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July 30, 2009

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San Joaquin Cross Valley Loop Transmission Project
c/o Environmental Science Associates
225 Bush Street, Suite 1700
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Re: Southern California Edison's San Joaquin Cross Valley
Loop Transmission project (application A-08-05-039, filed
May 30, 2008)

Matthew W. Bixler

Derek P. Wisehart

Dear Mr. Uchida:

Our law firm serves as General Counsel for the Kaweah Delta Water Conservation District ("Water Conservation District"). On behalf of our client, we are providing you with these written comments regarding the Draft Environmental Impact Report ("DEIR") prepared in connection with the above-referenced project.

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By way of introduction, the Water Conservation District is a multi-county public agency, covering approximately 340,000 acres located in both Tulare County and Kings County. The Water Conservation District is entirely located on the alluvial fan distribution system of the Kaweah River. The Water Conservation District was organized in 1927 pursuant to the provisions of the Water Conservation Act of 1927, for the purpose of doing those things allowed by the Act. Among other things, the Water Conservation District has a contract with the United States for the repayment of project costs allocated to conservation and irrigation space in Lake Kaweah. Additionally, the Water Conservation District is involved in extensive flood control activities on the Kaweah River and its distributaries. In 1995, the Water Conservation District adopted a Groundwater Management Plan pursuant to the provisions of California Water Code §§10750, et. seq., which allow it to take affirmative action to protect and replenish the overdrafted groundwater basin located within its boundaries.

It is the position of the Water Conservation District that the DEIR fails to satisfy the requirements of California Public Resources Code §§21000, et. seq. and related regulations ("CEQA"). For the reasons set forth below, the Water Conservation District believes the DEIR fails to meet the requirements of CEQA as it pertains to Southern California Edison's Preferred Proposed Alternative

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("Proposed Project.") While the Water Conservation District reserves the right to join in any and all objections made by any person or entity with respect to the DEIR, it specifically objects to portions of the DEIR as hereinafter set forth.

First, the Water Conservation District objects to the statements made in the paragraph at the end of page 4.4-20 and beginning of 4.4-21 as inaccurate. The statements provide as follows:

There are no active or approved HCPs in the Proposed Project area or near any of the project alternatives. The Kaweah Delta Water Conservation District (District) is in the initial organization and planning stages of proposing several conservation plans in northwestern Tulare County. The Proposed Project would traverse one or more areas that the District is reviewing as a potential restoration sites. Because there are no adopted HCPs near the Proposed Project or project alternatives they are not considered further in this EIR.

The Water Conservation District is not "in the initial organization and planning stages of proposing several conservation plans in northwestern Tulare County." In fact, the Water Conservation District has been actively preparing a single Habitat Conservation Plan and a Natural Communities Conservation Plan ("HCP/NCCP") for nearly 15 years. The HCP/NCCP is being developed by the Water Conservation District to cover its channel maintenance operations and capital projects over an approximate 20 year planning horizon. To this end, the Water Conservation District acquired several of the few remaining local parcels of real property that exhibit characteristics that might help it meet its objectives. Those acquisitions include the following:

1. On **November 15, 2000**, the Water Conservation District acquired the Hannah Ranch South Property (hereinafter referred to as "Hannah Ranch South Property") for **\$1,520,000**. It consists of 383.64 acres, with its northerly boundary, perhaps its longest boundary, extending into the Lower Kaweah River for a distance of more than one mile. It is a prime and unique location to be developed for riparian restoration and enhancement.

2. On **December 14, 2001**, the Water Conservation District purchased the Paregien Property (hereinafter referred to as

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"Paregien Property") for \$500,000. The purchase included certain rights to develop and utilize adjacent property, as well. The Paregien Property consists of approximately 70.00 acres, located just across State Route 198 from the Kaweah Oaks Preserve. Deep Creek, a natural channel and distributary of the Lower Kaweah River, runs across the Paregien Property for more than one-half mile. Outside Creek runs across a parcel located immediately to the east of the Paregien Property. The Paregien Property includes a riparian corridor and a Valley Oak grassland community. Portions of it are undeveloped and appear to be in a natural state. Integration of an adjacent parcel containing the historic alignment of Cameron Creek has occurred based on actions of the Water Conservation District.

Both the Paregien Property and the Hannah Ranch South Property offer significant opportunities for habitat protection, restoration and enhancement within the Kaweah River Corridor between Terminus Dam and the City of Visalia, an area in which native habitats have been heavily disturbed by agriculture and development. Riparian and Valley Oak woodlands, Savannahs and wetlands represent extremely valuable habitats in the San Joaquin Valley. These habitats support diverse wildlife communities, including threatened and endangered species, as well as a number of species of special concern. Yet, these habitats have been substantially reduced throughout the Central Valley. Thus, resource agencies and conservation organizations are actively involved in attempting to reduce and mitigate for impacts to these habitats and support restoration of the habitats associated with these natural communities, wherever locations and land availability allow. In addition to providing opportunities to protect and restore sensitive animal and plant communities, which will add to the overall health and recovery extent of special status species in the region, the protection and restoration of both the Paregien Property and the Hannah Ranch South Property will increase the connectivity of habitats along the Kaweah River Corridor. As habitat patchiness decreases and extent and connectivity of habitats increase, the overall functions and values of those habitats increase. Thus, there is ecological value in protecting and restoring individual habitat sites and cumulative value in preserving several sites within a large degraded river corridor. Specifically, the Hannah Ranch South Property may be developed for riparian restoration and enhancement and the Paregien Property developed for Valley Oak Savannahs or woodland, and for grassland

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protection and restoration. Together, these two sites are intended to be a vital part of the Water Conservation District's HCP/NCCP "package."

From the foregoing, it should be obvious that the Water Conservation District long ago passed "the initial organization and planning stages of" its HCP/NCCP. It has spent millions of dollars in land acquisitions and hundreds of thousands of dollars in consulting fees in the work. Therefore, the DEIR substantially understates the Water Conservation District's work on its HCP/NCCP.

In another understatement, the DEIR, at p.4.4-21, says that the "[p]roposed Project would traverse one or more areas that the District is reviewing as a potential restoration sites." As set forth in the foregoing paragraphs, there are two specific sites that will be crossed by the Proposed Project. The Water Conservation District has previously met with Southern California Edison, identified the sites, and reviewed with it the work done and to be done on both sites. There should not be any equivocation as to the number of sites that will be crossed by the Proposed Project. Southern California Edison clearly knows that there are two sites and not merely one. Further, Southern California Edison knows that the Water Conservation District is not merely reviewing the sites, but that the Water Conservation District has spent millions of dollars to purchase them and place them in its HCP/NCCP package.

Since the Water Conservation District has spent substantial time with Southern California Edison personnel about the impact of the Proposed Project to the two aforementioned sites, it is quite perplexed as to why Southern California Edison would downplay the Water Conservation District's plans for both sites. The DEIR does not adequately disclose the facts and other information available to Southern California Edison with respect to both sites.

Second, the Water Conservation District comments that the DEIR does not adequately deal with the legal inability of Southern California Edison to acquire by condemnation property rights on the Water Conservation District's aforementioned parcels. Paragraph (b) of California Code of Civil Procedure §1240.650 provides that "[w]here property has been appropriated to public use by a public entity, the use thereof by the public entity is a more necessary use than any use to which such property might be put by any person other than a public entity." Thus, **under California Code of Civil Procedure §1240.650(b), the ownership and use of the Paregien Property by the Water Conservation District is deemed to be more necessary than any use by**

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Southern California Edison, which is not a public entity. The Water Conservation District notes that the DEIR fails to consider the legal inability of Southern California Edison to condemn the necessary easements across the Water Conservation District's parcels as will be required for the Proposed Project to go forward as described in the DEIR. The Water Conservation District's ownership absolutely precludes Southern California Edison's proposed 100 foot wide utility right-of-way over either the Paregien Property or the Hannah Ranch South Property.

Third, the Water Conservation District comments that the DEIR fails to disclose that the right-of-way contemplated by the Proposed Project is not compatible with the HCP/NCCP planned for the two aforementioned Water Conservation District parcels. An HCP/NCCP encourages habitat for listed species of plants and animals. Situating the double-circuit 220kV transmission line contemplated by the Proposed Project on the aforementioned parcels would not be consistent with the HCP/NCCP. In fact, **locating the aforementioned lines on the parcels would entirely eliminate their value in the Water Conservation District's HCP/NCCP.** Further, even locating the proposed lines anywhere within one mile of the aforementioned parcels would likely eliminate their value to the Water Conservation District as part of its HCP/NCCP.

Kindly consider the foregoing comments and modify the DEIR and the Proposed Project accordingly. Of course, my client remains available to discuss this matter further with Southern California Edison, should it desire to do so.

Sincerely,

RUDELL, COCHRAN, STANTON,
SMITH, BIXLER & WISEHART, LLP

By 
D. Zackary Smith

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