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DEPARTMENT OF PLANNING AND LAND USE

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Dr. Jerry Pell
Office of Electricity Delivery and Energy Reliability (OE-20)
U.S. Department of Energy
1000 Independence Avenue, SW.
Washington, DC 20585
email: Jerry.Pell@hq.doe.gov
facsimile: 202-318-7761

Energia Sierra Juarez Transmission Line Environmental Impact Statement Comments (DOE/EIS-0414)

Dear Dr. Pell:

The County of San Diego (County) has reviewed the Draft Environmental Impact Statement (EIS) published September 17, 2010 in the Federal Register. The County appreciates the Department of Energy's (DOE) request to participate as a Cooperating Agency and this opportunity to provide comments and make specific requests regarding the proposed development and environmental review. As you are aware, the County has a separate discretionary permitting and environmental review process currently underway that will address the specific issues of concern with the components of the project we have land use jurisdiction over. The comments provided in the attachment to this letter address the comments made by the County in previous letters, general deficiencies of the EIS, and potential conflicts with the ongoing environmental review that the County is partaking with the California Public Utilities Commission (CPUC), related to this project.

The Energía Sierra Juarez U.S. Transmission Line Project (ESJ) is required to comply with both the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA), for the issuance of the County Major Use Permits and the DOE Presidential Permit. In accordance with CEQA Section 15221, the County should use this Environmental Impact Statement (EIS) in-lieu of preparing its own Environmental Impact Report (EIR). In order for this document to be adequate for the County to rely on for its discretionary actions, this EIS would have to comply with the

provisions of the State and County CEQA Guidelines. Because NEPA does not require separate discussion of mitigation measures or growth inducing impacts, these points of analysis would need to be added, supplemented, or identified before this EIS could be utilized by the County as an equivalent to an EIR.

The County of San Diego appreciates the opportunity to participate in the environmental review process for this project. We look forward to receiving future environmental documents related to this project or providing additional assistance at your request. If you have any questions regarding these comments, please contact the County Project Manager Patrick Brown at (858) 694-3011 or e-mail Patrick.Brown@sdcounty.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric Gibson", followed by the word "for" in a cursive script.

ERIC GIBSON
Director, Department of Planning and Land Use

Attachments: EIS Comment Spreadsheet

Email cc:

Alberto Abreu, Director Project Development, Sempra Generation, 101 Ash Street, HQ14A San Diego, CA 92101

Jeff, Murphy, Deputy Director, Department of Planning and Land Use M.S.O650
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LeAnn Carmichael, Planning Manager, Department of Planning and Land Use, M.S. O650

Section		Subsection, Paragraph, Sentence	Comment or Issue
1	Introduction	1.3 Pg. 1-8	The project objectives should be updated as follows, " stated objective is for the proposed transmission line is to transport <u>only renewable</u> electrical power generate by the ESJ Wind Power project in Mexico..."
2	General		As communicated during the NOI process, the County of San Diego, Land Use and Environmental Group, has developed Guidelines for Determining Significance (Guidelines) that are used to assist in determining environmental impacts in the unincorporated portions of the County. The current EIS incorporates these guidelines for only one resource area - Visual Resources. The County recommends the EIS utilize the Guidelines for each applicable resource area in order to adequately evaluate and mitigate for environmental impacts to the unincorporated County or County facilities.
3	Introduction	Pg. 1-13 and 14:	Sunrise Powerlink (SRPL) as a Connected Action: The response provided by Sempra doesn't answer the technical question as to how the project could be connected without the SRPL. The letter provided by Sempra makes unsubstantiated conclusion without any technical backup. The applicant should discuss the technical logic behind "Special Protection Schemes" and "Low Cost Incremental Generation," as it relates to the projects ability to interconnect to the existing Southwest Powerlink (SWPL).
4	Introduction	Pg. 1-13 and 14:	The EIS does not describe the Sempra Application for the Groundwater Extraction Major Use Permit in any detail. The Groundwater project is a connected action and should be fully discussed within this EIS.
5	Range of Alternatives	Pg. 2-1	The EIS does not present a reasonable range of alternatives. Pursuant to NEPA, a reasonable range would include alternatives, aside from the proposed action, that would both satisfy the purpose and need and avoid or minimize significant environmental impacts. The ESJ EIS includes three alternatives: Alternative 1, No Action Alternative; Alternative 2, Double Circuit 230-KV Transmission Line (designated as the Applicant's preferred project); and Alternative 3, Single-Circuit 500-KV Transmission Line. The EIS is flawed in that it treats the double circuit and the single circuit transmission lines as both an option under the proposed action and as alternatives to the proposed action. The Single-Circuit 500-KV Transmission Line Alternative does not meet the reasonable range standard as it is more impactful and would therefore have increased impacts over the Applicant's preferred project, the Double Circuit 230-KV Transmission Line. A reasonable range of alternatives would put forth alternatives that would <i>reduce</i> impacts rather than increase impacts under the proposed action (<i>Roosevelt Campobello International Park Commission v. EPA</i> , 684 F 2d 1041 (1st Cir. 1982).
6	Range of Alternatives	Section 2.4-5 Pg. 2-1	CFR 1502.14 Alternatives including the proposed action: DOE is required to rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives, which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated. The EIS does not evaluate a reasonable range of alternatives, nor does the EIS provide a reasonable amount of alternatives that have been screened out. The EIS only screen out one alternative (The Undergrounding). The EIS should consider more alternatives and should provide a list of feasibility factors based on cost, logistics, technology, social, environmental, and legal factors. Also, the EIS does not include reasonable alternatives not within the jurisdiction of the lead agency DOE.

Section		Subsection, Paragraph, Sentence	Comment or Issue
7	Range of Alternatives	Section 2.4-5 Pg. 2-1	<p>NEPA guidelines require the consideration of a reasonable range of alternatives, defined as alternatives that are realistic (not speculative) that may be feasibly carried out based on technical, economic, and environmental factors (40 CFR 1502.1 et seq.). NEPA requires that the EIS fully considered any alternative that has the potential to avoid or substantially lessen any of the significant environmental effects of the project. The following are alternatives that should be considered. The County is willing to work with DOE to consider the following Alternatives and a possible screening criteria.</p> <ol style="list-style-type: none"> 1. No Project Alternative: 2. Monopole Alternative: No reductions to visual <ul style="list-style-type: none"> • 230kV Double Circuit, 500 kV Single Circuit 3. Lattice Tower Alternative: Reduces Visual impacts. <ul style="list-style-type: none"> • 230kV Double Circuit, 500kV Single Circuit 4. Underground Alternative: Reduces Fire, Biological, and Visual impacts <ul style="list-style-type: none"> • 230kV Double Circuit, 500kV Single Circuit 5. Alternative Locations: Unknown reductions <ul style="list-style-type: none"> • Mexico Reroute using existing infrastructure possibly an alternate location along US Mexico Border 6. ECO-Substation Shift 700' East: Reduces Cultural Resources <ul style="list-style-type: none"> • Same as indicated in alternatives 2-4
8	Alternatives Considered but Dismissed	Subsection S.7.2, page S-11	<p>Underground Transmission Line. The EIS concludes the construction of an underground transmission line to not be a reasonable alternative and provides no further analysis. However, given the substantial benefit that would result from underground transmission lines to areas of public health and safety, community character, aesthetics, and fire and fuels management, the County requests a NEPA level cost-benefit analysis of this potential alternative. The EIS should not consider costs when evaluating impacts. The County would like DOE to reconsider the underground alternative.</p>
9	General: CEQA Compliance	NA	<p>The ESJ project is required to comply with CEQA and NEPA for the issuance of the Major Use Permits and the Presidential Permit. In accordance with CEQA Section 15221, the County should use this EIS if it were certified before the East County Substation EIR/EIS. In order for this document to be adequate for the County to use for its discretionary actions, this EIS would have to comply with the provisions of the State and County CEQA Guidelines. Because NEPA does not require separate discussion of mitigation measures or growth inducing impacts, these points of analysis will need to be added, supplemented, or identified before this EIS could be used by the County as an EIR. The County does not intend to use the DOE EIS for its discretionary actions, but it appears that this EIS may be completed substantially sooner than the aforementioned East County Substation EIR/EIS. DOE and the applicant may consider revising or supplementing this EIS as mentioned, so the County could use the document. The County's comments in this letter do not construe the necessary changes that would be required to comply with CEQA Section 15221. A separate review and comment period would need to be provided to the County to complete such review.</p>
10	Mitigation Measures	NA	<p>To ensure that environmental effects of the proposed action are fairly assessed, the EIS should discuss the probability of the mitigation measures being implemented by the Cooperating Agency (NEPA Section 1502.16(h)). The enforceability of mitigation measures is questionable. For example, the Air Quality mitigation measures described in Section 3.10.3 Air Quality # 3 is an inadequate mitigation measure because it is not a specific, tangible item that could be implemented. To encourage carpooling is to "strive" to achieve rather than actually resulting in a physical change. Revise all the mitigation measures to be adequate and feasible.</p>

Section		Subsection, Paragraph, Sentence	Comment or Issue
11	Project Operations	Section 2.4.3, page 2-10	The County recommends the EIS rectify the recommendations regarding the installation of lighting for the proposed towers. While the FAA has determined the height of the towers to be acceptable and would not require lighting, the EIS also states the U.S. Border Patrol may request lighting to be installed. The placement and use of lighting on the towers would potentially cause indirect impacts to wildlife. However, if lighting is not proposed, the towers may cause potential hazards to the U.S. Border Patrol operations. The EIS must clearly state and analyze whether or not the proposed towers would include lighting.
12	Biological Resources	Section 3.1.1.6 Special Status Wildlife Species	The County observed evidence and testimony in the Public Hearings that there is a potential for the Peninsular Bighorn Sheep, which is a federally-listed endangered and state-listed threatened/fully protected species to be present within the project site and area. The DOE should request US Fish and Wildlife Service to re-evaluate the possibility that the species' critical habitat may be shifting, the potential for presence on the project site, and any additional direct or indirect impacts this species.
13	Biological Resources	Section 3.1.1.7 Special Status Wildlife Species	The US Border Fence is a barrier for wildlife movement. A portion of the project parcels are located in the mountainous terrain that is not occupied by the border fence. Therefore, this area could be considered a wildlife corridor for Peninsular Bighorn Sheep movement between the United States and Mexico. The EIS should reevaluate the occurrence and movement of the species within the project area.
14	Biological Resources	Section 3.1.2, Environmental Impacts	The EIS does not adequately analyze impacts to avian species. The EIS based the lack of presence of major migration corridors on the general characteristics of the landforms and the absence of extensive wetlands and riparian areas. The presence of avian species and potential impacts to them should be based on accepted biological survey methods rather than assumptions regarding topography. Nonetheless, the EIS concluded the project would result in "direct mortality of cross-border migratory birds due to collisions with transmission lines and wind turbines" without providing potential mitigation measures. The EIS goes on to describe potential environmental protection measures under the authority of the Mexican government (the requirement of avian and bat monitoring studies). Merely performing studies does not reduce the effects of the project. The EIS should identify specific mitigation measures that would reduce the potential effects to the Migratory Birds and raptors. DOE should ensure that these measures are adequate and/or feasible.
15	Biological Resources	Section 3.1.3 Mitigation Measures	The following Biological Mitigation needs to be added to the project as indicated in the Biological Resource report provided by the County: (1) Provide for Mitigation of the direct biological impacts by either habitat compensation or conservation for the permanent impacts to native vegetation communities. (2) Conduct pre-construction nesting bird surveys, for the California Horned Lark and Loggerhead shrike, or any other bird subject to the MBTA. Implement all appropriate avoidance measures for identified nesting birds.
16	Visual	Section 3-58	Summary: The use of the lattice tower is preferable over a monopole design. The County prefers the lattice tower design. This design should be the preferred alternative for the DOE Records of Decision.
17	Visual	Section 3.2.3 Mitigation Measures	The lattice or monopole towers should be painted a light tan or desert color to blend with the topography better. This has been done on other desert transmission lines that can be seen from Interstate 15 north between Riverside and Barstow, CA.

Section		Subsection, Paragraph, Sentence	Comment or Issue
18	Land Use	Section 3.3.2.3 Pg. 3-66-70	Zoning and Planning Consistency: The General Plan Land Use Policy 2.4, Multiple Rural Use (18) states, "...that a public improvement project may be approved even when there are identified adverse environmental impacts if the County of San Diego decision-makers adopt findings that demonstrate that the adverse impacts have been mitigated to the greatest extent feasible and that the project is necessary to protect the public health and safety." The ESJ Project is not a Public Utility nor is it considered to be a public project. Sempra is a private entity. Adverse environmental impacts have been analyzed in the EIS; therefore the project is not consistent with this policy. Because the EIS identifies a conflict with land use plan or policies, then the lead agency must determine the significance of the conflict. Unless specifically precluded by other laws from causing or contributing to a conflict with this particular policy, the lead agency may proceed with the proposed action despite the potential conflict. However, the Record of Decision should reflect the issue, discuss the availability of mitigation measures (demonstrate mitigation has been proposed to the greatest extent feasible) and explain the lead agency's decision to override the land use plans or policies for the area.
19	Land Use	Section 3.3	The Land Use Section does not discuss the County of San Diego General Plan Update, which has since been to the Board of Supervisors for two public hearings, and has been continued to December 8, 2010. The County requests that the Land Use Section incorporate an analysis of the General Plan Update to provide the DOE decisions makers a broad view of the proposed land use policies that may supersede the existing plan goals and policies. The General Plan Update may be in affect before the Record of Decision is made public.
20	Cultural Resources	Section 3.5.3 Mitigation Measures	The EIS should require a cultural resource construction grading monitoring and potential data recovery program to be conducted by a County of San Diego Qualified consultant. The construction crew should not be responsible for monitoring for potential sensitive cultural resources. See the County of San Diego Guidelines for Determining Significance and the Report Format and Content requirements. http://www.sdcounty.ca.gov/dplu/docs/Cultural_Report_Format.pdf and http://www.sdcounty.ca.gov/dplu/docs/Cultural_Guidelines.pdf
21	Noise	Section 3.6.2.2 Environmental Impacts Pg. 3-97	The Project does not analyze the potential impacts to the US from the Wind Turbine modulation and low frequency noise. The nearest sensitive receptor is .75 miles away from the nearest turbine located within the US. The EIR/EIS should provide noise analysis and quantifiable data to demonstrate that low frequency noise will not create a noise impact on existing sensitive receptors. The Following paper should be considered as a methodology for determining the impacts from the Baja Wind Project: ("The 'How To' Guide to sitting Wind Turbines to Prevent Health Risks From Sound" Version 2.1 dated October 28, 2008 prepared by George W. Kamperman and Richard R. James). Additionally the American Wind Energy Association Method may be calculated in addition to the Kamperman Method.
22	Transportation and Traffic	Section 3.7	The EIS should include the Traffic Control Plan (TCP) as an APM.
23	Transportation Air Traffic Safety	Section 3.7 Pg. 3-107	The EIS mitigation T-1 should also include coordination with CALFIRE (The San Diego Rural Fire Protection District).
24	Air Traffic Safety	Section 3.7	The EIS should address the potential impact from the wind tower/turbines built to up to 431 feet to airport operations in the U.S. Currently, the EIS addresses aviation impacts due to the development of the transmission lines, however is silent regarding impacts in the U.S. from related activities in Mexico (development of wind towers). Potential impacts could be the effects of the wind turbines on military and civilian radar or potential flight paths.
25	Fire Safety	Section 3.9.2	The conclusions in the EIS that the introduction of the project would only be a minor to moderate impact on Fire Safety is not accurate. The portion of the unincorporated county that the project is proposed is considered to be Very High Fire hazard designation. The fire fighting infrastructure and man power is relatively low in comparison to other areas within the county. The introduction of this use within this high fire hazard area makes the risk to human life and safety an unavoidable major and permanent impact. Although mitigation has been proposed, the County does not agree that it lowers the level and significance of the effect.

Section		Subsection, Paragraph, Sentence	Comment or Issue
26	Fire Safety	Section 3.9.3 Mitigation	The EIS should require as a mitigation measure, a Fire Service Development Agreement with the Rural Fire Protection District. This mitigation measure would ensure that the fire services would be available to adequately serve the project.
27	Air Quality and Climate Change	Section 3.10	Use of the Proposed Transmission Line for Non-Renewable Energy Projects: The applicant "Sempra Generation" indicated at the public hearings that they provided documentation to DOE that the proposed transmission line would only be used for transmitting renewable energy. The County concurs with Sempra that the lines should only be used for such purpose because it is foreseeable that the ESJ transmission line could be utilized to transport energy from other nonrenewable resources, such as natural gas. The Presidential Permit Record of Decision should specifically be conditioned to only be used for renewable energy, specifically wind energy from Northern Baja because all practicable means to avoid or minimize environmental harm should be considered (40 CFR 1505.2.c).
28	Air Quality and Climate Change	Section 10.2.3	The measures mention in this section should be made a mitigation measure to reduce the impacts from fugitive dust. Also, any soil stabilizer needs to be a permeable material.
29	Air Quality and Climate Change	Section 3.11	The EIS concludes the project would have a quantifiable positive effect on the environment over the long-term since greenhouse gas (GHG) and criteria emissions from fuel combustion would be avoided because the project would only transmit clean renewable energy (EIS, page 3-146). The EIS should identify that the project is to only transmit renewable energy as a mitigation measure. This would ensure that the GHG emissions would be mitigated by avoidance in accordance with 40 CFR 1508.20. Failure to implement this mitigation measure would not meet the objectives of the EIS and could result in increased impacts to the unincorporated county because the emissions from potential additional fossil fuel power plants in Mexico could increase greenhouse gas emissions, affect climate change, and adversely impact air quality and resources in the San Diego County. If not mitigated, the EIS should evaluate the resulting GHG emissions that could be created by a maximum of 1250 megawatts of fossil fuel based generation.
30	Water Resources	Section 3.11	Surface and groundwater hydrologic features do not cease at the international border. The Hydromodification Analysis should include the entire international drainage area to adequately analyze runoff and storm water flows from grading and construction in both the US and Mexico (see EIS Figure 3.11-1). Furthermore, the conclusions on page 3-158 (Impacts in the U.S. due to Related Activities in Mexico), do not account for potential impacts of flooding or flash flooding due to development of the proposed action in Mexico. The EIS states that "no surface water features traverse the U.S. Mexico border in the project area." However, there is no evidence that surveys were conducted across the border for development of the proposed action in Mexico. Figure 3.11-2 illustrates the survey boundaries, the extent of which end approximately 100 feet into Mexico.
31	Water Resources	3.11.1.2	The groundwater analysis does not analyze the direct effects to the Jacumba Valley Aquifer and groundwater basin because it does not consider the Groundwater extraction Major Use Permit (Connected Action) that the County is concurrently processing. The County can provide the groundwater investigation reports that conclude that there would be no impact to a minor impact to the water basis in Jacumba.
32	Minor Editorial Comment	Page 2-15	EIS inconsistently states the frequency of required fire clearing as both once per year and twice per year. The County recommends clarifying that this would occur twice per year as required by the Rural Fire Protection District, which is consistent with recommendations from the FPP letter report.
33	Minor Editorial Comment	Page 2-24	The EIS incorrectly references Figure 2-8 as providing a simulated view of the ECO Substation. Figure 2-8 does not provide a simulated view of the ECO Substation nor is there such a view in the EIS. The EIS should be corrected accordingly.
34	Minor Editorial Comment	Page 2-27	The EIS incorrectly references Figure 2-7 as providing a simulated view of the proposed wind towers.