of which varied between Recovery Units, and provided specific analysis by Recovery Unit. [FWS 1994, Appendix F] Since the Recovery Plan was published, a number of studies have compared tortoises between different Recovery Units and confirmed biological differences among the populations. Most recently, Murphy et al., 2007 published a comprehensive study of desert tortoise genetics.<sup>2</sup> They found additional, new evidence that the desert tortoises in the various Recovery Units constitute distinct populations and their analysis confirmed the validity of the 1994 Plan’s six Desert Tortoise Recovery Units.

The conclusions reached in the DEIR/DEIS regarding the significance of the impacts of the proposed action on biological resources are unclear apparently due to lack of clarity in the project description. The DEIR/DEIS concludes, “For specific wildlife species, impacts would vary. After incorporation of recommended mitigation, impacts on desert tortoise due to construction of the project would be adverse, moderate, both short term and long term, and localized. However, if a significant number or length of new access roads and spur roads were necessary for construction of the project, impacts on desert tortoise habitat could be considered major and extensive.” . . . “In summary, the proposed project would significantly affect biological resources in an adverse manner”. (DEIR/DEIS at 3.4-83) The proposed action should clearly describe the project including all required access and spur roads.

## ***Horse Management Areas***

The project will cross through areas used by burros and wild horses protected under the Free Roaming Wild Horse and Burro Act. Construction and maintenance could potentially impede the free movement of herds, especially if fencing, roads, piping, etc. are required. Construction would remove available forage. The transmission line could also increase the interaction and conflict between wild burros and people (especially during construction), as well as recreationalists and maintenance workers, and conflicts between burros and wildlife, rare plants and sensitive species.

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<sup>1</sup> Fish and Wildlife Service. 1994. Desert Tortoise (Mojave Population) Recovery Plan. U.S. Fish and Wildlife Service, Portland, Oregon. 73 pages plus appendices.

<sup>2</sup> Murphy, R. W., Berry, K. H., Edwards, T. and Mcluckie, A. M. 2007. A Genetic Assessment of the Recovery Units for the Mojave Population of the Desert Tortoise, *Gopherus agassizii*. Chelonian Conservation and Biology 6(2): 229–251.

We thank you for the opportunity to comment on the DEIR/DEIS for this proposed transmission project. Please keep Western Watersheds Project on the list of interested public for this project at the address listed below. If we can be of any assistance or provide more information please feel free to contact me by telephone at (818) 345-0425 or by e-mail at <mjconnor@westernwatersheds.org>.

Sincerely,

A handwritten signature in black ink that reads "Michael J. Connor". The signature is written in a cursive style and is underlined with a single horizontal line.

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Attachment: Western Watersheds Project September 21, 20-09 letter RE: Proposed Eldorado–Ivanpah Transmission Project Environmental Impact Report/Environmental Impact Statement Scoping. 7 pp.



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September 21, 2009

Sent by E-mail to: <ivanpah@ene.com >

Monisha Gangopadhyay / Tom Hurshman  
CPUC/BLM  
c/o Ecology and Environment, Inc  
130 Battery Street, 4th Floor  
San Francisco, CA 94111

RE: Proposed Eldorado–Ivanpah Transmission Project Environmental Impact  
Report/Environmental Impact Statement Scoping

To Whom It May Concern,

The following comments are submitted by Western Watersheds Project in response to your request for scoping comments for preparation of the Environmental Impact Report/Environmental Impact Statement (EIR/EIS) for the Eldorado–Ivanpah Transmission Project proposed by Southern California Edison Company A.09-05-027.

The proposed Eldorado–Ivanpah Transmission Project will cross fragile desert lands and will have lasting, multiple direct, indirect and cumulative effects on sensitive desert resources. Minimizing these impacts and the development of appropriate mitigation strategies will require careful planning and environmental review.

We have identified the following potential issues and environmental concerns should be included and addressed in the EIR/EIS review process.

### **Alternatives**

The selection and analysis of alternatives is the “heart” of the NEPA process. The EIR/EIS should consider alternatives that encourage and require utility companies to combine, consolidate and share transmission lines. Currently, thousands of miles of pipelines and transmission lines are tangling up western lands, fragmenting habitat, destroying scenic qualities, and causing impacts to wild species, rare plants and their habitats, and to entire vegetation communities. Running multiple, redundant lines is wasteful, and even when restricted to designated corridors is impairing of the public lands.

Tall structures pose a threat to birds, including raptors, and even to low-flying aircraft. Pylons provide perches for predators in areas where there are no natural perches, and allow predators an unnatural advantage in finding prey species – thus disturbing the natural balance.

The latter is a particular problem that would be affected by the proposed project which traverses through important habitat within the Northeastern Mojave Desert Tortoise Recovery Unit.

Alternatives should be reviewed to minimize disturbance of fragile wildlife habitat and all habitats which is used by sensitive, threatened, or endangered species. The EIR/EIS should consider alternatives that avoid occupied desert tortoise habitat within the Northeastern Mojave Desert Tortoise Recovery Unit, particularly in California. This would include full consideration of an alternative that does not require any construction outside existing utility corridors.

## **Air Quality**

Changes in air quality could result during construction when heavy equipment, support vehicles, and other machinery with internal combustion engines create fugitive dust and/or generate exhaust and particulate matter (PM 10). Impacts would also result from fugitive dust generated from ground clearing, grading, vehicle traffic on the access roads, and vehicle traffic at the construction sites, and during operation and maintenance of the proposed transmission line. There would be potential temporary and long-term localized impacts from toxic air contaminants including diesel particulate matter. Desert tortoise populations in the area are known to be at risk of respiratory disease caused by infection with one or *Mycoplasma* species. Outbreaks of the respiratory disease may be context-dependent and triggered by changing environmental factors.<sup>1</sup>

## **Biological Resources**

Construction and operation of the proposed transmission projects will impact native wildlife, rare plants, and their habitats. Some resources will be permanently lost through development. Noise, dust, vibrations, and a host of other disturbances will accompany the construction and operation of the line. The transmission line will contribute to habitat fragmentation. Transmission lines increase the risk of bird electrocutions and collisions, particularly along wetlands, valleys, and narrow passes. The EIR/EIS should consider migratory bird routes as well as other bird habitat, wildlife migration and movement corridors, wintering habitat, and wildlife breeding behaviors to limit the level of disruption and disturbance. Placing towers in these areas could also increase predation in the area by predatory birds such as ravens as new perches and nesting sites are provided by the towers. Significant baseline information must be gathered on all biological and other values – such as the use of the area by birds, bats, bighorn sheep, desert tortoises and other biota.

The proposed transmission project will impact desert tortoises within the Northeastern Mojave Desert Tortoise Recovery Unit in Nevada and California. The 1994 Desert Tortoise (Mojave Population) Recovery Plan identified six distinct desert tortoise populations west and north of the Colorado River.<sup>2</sup> These six populations were identified based on genetics, behavior, ecology, geographic isolation, and morphology. Five of these populations occur wholly or partly in California. The Recovery Team that wrote the plan clearly equated the term Recovery Unit

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<sup>1</sup> Sandmeier, F. C., Tracy, C. R., duPré, S. and Hunter, K. 2009. Upper respiratory tract disease (URTD) as a threat to desert tortoise populations: A reevaluation. *Biological Conservation*. 142: 1255-1268.

<sup>2</sup> Fish and Wildlife Service. 1994. Desert Tortoise (Mojave Population) Recovery Plan. U.S. Fish and Wildlife Service, Portland, Oregon. 73 pages plus appendices.

with the terms “Evolutionary Significant Unit” and “Distinct Population Segment”. [FWS 1994, at i and 19-22] The Recovery Plan also recognized that the desert tortoise populations within the different Recovery Units faced a suite of threats, the degree and quality of which varied between Recovery Units, and provided specific analysis by Recovery Unit. [FWS 1994, Appendix F] Since the Recovery Plan was published, a number of studies have compared tortoises between different Recovery Units and confirmed biological differences among the populations. Most recently, Murphy et al., 2007 published a comprehensive study of desert tortoise genetics.<sup>3</sup> They found additional, new evidence that the desert tortoises in the various Recovery Units constitute distinct populations and their analysis confirmed the validity of the 1994 Plan’s six Desert Tortoise Recovery Units.

The California Endangered Species Act (CESA) allows the issuance of Incidental Take Permits but requires that this take be minimized and fully mitigated. The mitigation measures must be roughly proportional in extent to the impact of the take and be capable of successful implementation. Adequate funding must be provided to implement conditions of the permit. The range of the species must be maintained. The species or subspecies must not be jeopardized. The California Department of Fish and Game has long recognized the importance of the Desert Tortoise Recovery Units in determining if compensation is adequate to mitigate for impacts. For example, the mitigations for the Fort Irwin expansion all focused on the West Mojave Recovery Unit. Compensation measures adopted included habitat acquisition as well as habitat enhancement measures such as the buyout of the livestock grazing leases for BLM cattle grazing allotments located in desert tortoise habitat both within and outside the Superior-Cronese Desert Wildlife Management Area.

The agencies must use the best scientific information available to them and specify that compensation activities focus on the relevant affected Desert Tortoise Recovery Unit, in this case the Northeastern Mojave Recovery Unit, and ensure full compliance with both the ESA and CESA.

### **Horse Management Areas**

The project will cross through areas used by donkeys protected under the Wild Horse and Burro Act. Construction and maintenance could potentially impede the free movement of herds, especially if fencing, roads, piping, etc. are required. Construction would remove available forage. The transmission line could also increase the interaction and conflict between wild burros and people (especially during construction), as well as recreationalists and maintenance workers, and conflicts between burros and wildlife, rare plants and sensitive species.

### **Invasive Species**

The construction of linear corridors has contributed to the spread of exotic and invasive vegetation across the Mojave Desert. Invasive weeds grow easily wherever the natural

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<sup>3</sup> Murphy, R. W., Berry, K. H., Edwards, T. and Mcluckie, A. M. 2007. A Genetic Assessment of the Recovery Units for the Mojave Population of the Desert Tortoise, *Gopherus agassizii*. *Chelonian Conservation and Biology* 6(2): 229–251.

vegetation and biological soil crusts are disturbed. The disturbance to the soil and natural vegetation that will occur as a result of the construction and maintenance of this transmission project must not be allowed to establish a “weed corridor” across the landscape. Once established, weeds are almost impossible to remove permanently.

Invasive plants and weeds are threats to native habitat, rare plants, and sensitive species. They pose an immense fire hazard. Using chemicals to kill weeds requires exposing the environment, species, and watershed area to a toxic substance which can be the source of further damage to environmental and human health. Manual weed control requires much human effort, machinery, and can cause even more disturbance, leading to erosion, disturbance, and, in some cases, more weeds. The EIR/EIS should carefully consider how invasive plants and weeds will be managed and controlled.

### **Cultural & Paleontological Resources**

The Mojave Desert is rich in structures and artifacts of significant cultural value that are irreplaceable once lost. The areas around dry lake beds are particularly rich in archaeological sites. Construction of new towers and access roads could damage or destroy historic and archaeological sites, traditional cultural properties, or areas containing paleontological resources. Temporary use of staging areas and conductor pull sites could damage or destroy historic and archaeological sites, traditional cultural properties, or areas containing paleontological resources. Building new transmission lines through previously undisturbed areas could cause physical damage to artifacts and sites, expose cultural resources to looters, and could increase fires due to soil disturbance and subsequent weed invasion placing these cultural resources at risk of future damage. New development projects facilitated by the transmission pose cumulative effects that also must be addressed.

### **Hazards and Hazardous Materials**

The EIR/EIS should disclose any potentially toxic or hazardous wastes that may be associated with project during project construction, operation, and maintenance including pesticides and herbicides.

### **Fire Prevention and Suppression**

Wildfires are becoming increasingly common in the Mojave Desert facilitated by the spread of invasive weeds and climate change. Wildfires can result in type conversion of large expanses of habitat. Wildfires could be caused by construction or operation of the transmission lines. Development of roads along transmission lines could encourage increased motorized vehicle access which increases fire risk especially when coupled with the spread of invasive weeds.

### **Geology and Soils, Riparian Resources, Hydrology, and Water Quality**

Construction has the potential to damage or disrupt the flows of springs, seeps, or other water sources. In desert regions, native wildlife and vegetation are especially dependant on these

sources for their water needs, and degradation or disruption of these water resources is a serious concern. Construction of towers or facilities near a spring or seep can have a high level of impact by disrupting flows, contaminating water, etc.

Soil erosion on low fill slopes and steeply graded areas could result in sedimentation of water bodies. Changes in hydrology and soil movements may impact rare plants and habitats for sensitive species, and may impact burrowing species such as the desert tortoise.

## **Climate Change**

Secretarial Order 3289 issued September 14, 2009 reinstates Order 3226 requiring significant projects to incorporate global climate change considerations. In addition to addressing climate change in the cumulative effects analysis, the EIR/EIS should address the carbon footprint of the project and losses to carbon storage and sequestration.

## **Cumulative Effects**

Transmission line projects have the potential to open up new lands to energy (or other) development, placing wide swaths of habitat at risk, and greatly increase degradation and fragmentation of habitats and important wild land areas. Transmission line projects have lasting and damaging impacts. The EIR/EIS must consider the cumulative effects of this project in combination with all the other consumptive uses that are occurring on these public lands including livestock grazing, off road vehicle activity, and mining. The project will also facilitate and will act cumulatively with the many other energy developments that are planned for the area including utility-scale solar energy plants. Other major projects underway or planned for the area include the joint Port of Entry along Highway 15 and the proposed Desert Express train. The cumulative effects analysis should also consider all the other linear energy projects that have crossed through the project area including the Kern gas pipeline. All these activities will impact the same biological, cultural, geologic, and visual resources as the proposed project.

## **Mitigation**

BLM is obligated under FLPMA to “minimize adverse impacts on the natural, environmental, scientific, cultural, and other resources and values (including fish and wildlife habitat) of the public lands involved.” [43 U.S.C. §1732(d)(2)(a)] Other laws, including the Endangered Species Act and the California Endangered Species Act also entail the need for mitigations to minimize impacts. BLM is required to consider measures to mitigate potential environmental consequences in its NEPA analysis. [40 C.F.R. § 1502.16] The NEPA implementing regulations define "Mitigation" to include:

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action.
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.



(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

(e) Compensating for the impact by replacing or providing substitute resources or environments.

[40 C.F.R. §1508.20]

Available desert tortoise compensation habitat is limited within the California portion of the Northeastern Mojave Recovery Unit although some suitable lands in reasonable proximity to the project site may be available within the Ivanpah Valley. Other compensation actions should be considered such as buying out the Clark Mountain cattle-grazing lease, expanding the ACECs, and erecting barrier fencing along nearby roads to enhance the remaining desert tortoise habitat.

Pylon/towers should be of designs that minimize opportunities for nesting and roosting by ravens and other predatory species. Fencing around constructions should be designed to minimize providing perching sites for ravens.

The EIR/EIS should describe the restoration and rehabilitation activities that will be required for habitat disturbed during construction. For example, construction material yards will lose their native vegetation, have their soils compacted, and increase the amount of wind and water erosion while leaving these areas at an increased risk of weed invasion. Transporting materials, labor, and equipment in and out of construction areas will also have their own set of impacts that must be minimized. Construction may also require the use of “temporary” roads that will require extensive rehabilitation if they are not to become permanent intrusions on the landscape. Rehabilitation of desert habitat is a long, slow and uncertain process. This is typified in the project area by the highly visible, wide swath that cuts across the proposed transmission lines created by the Kern gas pipeline that was installed over a decade ago, where recovery of vegetation is still far from meeting desired plant community standards despite costly restoration efforts.

We thank you for the opportunity to submit scoping comments for this proposed transmission project. Please keep Western Watersheds Project on the list of interested public for this project at the address listed below. If we can be of any assistance or provide more information please feel free to contact me by telephone at (818) 345-0425 or by e-mail at <mjconnor@westernwatersheds.org>.

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