

Marin County Community Development Agency

Alex Hinds, Director

August 28, 2002

John Boccio
Public Utilities Commission
436 14th Street, Suite 600
Oakland, CA 94610

Subject: Semptra Communications Telecommunications Certificate of Public Convenience and Necessity Draft EIR State Clearinghouse Number 0200480

Mr. Boccio:

We have received the Draft Program Environmental Impact Report (DEIR) dated July 2002 for the Semptra Communications application for a Certificate of Public Convenience and Necessity. The following is a response from the County of Marin Community Development Agency. The Department of Public Works comments are being sent in a separate transmittal.

The proposed project appears to potentially "Conflict with applicable environmental plans or policies adopted by Marin County" (see State CEQA Guidelines Appendix G "Initial Study Checklist" IX(b). The DEIR, in its Land Use and Planning section, contains several statements regarding the need to comply with local plans, policies, and regulations. Marin County has adopted a Telecommunications Facilities Policy Plan. Its policies include subjects such as siting, facility sharing, land use compatibility, visual and aesthetic compatibility, public safety, a description of existing telecom facilities in the County, and a review process for telecommunication facilities. In addition to the Telecom Ordinance, the Zoning Ordinance may subject telecom facilities to discretionary review. Determination of conformance with applicable plans and policies and environmental review will occur at the time of project application.

F-1

In Marin, there are both miles of existing undergrounded conduit installed and available for fiber optic lines, and existing fiber optic lines installed by another company that went bankrupt, that are potentially available for use. The Alternatives discussion in the DEIR discusses use of existing infrastructure in *Alternative 5: Use Of Existing Infrastructure Only*. While the DEIR emphasizes the potential limitations to this approach, it also acknowledges that it is environmentally superior. When the County approved the underground facilities, it was with the understanding and expectation of future users. Given the potential or even likely availability of this existing infrastructure, to be consistent with Marin County policies and CEQA provisions, the applicant will be required to explore the feasibility of this alternative, and incorporate it into the project where possible. The project description should be modified to include this alternative.

F-2

Another potential issue is the DEIR's discussion of the impacts and mitigations related to trenching adjacent to rights-of-way. This has the potential to impact various habitat types (e.g., wetlands), vegetation (e.g., trees), and scenic resources (e.g., rock outcrops). The mitigations set forth in the DEIR appear to fall short of County requirements, and raise the potential for significant impacts.

F-3

There are several sections of the DEIR stating there is no potential environmental impact and no mitigations suggested for the project (eg's., Transportation and Traffic, TRANS-1, 2, 5, and 6, Utilities and Service Systems, UTL-1) that are directly at odds with County policies. There is potential for significant impact, and the EIR should acknowledge this and emphasize under mitigation measures that final project design, location, etc., will be subject to, and based on, compliance with applicable local plans, policies, and regulations. In particular, the EIR should incorporate compliance with County Streamside Conservation Area and wetland policies, as well as all other relevant Environmental quality-related policies. This would provide some reassurance that the project description and preferred alternative, which are conceptual in nature in the program EIR, will comply with County policies.

F-4

Another example of a compliance issue is potential tree impacts. The County is extensively wooded. The EIR map showing the eastern third of the County as completely urban land use is an overgeneralization. Trenching next to a right-of-way could damage or result in the removal of dozens or even hundreds of trees. Prior to construction, the applicant will have to comply with the County Native Tree Preservation and Protection ordinance, and provide a plan for tree protection consistent with County policies.

F-5

A potential shortcoming in the DEIR concerns seismicity. The County features a length of the San Andreas fault that has experienced lateral movement of 15-20 feet. "Standard engineering practices" described to mitigate this hazard should be specifically identified and may need to be better than a typical standard to address potential impacts of this magnitude.

F-6

The Program EIR should summarize, discuss, and focus greater attention on the various information sources and databases that will need to be consulted and incorporated into the project design in order to avoid significant adverse effects. For example, Marin County has archeological resource maps, special status species maps, hazards maps, etc., that will need to be consulted prior to project design, and incorporated into the project.

F-7

Thank you for the opportunity to comment on the draft Program EIR. We look forward to further participation when a specific project is proposed for Marin.

Sincerely,



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Principal Planner

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F. MARIN COUNTY COMMUNITY DEVELOPMENT AGENCY, BEN BERTO, AICP – PRINCIPAL PLANNER

F-1 Commented Noted. The CPUC as stated in the EIR, agrees with the commentor that the proposed project may potentially conflict with applicable environmental plans or policies including those adopted by Marin County. In the DEIR on page 4.9-22, **Mitigation Measure LUP-1** addresses the potential for conflict by requiring Sempra Communications to comply with local, state and federal plans, policies and regulations. Compliance will be ensured through the implementation of a systematic process required for each subsequent activity.

F-2 The alternatives analysis presented in Chapter 6 (pages 6-1 through 6-7) of the DEIR addressed five alternatives to the proposed project including *Alternative 5: Use of Existing Infrastructure Only* as referenced by the commentor. The project as proposed includes multiple installation methods for development of telecommunications infrastructure to afford flexibility for Sempra Communications to utilize multiple methods of installation depending on several influencing factors including governing authority requirements and/or restrictions, surface conditions, vehicular traffic, and installation costs to reduce impacts to insignificant levels according to the DEIR. The proposed project contemplates Sempra Communications choosing installation methods for a specific location based on a number of factors including engineering feasibility, rights-of-way availability, environmental effects, cost, and construction time factors.

Alternative 5 limits the project to use of existing infrastructure only with no need for ground disturbance or installation of new facilities. Although environmentally superior to the proposed project, a substantial limitation of this alternative is that existing underground duct facilities are absent in large stretches of rural and undeveloped lands throughout the project areas, unlike more urban environments such as cities in Marin County. Moreover, the use of existing infrastructure is extremely limiting to reach potential customers because connections to those customers could only occur where existing infrastructure is present. In many cases, no infrastructure now exists that could be used to reach residential and commercial consumers. However, the CPUC will ensure that Sempra Communications demonstrates that they have coordinated with local authorities and other owners of existing infrastructures to identify the availability of that structure where Sempra Communications may propose to construct to utilize existing infrastructure to the furthest extent feasible.

F-3 The commentor is concerned about the potential direct and indirect impacts related to trenching adjacent to rights-of-way where various habitat types, vegetation, and scenic resources may potential exist. The DEIR addressed these issues in both the **Aesthetics** and **Biological Resources** sections of Chapter 4. Regarding the potential impacts to various habitat types (i.e., wetlands and other sensitive natural communities) and vegetation (i.e., trees and riparian habitat), the DEIR addressed and developed mitigation measures to lessen those impacts to levels of insignificance. **Mitigation Measures BIO-7, BIO-10, BIO-11 and BIO-12** (pages 4.4-58, 4.4-62, 4.4-64 and 4.4-65) were developed specifically to address potentially significant impacts from construction to wetlands and waters of the U.S., sensitive natural communities, trees and special status plant species where avoidance is the preferred method.

Additionally, 14 mitigation measures were developed in the DEIR under the **Biological Resources Section** of Chapter 4 specifically to lessen potentially significant impacts to special status species that may result from construction occurring within or adjacent to habitat that supports those species. Potentially significant impacts to scenic resources are addressed in the DEIR on page 4.1-9 under **Mitigation Measure AES-1a** requiring Sempra Communications to identify scenic resources within 1,500 feet of the proposed activity and attempt to locate all substantial features a minimum of 1,000 feet away from those resources.

The commentator also stated that the mitigation measures appeared to fall short of County requirements. In the event that local requirements are more stringent than those developed in the DEIR, the local requirements would be addressed as required by Sempra Communications, and the CPUC does not supercede any local, state or federal agency requirements that may be in excess of those outlined in the DEIR.

F-4 The DEIR identifies six traffic impacts that may potentially result during construction activities during installation of fiber optic cable and related facilities (**TRA-1 through TRA-6**, pages 4.12-14 through 4.12-19). Each of the impacts identified were considered less than significant because Sempra Communications would obtain and comply with local and state road encroachment permits, including the development of a traffic control plan that addresses lane closures, temporary traffic disruption, increase in vehicular construction activities, emergency access and demand for construction related parking access. In addition to the requirement for encroachment permits, **Mitigation Measure LUP-1** in the DEIR on page 4.9-22, requires the applicant to comply with local, state, and federal plans, policies, and regulations for final project design, location, etc, including, but not limited to, other relevant environmental quality-related policies. The CPUC will revise the text to ensure that this requirement is clear.

Impact TRA-1 on page 4.12-15 (also referenced in **TRA-2 through TRA-6**) will include the following language:

“This impact would be considered potentially significant, however, because Sempra Communication would obtain and comply with local and state road encroachment permits, and railroad encroachment permits, and applicable local plans, policies, and regulations, this would be a less than significant impact.”

Mitigation Measure LUP-1 on page 4.9-22 will be revised to read as follows:

“The applicant shall comply with local, state, and federal plans, policies, and regulations including all other relevant environmental quality-related policies (i.e., County Streamside Conservation Area and wetland policies).”

The **Utilities and Service Systems** section in the DEIR on page 4.13-3 identified a potential impact (**UTL-1**) during construction that could affect and disrupt delivery of utility services. Prior to construction, Sempra Communications would identify underground utilities and service connections by contacting “Dig Alert,” “One-Call” or a similar underground utility contractor and determine the exact utility locations by hand-excavated test pits dug at locations determined and

approved by the construction manager (also referred to as “pot-holing”). Temporary disruption of service may also be required to allow for construction, however no service on such lines would be disrupted until prior approval is received from the construction manager and the service provider. By complying with these conditions as stated in the DEIR, impacts to utilities and service systems would be less than significant. If Marin County policies require additional measures, Sempra Communications would comply with those measures by coordination and acquisition of any permits from the County.

F-5 The CPUC agrees with the commentor that categorizing the eastern portion of Marin County as completely urban land use is an overgeneralization. As no specific activities are proposed by Sempra Communications in the EIR, the project area was selected by means of several factors including urbanization demonstrated by Census 2000 data, incorporated municipal boundaries, and areas with potential for future telecommunications infrastructure needs.

However, in the event that tree removal were necessary, page 4.4-65 of the EIR, **Mitigation Measures BIO-12a**, includes a mitigation for project impacts to protected trees including the development and implementation of a Tree Protection Plan, where required, in coordination with local jurisdictions, to prevent impacts to protected trees both within or adjacent to proposed work areas.

F-6 The project area includes lengths of several faults, such as the San Andreas fault that has experienced substantial lateral movements, where design and construction of the proposed structure would be required to comply with geotechnical recommendations that incorporate applicable UBC standards. Additionally, the prefabricated OP-AMP station structures, if proposed, would not be inhabited and would be certified by the manufacturer to meet necessary seismic design standards. Therefore, any damage during a seismic event would not affect humans or the environment. Ground-shaking is considered a less than significant impact because the proposed project would not result in an increased exposure of individuals to the adverse effects of ground-shaking or increase the severity of the ground-shaking in the project area. The only impact that may potentially occur during an earthquake would be damage to the facilities resulting in temporary disruption of communication on the affected networks, thereby indirectly affecting communications between public service entities and/or service providers. This identified impact would not be considered hazardous and therefore, also not considered significant.

F-7 **Mitigation Measure LUP-1** on page 4.9-22 will be revised, in addition to the revisions in response to comment **F-4** to read as follows:

“During the initial design stages of subsequent activities, the applicant shall consult with local planning staff to determine any required permits, and to assess the activity’s consistency with relevant land use plans, policies, zoning and relevant ordinances. Additionally, Sempra Communications shall review any sources or databases prepared by local jurisdictions to recover information that may not be available from statewide or federal information sources (i.e., CNDDDB, NAHC, CHRIS, or Phase I hazardous materials searches).”