



SIERRA CLUB, SAN DIEGO CHAPTER
San Diego and Imperial Counties
3820 Ray Street
San Diego, CA 92104-3623



CENTER FOR BIOLOGICAL DIVERSITY
BECAUSE LIFE IS GOOD

P.O. Box 710, Tucson, AZ 85702-0710

October 13, 2006

By Email to Addresses Below

Steve Borchard
District Manager
Bureau of Land Management
California Desert District
22835 Calle San Juan De Los Lagos
Moreno Valley, CA 92553
Steven_J_Borchard@ca.blm.gov

Vicki Wood
Field Manager
Lynda Kastoll
Realty Specialist
Bureau of Land Management
El Centro Field Office
1661 S. 4th Street
El Centro, CA 92243
Vicki_Wood@blm.gov
lkastoll@ca.blm.gov

Gail Acheson
Field Manager
Bureau of Land Management
Palm Springs South Coast Field Office
690 W. Garnet Ave., P.O. Box 581260
North Palm Springs, CA 92258-1260
gacheson@ca.blm.gov

Re: Application 06-08-010 Sunrise Powerlink Project: Request for Extension of NEPA / CEQA Scoping Comment Period and Additional Scoping Meetings

Dear Mr. Borchard et al.:

The Sierra Club and Center for Biological Diversity hereby request that the Bureau of Land Management (BLM) (a formal motion is being submitted to the California Public Utilities Commission (CPUC) as well) extend the scoping comment period and hold additional scoping meetings for the Proposed Sunrise Powerlink transmission line (Project) in accordance with the National Environmental Policy Act (NEPA) and California Environmental Quality Act (CEQA). We specifically request that three additional scoping meetings be scheduled in or around the week beginning October 30th, 2006, and that the scoping comment period be extended until approximately November 17th, 2006.

The Center for Biological Diversity and Sierra Club have notified the CPUC Project service list of our intent to submit a letter and motion. Eight parties responded positively, including the San Diego Regional

Energy Office, the City of San Diego, and others.¹ San Diego Gas and Electric is the only party that objected to our request. Comments responding to SDG&E's objection are included at the end of this request.

The purpose of this request is to permit our staff, volunteers, and members, and other interested citizens who have interests or property along new possible southern alternative routes of the Project (identified in a document filed by San Diego Gas & Electric (SDG&E) entitled, "Submission of San Diego Gas & Electric Company (U 902-E) in Response to Assigned Commissioner's Directive at September 13, 2006 Prehearing Conference," as well as other possible southern routes currently being considered by the CPUC) to fully participate in the scoping process for the Project required by NEPA and CEQA. It is reasonable that our conservation groups and others with interests in recently identified possible southern routes have adequate time to educate themselves about the potential impacts of the Project and be afforded the same opportunity to be heard that you provided to those potentially impacted by the northern alternative routes for the Project.

Specifically, we request that the BLM and CPUC hold three additional scoping meetings, in vicinities of Alpine, Pine Valley, Boulevard, Jacumba, Lake Morena, Descanso, Guatay, Barrett Junction, Portrero, Tecate, Cameron Corners, Dulzura, Cuyamaca, Laguna, and/or Campo as well as the Indian reservations of Campo, Manzanita, Inaja, Cosmit, Viejas, La Posta, Cuyapaipe, and Capitan Grande, and that the scoping period be extended until approximately November 17th, 2006, an extension of 28 days, assuming that it is possible to schedule additional scoping meetings during the first week of November. We also request that SDG&E place full Project documentation, including but not limited to its Application, PEA and maps, in southern back country libraries, just as it did in other libraries in North County. At a minimum, the libraries in the communities of Alpine, Campo, Descanso, Jacumba, Pine Valley, and Portrero, and the mobile unit that serves Boulevard and Live Oak Springs, should receive these documents.

While we sincerely appreciate the efforts of the BLM and the CPUC staff related to last week's scoping meetings in Imperial County and central and northern San Diego County, these meetings did not provide our organizations and other residents and businesses in the southern part of San Diego County with a meaningful opportunity to participate in your scoping process, nor did we have access to information about the new possible southern alternative routes early enough to provide comment at these scoping meetings.

It is clear that Commissioner Grueneich was concerned about community participation in evaluation of the southern routes and the timing of presentation of this information when she stated on September 13, 2006, during the Prehearing Conference (transcript at page 164):

... the sooner that we can get this information from SDG&E the better. Because if it is possible to have this information available when we're having our scoping meetings, this obviously again will make it easier for people to understand what might be available in terms of mitigation or rerouting alternatives.

Unfortunately, SDG&E waited 19 days until Monday, October 2nd, 2006, the day of the first scoping meeting, to respond to the Commissioner's request (despite the fact that SDG&E claims it studied all of these southern routes extensively before filing the Project application), thereby perhaps complying with the letter of this request, but certainly not its spirit. Instead, by waiting until the day of the first scoping

¹ Positive responses were also received from the Anza-Borrego Foundation, Anza-Borrego Institute, California Farm Bureau Federation, California State Parks Foundation, Mussey Grade Alliance, Utilities Consumer Action Network, and West Chase Homeowner's Association.

meeting to provide this information, SDG&E ensured that local conservation groups, residents and others would not have adequate time to respond to the new possible southern routes before the end of the scoping period, and certainly not during the scoping meetings.

SDG&E's filing has generated substantial interest in the communities the southern routes might transect, as well as within organizations that work to protect public lands in Cleveland National Forest and Cuyamaca Rancho State Park, which might also be impacted should a southern route be selected for the Project. It is our understanding that south county community interest in the Project resulted from a newspaper account of SDG&E's filing that appeared in the San Diego Union Tribune on or after October 3rd, and that neither the BLM nor the CPUC placed public notices in local south county newspapers or sent notice by mail to potentially impacted south county residents and businesses. As such, most interested parties in the south county did not receive advance notice of the Project scoping meetings and many still are not aware of the scoping process or impending October 20th scoping comment deadline.

It is unfortunate that the BLM and CPUC did not elect to conduct scoping meetings in the southern communities, given that the Notice of Preparation/Notice of Public Scoping Meetings for an Environmental Impact Report/Environmental Impact Statement, dated September 11, 2006, (NOP) on pages 11-13 specifically noted that additional southern routes would be evaluated in the scoping process. Moreover, we understand from the CPUC's Data Request #1, included in a letter from the CPUC to SDG&E dated September 27, 2006, that the CPUC intends to evaluate alternatives in the south county areas beyond those proffered by SDG&E. The BLM and CPUC's apparent overlooking of the need to conduct scoping meetings in south county communities can be corrected only by extension of the scoping period and provision for additional scoping meetings. If any potentially impacted areas required scoping meetings it is these south county communities because no other public or private entity has provided an opportunity for south county citizens to learn about the potential impacts of the Project. The NOP, in the table on page 3, notes that SDG&E held several public meetings, but none of these were located in southern San Diego County.

It appears that few if any individuals or entities along these southern routes received the NOP or any notice of agency intent to consider southern routes. Further, it does not appear that SDG&E's application for the Project and accompanying environmental documentation describes these possible alternatives in any meaningful detail, or that SDG&E provided notice to anyone in these areas. As such, it is our understanding that conservation group staff, volunteers, and members, and residents, businesses, and other interested parties along the alternative southern routes have not received an adequate opportunity to learn about the Project or participate in the scoping process.

We are concerned that the routes proposed by SDG&E for the southern part of San Diego County will result in severe (and unnecessary) impacts on the Cleveland National Forest, Cuyamaca Rancho State Park, Anza-Borrego Desert State Park (one alternative still transects the park and designated state wilderness), endangered and threatened species and habitat, and other important natural resources and community interests. Yet, we received an initial detailed description of these routes and possible impacts on October 2nd, the first day of scoping meetings and only 18 days before the end of the scoping period. We have only just begun to assess these additional routes and their complex impacts in the context of their possible consideration as alternatives to a northern route through Anza-Borrego Desert State Park.

To undertake its evaluation, the BLM and CPUC must gather scoping comments on the potential impacts of the southern routes on the communities, private land, federal land, and state land, including land managed by the BLM, Forest Service, and California Department of Parks and Recreation. It is our understanding that NEPA and CEQA consultation with the Forest Service on these possible routes has only just begun and that no party has conducted even preliminary studies of the potential impacts of any southern route.

NEPA regulations appear to require an extension of the scoping period and additional meetings. Section 1501.7(c) of the Council on Environmental Quality's NEPA regulations state, "An agency *shall* revise the determinations made under paragraphs (a) and (b) [scoping process] of this section if substantial changes are made later in the proposed action, or if significant new circumstances or information arise which bear on the proposal or its impacts" (emphasis added). The detailed information filed by SDG&E on October 2nd constitutes a "substantial change" in the proposed action and it creates "new circumstances" and includes "new . . . information" within the meaning of § 1501.7(c). A failure to adapt the scoping process to this substantial change and new circumstances and information would result in a scoping process in violation of Section 1501.7(c). As such, the BLM must revise its determinations made under § 1501.7(a) and (b), including those related to consultation requirements, the scope of the Project, and the need for scoping meetings in impacted areas.

In their objection to our request for an extended scoping period, SDG&E alleges that our request "...confuses the purpose of public participation hearings with that of scoping."

We would like to take this opportunity to reassure the CPUC, BLM, and for that matter SDG&E that our organizations are very familiar with the purposes of scoping under both the CPUC application process and that of NEPA / CEQA, as well as the purposes of public participation hearings. SDG&E asserts that scoping meetings are "...not to familiarize the public with the route." On the contrary, information provided by the CPUC, BLM, and SDG&E at the scoping meetings is crucial to informing public participants on the location and possible impacts of possible routes, which in turn is essential to ensuring meaningful public comment on the scope of NEPA / CEQA analysis. SDG&E also asserts that the "...draft scope of issues circulated by the ALJ at the prehearing conference...appears to be extremely comprehensive." This may be true, but here SDG&E itself is confused when it attempts to lump a likely much more extensive and detailed list of NEPA / CEQA environmental and alternatives scoping issues with that of the very general and relatively narrow list of technical and economic issues provided by the ALJ.

SDG&E asserts that it "...has not 'proposed southern routes,' contrary to your request's assertion." This may also be true, and the company's document entitled, "Submission of San Diego Gas & Electric Company (U 902-E) in Response to Assigned Commissioner's Directive at September 13, 2006 Prehearing Conference" certainly does appear to disregard the spirit of Commissioner Gueneich's direction to "...come back with at least one routing alternative that avoids the park entirely" when it only provides information on why each southern route is infeasible. But we maintain that the BLM, CPUC, and SDG&E must ultimately provide serious and feasible alternative southern routes (along with other "no wires" alternatives), and that this must be accomplished as soon as possible to facilitate public participation in NEPA / CEQA scoping.

SDG&E asserts that "[t]here is no need for additional public meetings to notify the public of the proposed route [because] ... SDG&E has held several public meetings near the southern portion of its proposed route." Here again SDG&E makes a potentially truthful statement that is nonetheless irrelevant to the issue at hand. In fact, public meetings have not been held and documents have not been distributed in communities along the possible new southern routes, communities totally different and separate from those along the "southern portion" of SDG&E's existing proposed route.

Finally, SDG&E attempts to minimize the unreasonable nature of its objection to an adequate NEPA / CEQA scoping process by suggesting "...a second round of scoping after the Energy Division and the parties have had some time to digest the information gathered from the first round of scoping meetings and distill the options might be useful." We are uncertain of how a later, re-opened scoping period would not result in increased delay as alleged by SDG&E. But it does seem clear that a later scoping period

would frustrate legal requirements that CEQA analysis be conducted as early as possible during project consideration, especially given that the BLM and CPUC's NEPA / CEQA analysis is not likely to be placed on hold pending identification of any important new issues as part of some future scoping period.

Now that the CPUC has requested and SDG&E has provided additional southern alternative routes for the Project, the Sierra Club and Center for Biological Diversity take seriously the possibility that the BLM and the CPUC could select a southern route. We anticipate that the BLM and CPUC will fully evaluate the southern alternative routes because the southern routes would appear to be "feasible" alternatives as this term is defined by CEQA (although our conservation groups will vigorously oppose these particular southern routes for their seemingly deliberate location in extraordinarily sensitive land and destruction of property). Such full evaluation is also likely and necessary because of the heartening interest expressed by the Assigned Commissioner and others in a route that avoids Anza-Borrego Desert State Park. As such, conservation groups and other interested parties should be afforded the same opportunity for comment on the potential impacts of the southern routes as that provided in the northern part of San Diego County.

Thank you for considering this request.

Very truly yours,



Paul Blackburn
Energy Committee Chair
San Diego Chapter Sierra Club



Justin Augustine
Staff Attorney
David Hogan
Urban Wildlands Program Director
Center for Biological Diversity

cc:

Tina Terrell
Forest Supervisor
Cleveland National Forest
10845 Rancho Bernardo Road
Suite 200
San Diego, CA 92127
(by fax: (858) 673-6192)

Robert Hillis
Superintendent
Cuyamaca Rancho State Park
12551 Highway 79
Descanso, CA 91916

Mike Wells
District Superintendent
Colorado Desert District
200 Palm Canyon Dr.
Borrego Springs, Ca. 92004