



***VIA EMAIL AND U.S. MAIL***

December 10, 2010

Billie Blanchard  
California Public Utilities Commission  
c/o Aspen Environmental Group  
235 Montgomery Street, Suite 935  
San Francisco, CA 94104-3002  
[billie.blanchard@cpuc.ca.gov](mailto:billie.blanchard@cpuc.ca.gov)  
[dpv2@aspeneg.com](mailto:dpv2@aspeneg.com)

**Re: Comments on the Notice of Preparation for a Focused Supplemental Environmental Impact Report for the Devers–Palo Verde No. 2 Transmission Line Project, Colorado River Substation Expansion Proposed by Southern California Edison (SCH No. 2005101104)**

Dear Ms. Blanchard:

These comments are submitted on behalf of the Center for Biological Diversity (“Center”), Western Watersheds Project, and the Sierra Club (collectively “conservation groups”) regarding the Notice of Preparation (“NOP”) for a Focused Supplemental Environmental Impact Report for the Devers–Palo Verde No. 2 Transmission Line Project, Colorado River Substation Expansion Proposed by Southern California Edison (SCH No. 2005101104) (“Colorado River substation” or “proposed project”).<sup>1</sup>

The development of renewable energy is a critical component of efforts to reduce greenhouse gas emissions, avoid the worst consequences of global warming, and to assist California in meeting emission reductions set by AB 32 and Executive Orders S-03-05 and S-21-09. The conservation groups strongly support the development of renewable energy production, and the generation of electricity and, where necessary, additional transmission capacity to support those projects. However, like any project, proposed transmission projects to support renewable energy projects should be thoughtfully planned to minimize impacts to the

---

<sup>1</sup> These comments are timely filed because the Commission failed to provide adequate notice of the NOP to the public including the Center (and many other members of the public). Although the Center participated in the CEQA process for the Devers-Palo Verde No. 2 Transmission Line Project, the Center was not provided any notice when the NOP was issued. After contacting Commission staff, the Center was provided with additional time to submit comments on the NOP – until December 10, 2010. By submitting these comments at this time, the conservation groups do not waive any right to challenge the sufficiency of the notice provided on the NOP.

environment. In particular, renewable energy projects should avoid impacts to sensitive species and habitats, and should preferably be sited in proximity to the areas of electricity end-use in order to reduce the need for extensive new transmission corridors and the efficiency loss associated with extended energy transmission. Only by maintaining the highest environmental standards with regard to local impacts, and effects on species and habitat, can renewable energy production be truly sustainable.

As proposed, the Colorado River substation would have significant, avoidable impacts to sand dunes and sand transport including habitat for the rare Mojave fringe-toed lizard. The “focused supplemental” EIR must: provide adequate identification and analysis of all of the significant impacts of the proposed project on environmental resources including the Mojave fringe-toed lizard and sand habitats, rare plants and communities, rare insects and other biological resources; adequately address the significant cumulative impacts on these same resources in the area from other permitted and proposed projects; and consider a reasonable range of alternatives including alternative sites outside of these rare habitat types.

**A. The Project Description in the NOP Is Inaccurate and the Earlier Approval Is Unclear Regarding The Location of the Substation**

The NOP fails to accurately describe the proposed project for the “focused supplemental” EIR. The NOP describes the project as an “expansion” of the Colorado River substation and states: “Expanding the proposed and already permitted Colorado River Substation from 44 acres to 90 acres.” This is both misleading and inaccurate. First, there is no clear evidence that the substation at this location was ever properly approved by the Commission. Second, no substation right of way has yet been approved by the BLM nor has the right of way for the associated transmission line.

The NOP includes a map showing the “Original Midpoint Station” which was analyzed in both the DEIR/EIS<sup>2</sup> and FEIR/EIS.<sup>3</sup> At the time the Commission approved the reconfigured

---

<sup>2</sup> The DEIR/EIS clearly analyzed a “Midpoint Substation” that was at that location— “The Midpoint Substation is being considered as a possible project component by SCE. It would be located approximately 10 miles southwest of Blythe, California, adjacent to SCE's DPV1 ROW.” DEIR/DEIS at B-49. Its location is shown in Figure ES-4b (the environmentally superior alternative) and in Figure B-2 (project description). Figure B-2 in the DEIR/EIS shows a substation location directly adjacent to private lands in Blythe southeast of the location that the NOP describes. The DEIR/DEIS also included a map of “alternatives eliminated”, Figure C-2b, which showed proposed alternative substations including one named “Mesa Valley substation” closer to the site now claimed to be the “Colorado Substation.” There is one map from the Appendices to the DEIR/EIS that shows an alternative line route and a substation at the site now claimed to be the Colorado River substation site -- Figure Ap.1-11 Desert Southwest Transmission Project Alternative which uses the same name “Midpoint substation/switching station” for a different location near Mesa Verde. However, in 2006 when the DEIR/EIS was prepared this was considered a *route alternative* not a substation alternative. Figure Ap.1-11 (“The proposed DSWTP *route* (in gold) is the *route* evaluated as an alternative to DPV2.” Emphasis added)

line in 2009, it referred to both a “**Midpoint Substation**” and a “**Midpoint-Desert Southwest Substation**” and the Commission clearly understood that these were two different substation locations. The Midpoint Substation was in the same location as had been analyzed in the DEIR/EIS and FEIR/EIS. The “Midpoint-Desert Southwest Substation” was located on maps several miles to the northwest in the location that the NOP now assumes the “Colorado River Substation” was previously approved.

The 2009 decision states:

“The environmental impacts of two alternative substation locations – the Midpoint Substation and the Midpoint-Desert Southwest Substation - were fully evaluated in the Final EIR/EIS. The Final EIR/EIS concluded that either location was “equally environmentally superior/preferable.” [FN 46: Final EIR/EIS, Vol. 2, Section E.2.1.3, at E-12] Hence, SCE may chose to pursue either of the studied locations for purposes of CEQA/NEPA, and our approval of construction of the Midpoint Substation does not trigger the need for additional environmental review.”

A.05-04-015, Decision Modifying Decision 07-01-040, at 18-19. The Commission appeared to leave the choice of the location of the substation to the applicant,<sup>4</sup> however, there is no evidence in the record that the applicant ever made such a choice or, if it did, that the public was notified of that choice. Moreover, detailed redline modifications to the earlier project approval attached to the 2009 Decision state: “The route for the California-only Project should start **at the Midpoint Substation** and generally follow the DPV1 right of way to SCE’s Devers Substation.” Attachment 1, Redline of Modifications to D.07-01-040 at 4 (emphasis added). Thus, although the Commission stated either substation could be chosen by SCE, the red-line shows that the Decision actually approved the original “Midpoint Substation.” To the extent that it could be argued that the record is ambiguous on this point, the solution is for the Commission to re-open the issue of the location of the substation as part of the “focused supplemental” EIR regarding an expanded substation more than doubling the size of the footprint.

While the applicant may argue that it cannot move the project at this time, such arguments have no foundation. First, the substation has not yet been approved by the BLM and no work has commenced on site. To the extent that any decision regarding the location of the substation could be made absent prior approval of a ROW by the BLM, it certainly can still be changed by the Commission absent such approval by BLM. Second, most importantly, the

---

<sup>3</sup> The FEIR/EIS included a figure showing alternatives considered-- figure ES-2—which also shows only the Midpoint substation at the location southeast of the current location as does the figure showing the “environmentally superior alternative” Figure ES-4b.

<sup>4</sup> The Commission was not free to leave such a choice to the applicant because to do so would be to unlawfully cede its authority and discretion to approve the project to the applicant. The *Commission* was required to make the choice and commit to a definite course of action in approving a specific project. CEQA Guidelines §15352(a) (“Approval’ means the decision by a public agency which *commits the agency to a definite course of action* in regard to a project.” Emphasis added).

Commission was clearly wrong in stating that the environmental impacts of the two substation locations were the same. The proposed substation location is in very sensitive habitat in a sand movement corridor—not only is the location bad because of its impacts to species but it is a bad location for industrial electrical equipment that would be subject to blowing sands on an ongoing basis. Third, the Original Midpoint substation site is clearly environmentally superior to the site now called the Colorado River substation and would avoid many of the impacts to sand dependent species and also thereby avoid the need to mitigate for those impacts. Fourth, alternate sites for the substation could *improve* the overall layout of the proposed transmission line as related to the site-specific projects it is now intended to serve. For example, the substation could be moved to shorten the distance to the currently approved projects by moving the substation onto disturbed lands north of the I-10 freeway closer to the Blythe Solar Power Project. For these reasons and more, the Commission should consider alternate sites in the focused supplemental EIR.

**B. Alternative Locations Must Be Considered in the Focused Supplemental EIR That Would Avoid Significant Impacts to the Mojave Fringe-toed Lizard**

Assuming for the sake of argument alone, that the Colorado River substation was previously properly approved by the Commission at the location that is mapped in the NOP (which we do not concede as discussed above), the CEQA review at this time must nonetheless include an analysis of alternative sites for the proposed expanded substation project. As the NOP notes, the substation in the proposed location will have “Potential direct and indirect impacts to special-status reptile species including: Mojave fringe-toed Lizard”. Recent mapping of the sand habitat in this area shows that the presumptive location would be in the middle of significant sand transport. *See Collison, Andrew, Geomorphic assessment of Palen Solar project site, Appendix A (Soil and Water Report), PWA Ltd, dated February 18, 2010, map at page 10.* As a result, it will likely have the kind and extent of impacts that will be impossible to mitigate. In addition, in the intervening years since the DEIR/DEIS was prepared in 2006, many additional projects have been proposed and approved in this area that will cumulatively affect this species and its habitat as well as other environmental resources that may be affected by the expanded substation. An expanded footprint for the as yet un-built substation must take into account this new information in framing alternatives as well as in a revised cumulative impacts analysis.

Because a substation at the proposed location would have significant impacts (which would be even more severe with an expanded footprint) the Commission must address whether alternative sites are available for the substation so that the significant impacts could be avoided. It is important to understand that the conservation groups are not raising these issues for the first time in these comments. The Center raised issues regarding the presumed location of the Colorado River substation several times in the past year. As the Center stated in comments on the Blythe Solar Power Project DEIS to the BLM (copied to the CEC) dated June 16, 2010 at page 2:

“Of particular concern is the BLM’s failure to include adequate information regarding the impacts to resources from the construction and operation of the proposed Colorado River substation and the gen-tie line in the DEIS. The

substation is proposed to be constructed in occupied Mojave fringe-toed lizard habitat and no alternative sites for the substation are evaluated.<sup>2</sup>

[Footnote 2:]

“The DEIS/SA provides some information on the impacts of the substation scattered throughout the document. *See, e.g.*, DEIS at C.2-63 fn. 7 (“Construction impacts are presented here but Southern California Edison would construct the 33-acre substation and would undertake mitigation for the biological resource impacts.”) This information is clearly insufficient as noted in the Revised Staff Assessment (“Revised SA”) for the Blythe Project CEC-700-2010-004 REV1, DOCKET NUMBER 09-AFC-6 dated June 4, 2010, which includes the following statement:

Transmission System Engineering – The California Public Utilities Commission staff have asked the Energy Commission to include a permitting-level analysis of the proposed Colorado River substation expansion that is under their permitting authority. Consultants are currently preparing this report and it will be included as part of the Supplemental Staff Assessment.

pp. 12-13 (Executive Summary; emphasis added); *see also* pp. A-14 (“Transmission System Engineering – The California Public Utilities Commission staff have asked the energy commission staff to include a permitting-level analysis of the proposed Colorado River substation that is under their permitting authority. Consultants are currently preparing this report, and it will be included as part of the Supplemental Staff Assessment.”).”

*See also*, CBD comments on Genesis DEIS to BLM dated July 8, 2010 (asking BLM to analyze alternative sites for the Colorado River substation to avoid impacts to Mojave fringe-toed lizard; also copied to CEC). At this juncture, the Commission has apparently realized that it must now address the “permitting-level analysis” that was not previously provided in any other environmental review document in a “Focused Supplemental” EIR.

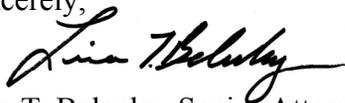
The proposed substation would directly impact 90 acres of sand dune habitat and indirectly impact many more acres because it would create a very large obstruction to the sand transport processes and thereby destroy the sand habitat of the Mojave fringe-toed lizard and other species. These impacts must be fully identified and analyzed. These impacts should be avoided by alternative siting and cannot be mitigated. Moreover, it is vital that the supplemental EIR fully consider impacts to the Mojave fringe-toed lizard and other sand dependent species in the context of the many cumulative impacts that exist in this area and throughout its habitat in the California desert at this time and in the foreseeable future.

The Mojave fringe-toed lizard is a BLM Sensitive species and a California Species of Special Concern. The species has naturally disjunct habitat areas and reaches its southern-most range in the general vicinity of the proposed substation site. Mojave fringe-toed lizards require Aeolian sands and sandy substrate on which to live. As Barrows et al. (2006) found, edge effects

are significant for fringe-toed lizards and, in addition, the increase in predators associated with developed edges may also have a significant adverse effect on lizards and other species. One distinct population segment of the Mojave fringe-toed lizard in the Amargosa River area is already being considered for listing under the Federal Endangered Species Act (“ESA”).<sup>5</sup> The conservation groups are concerned that additional impacts to the species from recently approved projects and pending projects including the expanded substation proposal, particularly large-scale impacts in the southern-most part of the species’ range, could trigger the need to obtain additional legal protections and result in a need to list this species as a whole under the ESA to ensure its survival. The Commission and the BLM<sup>6</sup> in reviewing the substation proposal must look at ways to avoid and limit impacts to this already imperiled species and its habitat and to *promote conservation* for the Mojave fringe-toed lizard in the California desert.

Thank you in advance for your consideration of these comments. The conservation groups look forward to reviewing a focused supplemental EIR that identifies and analyzes the significant impacts of the proposed substation and a range of alternatives that will avoid the significant impacts to biological resources in particular. Please do not hesitate to contact me if you have any questions regarding these comments.

Sincerely,



Lisa T. Belenky, Senior Attorney  
Center for Biological Diversity  
351 California St., Suite 600  
San Francisco, CA 94104  
(415) 436-9682 x307  
Fax: (415) 436-9683  
[lbelenky@biologicaldiversity.org](mailto:lbelenky@biologicaldiversity.org)

on behalf of:

Michael J. Connor, Ph.D.  
California Director  
Western Watersheds Project  
P.O. Box 2364  
Reseda, CA 91337-2364  
[mjconnor@westernwatersheds.org](mailto:mjconnor@westernwatersheds.org)

Barbara Boyle  
Senior Representative, Clean Energy Solutions  
Sierra Club, Suite 2700  
801 K Street  
Sacramento, CA 95814  
(916) 557-1100 x. 105  
[barbara.boyle@sierraclub.org](mailto:barbara.boyle@sierraclub.org)

---

<sup>5</sup> 90-Day Finding on Petition To List the Amargosa River Population of the Mojave Fringe-Toed Lizard (*Uma scoparia*) as Threatened or Endangered With Critical Habitat, 73 Fed. Reg. 1855 (January 10, 2008).

<sup>6</sup> BLM’s Special Status Species Manual requires the BLM to “implement measures to conserve these species and their habitats . . . to promote their conservation and reduce the likelihood and need for such species to be listed pursuant to the ESA.” Manual 6840 at 35.

cc: (via email)

Bureau of Land Management  
[Allison\\_Shaffer@blm.gov](mailto:Allison_Shaffer@blm.gov)  
[Ashley\\_Conrad-Saydah@blm.gov](mailto:Ashley_Conrad-Saydah@blm.gov)

Alan Solomon, Project Manager (Blythe)  
Siting, Transmission and Environmental Protection Division  
California Energy Commission  
[asolomon@energy.state.ca.us](mailto:asolomon@energy.state.ca.us)

Brian Croft, USFWS, [brian\\_croft@fws.gov](mailto:brian_croft@fws.gov)  
Kevin Hunting, CDFG, [khunting@dfg.ca.gov](mailto:khunting@dfg.ca.gov)

**References (attached):**

Barrows, C.W., M.F. Allen and J.T. Rotenberry 2006. Boundary processes between a desert sand dune community and an encroaching suburban landscape. *Biological Conservation* 131: 486-494.

Collison, Andrew, *Geomorphic assessment of Palen Solar project site*, Appendix A (Soil and Water Report), PWA Ltd, dated February 18, 2010, map at page 10.