

Comment Set B0018, cont.
The Nevada Hydro Company Inc

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

In the Matter of the Application of)	Application No. 06-08-010
San Diego Gas & Electric Company)	(Filed August 4, 2006)
(U-902-E) for a Certificate of Public)	
Convenience and Necessity for the)	
<u>Sunrise Powerlink Transmission Project</u>)	

**COMMENTS OF
THE NEVADA HYDRO COMPANY
REGARDING THE DRAFT EIR/EIS**

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April 11, 2008

Comment Set B0018, cont.
The Nevada Hydro Company Inc

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B0018-41

The Nevada Hydro Company (“Nevada Hydro”) respectfully submits these comments regarding the Draft Environmental Impact Report/Environmental Impact Statement and Proposed Land Use Amendment dated January 2008 (“Draft EIR/EIS”) prepared jointly by the staffs of the California Public Utilities Commission (“CPUC”) and the U.S. Department of Interior, Bureau of Land Management (“BLM”) (collectively, the “Staff”).

As explained below: (1) the LEAPS Transmission-Only Alternative (i.e., the Talega-Escondido/Valley-Serrano 500 kV Interconnect (“TE/VS Interconnect”)) fully meets all three of the Project Objectives identified by Staff; and (2) the LEAPS Transmission-Only Alternative is not only the environmentally preferred transmission alternative to the Proposed Project, as evaluated by Staff, but is also the overall best available alternative.

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I. INTRODUCTION

A. Nevada Hydro's Related Proceedings

Nevada Hydro proposes to build a project with two components: a pumped hydro storage plant and a transmission line. The hydro plant is the Lake Elsinore Advanced Pumped Storage ("LEAPS") Project, located at Lake Elsinore in Riverside County, California.¹ The transmission line – the TE/VS Interconnect – will be a 500 kV facility of approximately 30 miles with a nominal design capacity of at least 1,240 MW (actual capacity may be greater depending on system circumstance).

The TE/VS Interconnect will extend from the LEAPS powerhouse substation southward to San Diego Gas & Electric Company's ("SDG&E") existing 230 kV Talega-Escondido transmission line in northern San Diego County and northward to Southern California Edison's ("SCE") existing 500 kV Valley-Serrano transmission line in western Riverside County. With transfer capability well in excess of the LEAPS generating capacity, the TE/VS Interconnect will provide transmission service to third parties and

¹ Lake Elsinore will serve as the lower reservoir for LEAPS, and the upper reservoir will be constructed above the crest of the Elsinore Mountains. LEAPS will have an installed generating capacity of approximately 500 MW and pumping capacity of 600 MW.

Nevada Hydro, and its co-applicant, the Elsinore Valley Municipal Water District, filed with the Federal Energy Regulatory Commission ("FERC") an application for an original license for LEAPS including the TE/VS Interconnect. FERC Project No. P-11858-002. On January 25, 2005, the FERC accepted the final license application for filing and, on January 30, 2007, the FERC and the United States Forest Service issued a Final Environmental Impact Statement ("Final EIS"). FERC Project No. P-11858-002, Final EIS (Jan. 30, 2007). Nevada Hydro understands that the license application is complete with the exception of section 401 certification under the Clean Water Act, which Nevada Hydro expects to be addressed through this Commission's environmental review in the TE/VS Interconnect CPCN proceeding cited below or issued pursuant to the California Environmental Quality Act ("CEQA") documentation derived from the instant proceeding as a fast-track solution.

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also will connect LEAPS to the grid. In recognition of the third-party transmission function of TE/VS Interconnect and related transmission upgrades, Nevada Hydro filed an application for a certificate of public convenience and necessity (“CPCN”) with the Commission for the TE/VS Interconnect.²

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B. CPUC and BLM Review of LEAPS and the TE/VS Interconnect

In the Draft EIR/EIS Staff compared alternatives to identify the “Environmentally Superior” or “Agency Preferred” Alternative.³ The analysis compared SDG&E’s proposed Sunrise Powerlink Transmission Project (the “Proposed Project”) to various routing alternatives to select the Environmentally Superior Northern Route Alternative and the Environmentally Superior Southern Route Alternative.⁴ Staff also reviewed TE/VS Interconnect as a stand-alone project (referring to it as the “LEAPS Transmission-Only Alternative”), and reviewed the combined environmental impacts of LEAPS and TE/VS Interconnect (“LEAPS Generation and Transmission Alternative”).⁵ Staff then compared the best Northern Route, best Southern Route, and the LEAPS Transmission-Only Alternative to determine the “Best Overall Transmission Alternative,” identified as the Environmentally Superior Transmission Line Alternative.⁶ Finally, Staff compared

² Application of The Nevada Hydro Company for a Certificate of Public Convenience and Necessity for the Talega-Escondido/Valley-Serrano 500 kV Interconnect, Application No. 07-10-005 (Oct. 9, 2007).

³ Draft EIR/EIS at ES-38.

⁴ Id.

⁵ See Id. at ES-62 & ES-63. Nevada Hydro’s comments herein are limited to Staff’s evaluation of the LEAPS Transmission-Only Alternative and not the LEAPS Generation and Transmission Alternative.

⁶ Id. at ES-38.

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the Best Overall Transmission Alternative to both a Non-Wires Renewable Alternative and a Non-Wires All-Source Alternative to determine the overall Environmentally Superior Alternative.⁷

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After extensive and careful review, Commission Staff concluded that the LEAPS Transmission-Only Alternative is the “Overall Environmentally Superior Transmission Line Route Alternative.”⁸ Staff stated,

This alternative is considered to be preferred because it would require . . . nearly 100 miles less new transmission line construction than the Environmentally Superior Route Alternative for the Proposed Project . . . and about 60 miles less than the Environmentally Superior SWPL Southern Route Alternative It would have the least ground disturbance and a reduced fire risk.⁹

II. THE LEAPS TRANSMISSION-ONLY ALTERNATIVE FULLY MEETS ALL THREE PROJECT OBJECTIVES

Nevada Hydro’s “LEAPS Transmission-Only Alternative” fulfills each of the three criteria Staff identified for its comparison of the Proposed Project to available alternatives. Staff identified three basic Project Objectives for the comparison: (1) “to maintain reliability in the delivery of power to the San Diego region;” (2) “to reduce the cost of energy in the region; and” (3) “to accommodate the delivery of renewable energy to meet State and federal renewable energy goals from geothermal and solar resources in the Imperial Valley and wind and other sources in San Diego County.”¹⁰

⁷ Id. (noting that BLM has not yet defined its Agency Preferred Alternative, so the determinations presented in the Draft EIR/EIS represent the overall Environmentally Superior Alternative as determined by CPUC Staff only).

⁸ Id. at ES-64 (emphasis in original).

⁹ Id.

¹⁰ Id. at ES-20.

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In comments filed on April 7, 2008,¹¹ Nevada Hydro addressed how the LEAPS Transmission-Only Alternative will provide transmission access to renewable energy from several sources:

- it will bring geothermal energy from the Imperial Valley into the San Diego area via the Imperial Irrigation District's proposed Coachella Valley-Devers II project which will interconnect with SCE's system, that will be interconnected to SDG&E by the TE/VS Interconnect;
- it will bring into the San Diego area during periods of peak demand renewable energy generated during off-peak periods stored in LEAPS; and
- it will bring wind generation from SCE's Tehachapi Renewable Transmission Project into the San Diego area.¹²

Nevada Hydro will not iterate these comments here. In the next section, Nevada Hydro provides additional comments to explain how the LEAPS Transmission-Only Alternative is the overall best available alternative.

III. THE LEAPS TRANSMISSION-ONLY ALTERNATIVE IS THE OVERALL BEST AVAILABLE ALTERNATIVE

In addition to being the Environmentally Superior Transmission Line Alternative, the LEAPS Transmission-Only Alternative is also superior to both the New In-Area All-Source Generation Alternative and the New In-Area Renewable Generation Alternative. Therefore, it is the overall best available alternative.

The CPUC is mandated to select an alternative over the proposed project if the alternative would lessen the environmental effects of the proposed project. The California Environmental Quality Act ("CEQA") provides, "The Legislature finds and declares that it is the policy of the state that public agencies should not approve projects

¹¹ See CPUC Application No. 06-08-010, Comments of The Nevada Hydro Company (April 7, 2008).

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as proposed if there are feasible alternatives . . . available which would substantially lessen the significant environmental effects of such projects”¹³ The CPUC’s regulations define “feasible” to mean “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.”¹⁴

Staff found that the LEAPS Transmission-Only Alternative is “the Overall Environmentally Superior Transmission Line Route Alternative due to its substantially shorter length and reduced environmental impacts when compared to the Northern and Southern Route Alternatives” of the Proposed Project.¹⁵ Staff explained that the LEAPS Transmission-Only Alternative “would meet the reliability and economic project objectives and would allow import of renewable generation into the San Diego area from the SCE system”¹⁶ Furthermore, “[w]ith the LEAPS Transmission-Only Alternative, most major impacts of the Proposed Project would be avoided.”¹⁷ In addition to finding the LEAPS Transmission-Only Alternative being environmentally superior and meeting the economic objectives, Staff also found that it “is technically, legally, and regulatorily feasible.”¹⁸

B0018-41 cont.

¹² Id. at 12-14.

¹³ Cal. Pub. Res. Code § 21002 (2008).

¹⁴ Cal. Code Regs. tit. 14, § 15364 (2008).

¹⁵ Draft EIR/EIS at ES-64 (emphasis in the original).

¹⁶ Id.

¹⁷ Id. at C-69.

¹⁸ Id. at Ap.1-260; C-69.

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As discussed above, Staff is required under CEQA to include non-wires alternatives in its analysis.¹⁹ For this reason, Staff considered the effects of both a New In-Area All-Source Generation Alternative and a New In-Area Renewable Generation Alternative. It should be noted that, while Staff ranked these two non-wires alternatives ahead of the LEAPS Transmission-Only Alternative, the New In-Area All-Source Generation Alternative and the New In-Area Renewable Generation Alternative had 5 and 4 more significant, unmitigable impacts, respectively, than the LEAPS Transmission-Only Alternative. Also, and importantly, neither of the non-wires alternatives are “feasible” as they are not even being proposed, let alone “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.”²⁰

By contrast, the LEAPS Transmission-Only Alternative (TE/VS Interconnect) is feasible from economic, environmental, and other relevant perspectives. The FERC has now ruled favorably upon Nevada Hydro’s request for conceptual approval of a return on equity incentive under FERC’s Order No. 679.

The FERC first determined that the TE/VS Interconnect fulfilled the reliability standard for the grant of incentives. It stated that the TE/VS Interconnect, as a stand-alone without LEAPS,

will add another major transmission path into the San Diego area with a potential for increasing San Diego’s import capability including relief on currently limiting Paths 43 (North of San Onofre) and 44 (South of San Onofre) while maintaining adequate system reliability. . . . We therefore find that Nevada Hydro, through independent

¹⁹ Id. at ES-38.

²⁰ See Cal. Code Regs. tit. 14, § 15364.

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evidence . . . has adequately demonstrated that its TE/VS Interconnect project will ensure reliability, consistent with the requirement of Order No. 679.

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The Nevada Hydro Company, Inc., 122 FERC ¶ 61,272, at PP 26-27 (2008).

Having found that the TE/VS Interconnect fulfills the reliability standard, the FERC determined that “an incentive ROE to build this transmission line is appropriate,” id., at P 44, “to be set within the upper end of the zone of reasonableness,” id., at P 47, “not to exceed the requested 13.5 percent[.]” Id. The final rate will be set upon a formal rate filing under section 205 of the Federal Power Act.

In light of the FERC’s ruling, the economic feasibility of TE/VS Interconnect cannot seriously be questioned. Investors can expect to receive an incentive based rate of return on their equity. The only reasonable conclusion is that the project will be financed.

Opponents of TE/VS Interconnect have contended erroneously that the facility cannot be constructed as a stand-alone without LEAPS, and so should not be evaluated as a stand-alone transmission project. Notably, FERC evaluated TE/VS Interconnect as just that – a stand alone project.²¹ More significantly, Nevada Hydro intends and expects to build both components – LEAPS and TE/VS Interconnect – as sequenced project components. But, if LEAPS cannot be financed or constructed, Nevada Hydro is aware of no impediment to the completion and commercial operations of TE/VS Interconnect.

²¹ Id. at P 8 (“we will examine the TE/VS Interconnect and the LEAPS project separately for purposes of our analysis under Order No. 679”).

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IV. CONCLUSION

For these reasons, the TE/VS Interconnect, as a stand-alone, should be considered the overall Environmentally Superior Alternative to the Proposed Project.

Respectfully submitted,



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Responses to Comment Set B0018

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B0018-1 The method employed to compare alternatives did not consider the relative energy-related benefits of each alternative, only the relative environmental impacts of each alternative, and the LEAPS Generation and Transmission Alternative ranked environmentally inferior to the other transmission line alternatives under consideration largely because of the additional significant, unavoidable impacts introduced by the pumped storage generation component. The individual project objectives of the LEAPS Project, as proposed by the Nevada Hydro Company (TNHC; e.g., provide peak energy) were not taken into consideration in the comparison of alternatives. Alternatives are considered reasonable in the Draft EIR/EIS if they meet most of the objectives of the Proposed Project and reduce one or more of its significant environmental impacts. From an environmental perspective, the LEAPS Generation and Transmission Alternative would have more impacts than the other alternatives.

The commenter correctly notes that the CPUC may approve the LEAPS Transmission-Only Alternative through the Sunrise Powerlink Project EIR/EIS process. Please note, however, that such approval would likely result in an order for SDG&E to build the alternative. Therefore, the CPUC will consider THNC's comments on the two LEAPS Alternatives in the context of the Sunrise Powerlink proceeding, but such comments will not be considered comments on the TE/VS Interconnect project. The TE/VS Interconnect project will be the subject of a separate CPUC proceeding. Therefore, comments that go to THNC's ability to comply with the mitigation set forth for the LEAPS Transmission-Only Alternative, for example, will be considered to the extent such comments suggest ways to reduce impacts further but the response will not address concerns that are specific to the TE/VS Interconnect project proceeding.

B0018-2 TNHC's effort to eliminate ambiguity in mitigation measures assigned to the LEAPS Project Alternatives is acknowledged. In cases where they reduce impacts to a greater extent than the mitigation measures presented in the Draft EIR/EIS, TNHC's suggested revisions to mitigation measures have been made. In other cases, where TNHC's suggested changes would substantively weaken or would not substantially change the mitigation measure, the suggested changes have not been made. Please also see Response B0018-1.

The following Mitigation Measures have been modified: B-1d, B-1f, B-1g, B-1h, B-1i, B-2b, B-2c, B-5b, B-7l(LE), B-8a(LE), B-8b, B-12a(LE), V-S-14a, F-1b(LE), F-1d, F-1e, F-3a, and F-3b. Please refer to Section E.7 and Appendix 12 of the Final EIR/EIS for specific changes.

The following mitigation measures have not been modified: Mitigation Measures B-1a(LE), B-1b(LE), B-1c(LE), B-1e, B-2a(LE), B-3a(LE), B-4a(LE), B-5a(LE), B-5c, B-5d, B-6a, B-6b, B-6c, B-6d, B-7a(LE), B-7h, B-7i(LE), B-7j(LE), B-7k(LE), B-9a, B-10a(LE), B-15a, B-15b, B-17a, V-1a, V-1b, V-2a, V-2b, V-2c, V-2d, V-3a, V-7a, V-7b, V-S1a, L-1a, L-1d, L-1e, L-1f, L-1h, AG-1a, AG-1c, C-1a, C-1b, C-1c, C-1d, C-1e, C-1f, C-2a, C-3a, C-4a, C-5a, C-6a, PAL-1a, PAL-1b, PAL-1c, PAL-1d, PAL-1e, N-1a, N-2a, N-3a, T-1a, T-1b, T-2b, T-4a, T-5a, T-6b, T-7a, T-9a, T-9b, T-9c, WR-1b, P-1a, P-1b, P-1c, P-1d, P-1e, P-1f, P-1g, P-2b, P-2c, P-2d, P-4a, P-4b, P-6a, P-6b,

P-7a, P-7b, P-9a, AQ-1a, AQ-1b, AQ-1d, AQ-1e, AQ-1f, AQ-1g, AQ-1h, AQ-4a, AQ-4b, AQ-4c, H-1c, H-1d, H-1e, H-1f, H-1g, H-1h, H-1i, H-2a, H-2b, H-2c, H-3b, H-4a, H-5a, H-6a, H-7a, H-14a, G-1e, G-3a, G-4a, G-4b, G-5a, G-6a, G-6b, G-6c, S-2a, S-2b, S-3a, S-3b, F-1a, F-1c, F-2a, and F-3b.

Please see Response B0018-19 for the rationale in rejecting changes proposed for Mitigation Measure B-10a(LE). Please see Response B0018-20 for the rationale in rejecting changes proposed for Mitigation Measure B-12a(LE). Please see Response B0018-22 for the rationale in rejecting changes proposed for Mitigation Measure V-3a. Please see Response B0018-23 for the rationale in rejecting changes proposed for Mitigation Measure L-1h. Please see Response to Comment B0018-24 for the rationale in rejecting changes proposed for Mitigation Measure T-9b. Please see Response B0018-25 for the rationale in rejecting changes proposed for Mitigation Measure P-6b. The rationale for rejection of the changes to the other mitigation measures listed above is that TNHC's suggested changes would substantively weaken or would not substantially change the mitigation measures.

The following mitigation measures have been added: Mitigation Measures B-1k, H-2d, H-4b, P-2b, P-2c, P-2d, P-3a, P-3b, and F-2c. Please refer to Section E.7 and Appendix 12 of the Final EIR/EIS for the full text of these mitigation measures.

As a part of the Sunrise Powerlink Project EIR/EIS process, the CPUC as Lead Agency has the authority to require mitigation measures for the Proposed Project and alternatives, including the LEAPS Project Alternatives that would substantially lessen or avoid significant effects on the environment (CEQA Guidelines § 15041). However, CPUC has no authority over the portion(s) of the alternatives that would cross U.S. Forest Service (USFS) land and may only recommend that USFS, as the agency with jurisdiction over that portion, adopt such mitigation measures should it choose to issue a Special Use Permit for the project. Ultimately, it will be the responsibility of the USFS to ensure implementation of any mitigation measures required to reduce the severity of impacts of either the LEAPS Alternatives or the TE/VIS Interconnect project on Forest System lands.

Similarly, neither CPUC nor BLM has authority over the hydropower portion of the project, and may only recommend that the Federal Energy Regulatory Commission (FERC), as the agency with jurisdiction over that portion, adopt such mitigation measures. Should the FERC choose to issue a hydropower license for the generation component of the LEAPS Generation and Transmission Alternative, it could choose to adopt the additional mitigation measures identified in the Sunrise Powerlink EIR/EIS for the LEAPS Generation and Transmission Alternative in its Record of Decision on the LEAPS Project Final EIS. The same is true in other instances where the mitigation measures recommended in the EIR/EIS are within the responsibility and jurisdiction of another public agency, including measures within the jurisdiction of the State Water Resources Control Board, the United States Fish and Wildlife Service, and the United States Department of the Navy.

B0018-3 Biological Resources mitigation measures have not been modified to comply with the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP), as suggested, because the project would not necessarily be subject to the requirements of

the Plan. According to the County of Riverside (as cited in the TE/VS Project PEA), if the Applicant elects not to pursue Take Authorization through the MSHCP, it would not be subject to the requirements of the MSHCP. If the Applicant seeks to become a Participating Special Entity, a mutually agreeable mitigation program would need to be negotiated. If the Applicant did not agree that the mitigation was reasonable, they could choose not to utilize the MSHCP, and could seek Take Authorization independently from the appropriate agencies. Therefore, as a conservative measure to ensure appropriate mitigation in the event that the Applicant elects not to participate in the MSHCP, no changes to mitigation measures have been made to comply with the Western Riverside County MSHCP.

- B0018-4 Please see Response to Comment B0018-2.
- B0018-5 Changes to mitigation measures applied to the LEAPS Project Alternatives as presented in the Draft EIR/EIS have been changed in the Final EIR/EIS to identify the broader “Applicant” to replace the moniker “SDG&E.” The new mitigation measures are identified by the parenthetical suffix “LE.” For example, Mitigation Measure B-1d is identified as Mitigation Measure B-1d(LE) in the Final EIR/EIS. Refer to Section E.7 and Appendix 12 for specific changes.
- B0018-6 Erroneous references to the LEAPS Project Alternative as the “Proposed Project” have been corrected in Section E.7 of the Final EIR/EIS.
- B0018-7 References to the terms “State Park” and “ABDSP” have been omitted in the text of Mitigation Measure B-5a(LE) and other mitigation measures in the Final EIR/EIS with the parenthetical suffix “LE.” Additional references to these terms have been omitted or replaced with “the agency with the statutory authority to grant the corresponding entitlement,” as appropriate. Refer to Section E.7 and Appendix 12 for specific changes.
- B0018-8 Mitigation Measure B-1d, as applied to the LEAPS Project Alternatives in Section E.7 of the Draft EIR/EIS, has been replaced with Mitigation Measure B-1d(LE). Mitigation Measure B-1d(LE) has also been added to Appendix 12 of the EIR/EIS as follows:
- B-1d(LE) Perform protocol surveys.** Mitigation Measure B-1d(LE) is identical to Mitigation Measure B-1d for the Proposed Project with the exception that SDG&E shall be replaced with “The Applicant,” and reference to SDG&E’s NCCP mitigation credits shall be omitted.
- B0018-9 For the purposes of the LEAPS Project Alternatives in the Sunrise Powerlink Project proceeding, the CPUC and BLM are the Lead Agencies under CEQA and NEPA, respectively. No changes to the text have been made.
- B0018-10 References to “APM” have been changed to “PME” or deleted, as appropriate. Refer to Section E.7 and Appendix 12 for specific changes. Because PMEs are considered part of the project description for the LEAPS alternatives (see p. E.7-8), the PMEs would be imposed on whichever entity goes forward with the LEAPs project.
- B0018-11 References to USFS and CNF are clearly defined in the text as referencing the United States Department of Agriculture, Forest Service, Cleveland National Forest. No

additional changes to the text of Section E.7 of the Draft EIR/EIS have been made. Every effort was made in the Sunrise Powerlink Project Draft EIR/EIS to describe LEAPS Project Alternatives project facilities consistently with the TE/VS Interconnect PEA. No additional changes to the text of Section E.7 to harmonize the names of the LEAPS Project Alternatives facilities with the TE/VS and LEAPS Projects facilities have been made.

B0018-12 Although many of TNHC's suggested changes represent minor clarifications and do not alter the intent of the mitigation measures, in other cases TNHC's suggested changes represent substantive changes to mitigation measures, and in the latter case the changes were not adopted. See Response to Comment B0018-2 for a list of mitigation measures that were not changed as suggested.

With regard to the request for Lead Agency consultation on TNHC's suggested changes to mitigation measures that the Lead Agencies found unacceptable, the 90-day comment period for the Draft EIR/EIS represented the opportunity for the public and other stakeholders to make comments and suggested changes to the document. TNHC has participated in the public comment period and offered suggested changes to mitigation measures and its rationale for those changes. Some of the changes have been adopted, and others have been rejected. Where changes have been rejected, sufficient rationale is provided to support the decision to reject in Response to Comment B0018-2. No additional consultation was warranted prior to publication of the Final EIR/EIS, and therefore no consultation was granted.

Changes to Mitigation Measures B-1a(LE), B-1b(LE), B-1c(LE), B-1a(LE), B-5a(LE), B-7e(LE), B-7i(LE), B-7j(LE), B-7k(LE), B-7l(LE), and B-10a(LE) have been made to clarify that approvals shall be required only by the agencies with the statutory authority to grant the corresponding entitlement. Section E.7 and Appendix 12 of the Final EIR/EIS incorporate these changes.

B0018-13 Please see Response to Comment B0018-2.

B0018-14 Please see Response to Comment B0018-2 and General Response GR-4.

B0018-15 The USFWS document referenced is not a Final Biological Opinion (BO), as claimed, but rather a Draft BO. In addition, the acreages of impact calculated for the Draft BO greatly differ from the acreages of impact calculated for the LEAPS Project Alternatives in the Sunrise Powerlink EIR/EIS. Changes to mitigation measures based on the draft BO document have therefore not been made.

B0018-16 As a preliminary matter of clarification, none of the mitigation measures identified in the Sunrise EIR/EIS direct THNC to take any action. With regard to any measure that requires the Applicant to submit materials to agencies with jurisdiction over the project, it is anticipated by the Lead Agencies that the receiving/approving agency would acknowledge its own performance-related obligations and would appropriately commit to acting within the specified time periods. However, lack of action by the receiving/approving agency shall not be regarded as tacit approval of the Applicant's materials and shall not result in the Applicant's going forward without agency approval as suggested.

- B0018-17 Please see Response to Comment B0018-2
- B0018-18 Although the SWRCB was not consulted as a responsible agency for the LEAPS Project Alternatives as a part of the Sunrise Powerlink EIR/EIS process, the CPUC anticipates preparation of an EIR for the TE/VS Project as an application was submitted to CPUC on October 9, 2007, and the SWRCB has been identified as a responsible agency under CEQA for that separate proceeding (A.07-10-005). In addition, please see Response to Comment B0018-2.
- B0018-19 TNHC comments that it should not be responsible for carrying out a study of bird marker success as required as a component of Mitigation Measure B-10aLE, and suggests revising Mitigation Measure B-10aLE to eliminate this requirement. The CPUC and BLM have determined that any entity, large or small, that owns and operates a transmission line should take responsibility for reducing its effects. Without a system in place to study and track bird mortality, it would be unknown whether or not the markers are reducing the project's effects. As a result, the Applicant would be required to develop and submit a draft reporting protocol and reporting system to the agencies for approval based on Appendix C of "Suggested Practices for Avian Protection On Power Lines: The State of the Art in 2006" (APLIC, 2006) or a similar format to document bird mortality caused by the project and determine what methods (other than, or in addition to, bird markers) need to be implemented. The scale of the study would be developed by the Applicant, and would be proportional to the scale of the project, and plans would be approved by agencies. No changes to Mitigation Measure B-10a(LE) have been made. Please also see Response to Comment B0018-1.
- B0018-20 TNHC suggests deleting a paragraph from Mitigation Measure B-12a(LE) that would protect burrowing animals because mitigation measures for the Stephens' kangaroo rat, developed in consultation with the U.S. Fish and Wildlife Service are already in place in some areas. Impacts to burrowing animals from maintenance would occur from brush clearing if it damages burrows or if vehicles crush burrows on dirt access roads, and maintenance activities would impact nesting birds if vegetation is cleared during the general avian breeding season or the raptor breeding season. Mitigation Measure B-12a would protect avian nests and all burrowing species in addition to Stephen's Kargaroo Rat. Please see Response to Comment B0018-2 and General Response GR-4. No additional changes to the text of Mitigation Measure B-12a(LE) have been made.
- B0018-21 The text of Mitigation Measure V-S-14a in Section E.7.2.3 of the Draft EIR/EIS has been changed to limit and clarify the Applicant's commitments. The text has been changed as follows:
- V-S-14a Upper Reservoir Revegetation—Newly planted vegetation (per Mitigation Measure USFS-37) shall be fertilized, irrigated, and maintained by the Applicant.** Vegetation survival shall be guaranteed fertilized, irrigated, and maintained by the Applicant for the life of the LEAPS project a period of five (5) years or until the restored vegetation has been determined by the CNF to be sufficiently established. Upon abandonment of the reservoir, dam, pumping facility, the Applicant shall restore the landscape to near-natural conditions, as directed by the CNF.

The Applicant shall provide a bond to the CNF sufficient for removal of facilities and restoration of the landscape.

In addition, please see Response to Comment B0018-2.

B0018-22 TNHC's suggested changes to Mitigation Measure V-3a represent substantive changes that would weaken the measure and have therefore not been adopted. With regard to TNHC's concern about the measure's inconsistency with pending entitlements by the FERC and USFS, please see Response to Comment B0018-2.

B0018-23 The LEAPS project proponent requests a revision to Mitigation Measure L-1h, regarding temporary relocation of Butterfield Elementary School during construction. This mitigation measure will be considered during the environmental review and impact analysis that is ongoing for the proposed Talega-Escondido/Valley-Serrano (TE/VS) Interconnect project. However, the planning area for the hydropower project is located within 1,000 feet of the school, and construction of the powerhouse, substation, and tailrace tunnels would be incompatible with the school's adjacent occupancy (Section E.7.2.4, Impact L-2, Class II). In addition, the noise and vibration impact of powerhouse construction was shown in the Draft EIR/EIS to be significant and unavoidable (Section E.7.2.8, Impact N-1, Class I) for the LEAPS Generation and Transmission Alternative. CEQA requires all feasible mitigation be identified to reduce significant impacts. In addition, a nexus exists between the potential impact to the school and Mitigation Measure L-1h because, although the Applicant proposes typical construction mitigation, five years' worth of blasting and other construction noise is incompatible with the elementary education use of the adjacent school parcel, and temporary school relocation is the only identifiable remedy. No revision is needed to the Draft EIR/EIS because Mitigation Measure L-1h represents a feasible means of reducing the potentially significant land use and noise impacts.

B0018-24 The commenter requests deletion of Mitigation Measure T-9b, regarding traffic lanes on Grand Avenue in Lake Elsinore. This request is based on considerations that are specific to the TE/VS Interconnect project and do not apply to the LEAPS Transmission-Only Alternative. Please see Response to Comment B0018-1. Whether changes to this mitigation measure are appropriate in the context of the TE/VS project will be considered during the ongoing environmental review and impact analysis for that project.

All of the traffic-related mitigation measures identified for the LEAPS Project Alternatives address traffic impacts as a result of construction activities. Construction of the transmission line and pumped storage facilities, especially the Decker Canyon reservoir, would generate substantial increases in traffic on a two-lane highway, Ortega Highway, and local roads due to a large number of slow-moving trucks that would be required during the five-year construction period. These impacts would be considered significant, in addition to impacts to emergency service vehicles, pedestrians and cyclists, and parking identified in Sections E.7.1.9 and E.7.2.9 of the Draft EIR/EIS. Mitigation measures have been designed appropriately. No changes to the mitigation measures have been made.

B0018-25 Sempra's Physical and Climatic Target Area Evaluation Form is a general form that any project developer would be able to follow. The form is available in Appendix 3 of

the EIR/EIS. Mitigation Measure P-6b (Update and follow Sempra's Physical and Climatic Target Area Evaluation Form) would ensure safe and targeted herbicide application and would reduce the risk of harm to personnel and members of the public to a less than significant level. No changes to the mitigation measure have been made.

B0018-26 Although operation of Lake Elsinore, including fisheries management, is not the responsibility of TNHC, the LEAPS Generation of Transmission Alternative could indirectly result in the parties responsible for Lake operations to apply rotenone to Lake Elsinore in an effort to coordinate carp eradication efforts with lake level drawdown during LEAPS construction. Indeed, TNHC's own WR-PME-4 states:

During construction drawdown, remove or reduce the existing fish population via netting or rotenone poisoning, and develop an annual fish stocking program for Lake Elsinore in consultation with FWS, CDFG, and the Lake Elsinore and San Jacinto Watersheds Authority (Joint Watershed Authority).

No changes to Mitigation Measure P-9a have been made.

B0018-27 TNHC's request for clarification of Mitigation Measure H-9b is acknowledged. Mitigation Measure H-9b has been replaced with Mitigation Measure H-4b under Impact H-9 (Project construction or operation would potentially impact local water supply) in Section E.7.2.12 of the Draft EIR/EIS, as follows. The full text of Mitigation Measure H-4b can be found in Response to Comment B0002-24 and in Appendix 12 of the Final EIR/EIS.

~~**H-9b** Compensate affected water supply. Should destabilization of artesian ground water serving as water supply occur, the proponent shall compensate delivery of additional water supply in consultation with EVMWD.~~

H-4b Avoid blasting where damage to groundwater wells or springs could occur.

B0018-28 The suggested changes to Section E.7.2.12, Mitigation Measure H-14a, have been made as follows:

H-14a **Develop and implement a water spill, release, and/or leak prevention plan.** ~~At~~ Unless otherwise addressed in any permit issued by FERC, the USFS, and/or the California Division of Safety of Dams, at least 60 days prior to construction of the upper reservoir, the Applicant shall file with the CPUC and EVMWD State Water Resources Control Board (SWRCB) a plan for protection of the San Juan Creek Watershed from any water spill, release, and/or leak. The plan shall be reviewed and approved by the CPUC and EVMWD SWRCB prior to initiation of construction activities. At a minimum, the plan must require the Licensee to (1) maintain the project area sealed off from the San Juan Creek Watershed during construction and operation of the project; (2) to periodically test the upper reservoir for any leaks, releases, and/or spills; (3) to inform the CPUC and EVMWD SWRCB immediately of the nature, time, date, location, and action taken for any spill affecting the San Juan Creek Watershed; and (4) establish a protocol for

cleanup and monitoring any spill, release, and or leak that must be reviewed and approved by the ~~CPUC and EVMWD~~ SWRCB.

- B0018-29 Please see Response to Comment B0018-2.
- B0018-30 The comment notes that the Coachella Valley–Devers II project from Imperial Irrigation District (IID) would improve delivery of renewable power generated in Imperial Valley into the Southern California Edison (SCE) system and suggests that the Draft EIR/EIS statement that the LEAPS Transmission-Only Alternative “does not provide direct access to the transmission grid for new renewable resources in the Imperial Valley” should be modified to acknowledge that this alternative achieves all three of the Sunrise Project objectives. While the LEAPS Generation and Transmission Alternative would provide a new connection between SCE and SDG&E, the Final EIR/EIS does not need to be revised because the transmission pathway from the IID territory into SCE, and eventually to SDG&E, would still be indirect across the southern portion of the SCE system between the LEAPS alternative and Devers II. The path would be indirect because renewable power delivered from the Imperial Valley to Devers II would need to traverse multiple populated load centers including Palm Springs, the Coachella Valley, and the Inland Empire before becoming deliverable to the SDG&E territory via either of the LEAPS Alternatives.
- B0018-31 The Comparison of Alternatives in Section H delineates the environmental impacts that must be considered in the comparison process. The economic costs and benefits, and the attributes of how each alternative affects electrical system operation, will be considered in the general proceeding and are beyond the scope of the EIR/EIS.

Due to the substantially greater degree of impact to communities and the environment from construction and operation of the generation components of the LEAPS Generation and Transmission Alternative, this alternative is ranked as inferior to the Proposed Project in the Executive Summary of Volume 1 of the Draft EIR/EIS. The following text has been added to Section H.5.1 of Volume 5 of the Draft EIR/EIS to clarify the ranking in the Executive Summary:

Although the Proposed Project would have more significant, unavoidable (Class I) impacts compared with the LEAPS Generation and Transmission Alternative, the latter would result in more severe Class I impacts than the former. These impacts include the following. The duration of construction would be longer than the Proposed Project, and the LEAPS Generation and Transmission Alternative would displace residences and businesses, would require relocation of a school, would indirectly result in power plant emissions for pumping water, would potentially result in flooding and consequent loss of human life and property in the event of a dam or dike failure, would potentially result in contamination of pristine waters with non-native species in the event of an overflow of the upper reservoir, would require substantial alteration of surface waters, would require extensive excavation and earthwork, would cause significant local traffic impacts, would potentially result in the loss of human life in the event of an earthquake. For these reasons, the LEAPS Generation and Transmission Alternative is considered environmentally inferior to the Proposed Project.

- B0018-32 The pumped storage component of the LEAPS Generation and Transmission Alternatives may provide electrical system operation benefits, but these are considered in the general proceeding and are beyond the scope of the EIR/EIS, as is the extent to which the Proposed Project and its alternatives can meet the renewable energy needs of the State. The comment indicates that renewable power could be used for off-peak pumping, but the Draft EIR/EIS must consider the possibility that because there is no guarantee of using renewable energy for pumping, conventional fossil fuel-fired power plants may operate more during off-peak periods under the LEAPS Generation and Transmission Alternative. The environmental impacts of providing energy for pumped storage are disclosed (for example in Draft EIR/EIS Table E.7.2-15 regarding emissions from LEAPS Generation Pumping Energy Consumption).
- B0018-33 The Draft EIR/EIS considers the ability of each alternative to satisfy project objectives to determine whether an alternative is likely to accomplish “all or most” of the basic project objectives (as explained in Section C.2.1, CEQA Requirements for Alternatives). How each alternative accomplishes the objectives and considering the costs and benefits, or the specific flexibility or effectiveness of each alternative, will be determined by the decision-makers in the general proceeding for the Sunrise Powerlink Project and is beyond the scope of the EIR/EIS.
- B0018-34 The TE/VIS and LEAPS Projects, as currently proposed, do not incorporate the findings and mitigation measures of the USFWS Draft Biological Opinion, and mitigation measures for the LEAPS Project Alternatives in the Draft EIR/EIS were designed appropriately. Please see Response to Comment B0018-15.
- B0018-35 TNHC’s preference for the Lead Agencies to adopt the LEAPS Transmission-Only Alternative as the preferred project is acknowledged.
- B0018-36 TNHC’s inclusion of the Weingardt correspondence is acknowledged. In addition, please see Response to Comment B0018-2. With regard to the FERC’s and USFS’s release of the Final EIS for the LEAPS Project, it should be noted that the LEAPS Project Final EIS document has not been certified at the time of publication of the Sunrise Powerlink Project Final EIR/EIS.
- B0018-37 The attachment consisting of the Revised Additional Mitigation Measures for the LEAPS Transmission-Only Alternative has been noted. Please refer to Response to Comment B0018-2, which lists which mitigation measures have been revised, and Section E.7 and Appendix 12 of the Draft EIR/EIS for the revised text of the measures.
- B0018-38 The attachment consisting of the Revised Additional Mitigation Measures for the LEAPS Generation and Transmission Alternative has been noted. Please refer to Response to Comment B0018-2, which lists which mitigation measures have been revised, and Section E.7 and Appendix 12 of the Draft EIR/EIS for the revised text of the measures.
- B0018-39 The attachment consisting of the USFWS Formal Section 7 Consultation with LEAPS Project has been noted as an attachment.
- B0018-40 The USFS Final 4(e) Terms and Conditions for the LEAPS Project has been acknowledged as an attachment.

B0018-41 The commenter's support for the LEAPS Project is acknowledged. Please refer to Section H of the Draft EIR/EIS for a discussion of the ranking and comparison of alternatives. Please also refer to General Response GR-4 for a discussion of project objectives and feasibility regarding the LEAPS Alternatives.