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**From:** [Ryan.Stevenson@sce.com](mailto:Ryan.Stevenson@sce.com) [<mailto:Ryan.Stevenson@sce.com>]

**Sent:** Friday, May 25, 2012 2:19 PM

**To:** Rosauer, Michael; Janna Scott

**Cc:** [Jack.Huang@sce.com](mailto:Jack.Huang@sce.com); [Rosalie.Barcinas@sce.com](mailto:Rosalie.Barcinas@sce.com)

**Subject:** Lakeview

Mike/Janna,

Attached for your review, are a legal memo and an assessment of the other parties' comments to the DEIR. These documents are intended to help you evaluate the concerns expressed in the other parties' comments to the DEIR and to ensure you have all the necessary information to complete the FEIR. After your review, we would be happy to further discuss. Additionally, we have completed the JD and due to size I will forward that document to Janna separately. Mike if you would also like a copy of the JD please let me know and I will submit it through the CPUC secure file transfer site as it's too large to send to you separately.

Thanks,

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May 25, 2012

Mr. Michael Rosauer  
Project Manager, CPUC Energy Division  
c/o Environmental Science Associates  
225 Bush Street, Suite 1700  
San Francisco, California 94104

**Re: Lakeview Substation Project (A.10-09-016), SCH No. 2010121035**

Mr. Rosauer,

Thank you for the opportunity to comment and assist the California Public Utilities Commission (“CPUC”) in its efforts to evaluate concerns expressed within various letters (the “Letters”)<sup>1</sup> regarding the proposed Lakeview Substation Project (A.10-09-016), SCH No. 2010121035 (“Project”). Southern California Edison (“SCE”) appreciates this opportunity to support the CPUC in satisfying its obligations with respect to the California Environmental Quality Act (“CEQA”) and General Order 131-D (“GO 131D”).

This correspondence, along with the enclosed matrices, provides SCE’s responses to the Letters. SCE has also taken this opportunity to comment generally upon the nature and functioning of GO 131-D and SCE’s licensing process, as well as respond to legal assertions made by the law firm of Lozeau Drury LLP on behalf of certain Nuevo residents and the Laborers International Union of North America, Local Union 1184 (collectively the “Union”). Notably, SCE responds to the Union’s assertions that the Project will violate CEQA in that: (1) the Project description is deficient giving rise to inadequate environmental analysis; (2) the Project inappropriately defers mitigation; and (3) the Project fails to identify and consider a reasonable range of alternatives. As explained herein, none of these arguments have merit.

## **I. General Comments**

Preliminarily, SCE notes that many of the Letters’ comments are addressed *via* reference to the

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<sup>1</sup> The matrices attached hereto address comments made within correspondence sent to the attention of the CPUC and/or its consultant, Environmental Science Associates (“ESA”), from: (1) Mr. John Hawkins of the Riverside County Fire Department (March 8, 2012); (2) Thomas F. Ybarrola, Trustee of the Ybarrola Living Trust (February 27, 2012); (3) Carolyn Syms-Luna of the Riverside County Habitat Conservation Agency (February 6, 2012); (4) Anna Hoover of Pechanga Cultural Resources (March 2, 2012); (5) Susan Nash of the Friends Of The Northern San Jacinto Valley (February 24, 2012); (6) Ian MacMillan of the South Coast Air Quality Management District (March 2, 2012); (7) Glenn Robertson of the California Regional Water Quality Control Board, Santa Ana Region (8) (March 6, 2012); (8) Kennon Corey of the U.S. Fish and Wildlife Service and Jeff Brandt of the California Dep’t of Fish & Game (March 5, 2012); and (9) Samuel Johnston of Lozeau Drury LLP on behalf of certain Nuevo residents and the Laborers International Union of North America, Local Union 1184.

following reports:

- Biological Technical Report, Lakeview Substation and Transmission Line Project, Riverside County, California. Prepared for Southern California Edison (June 2010);
- Results of Western Burrowing Owl Surveys for the Lakeview Substation in the Cities of Lakeview and Nuevo and Unincorporated Riverside County, California. Prepared for Southern California Edison (October 2010);
- Results of a Fairy Shrimp Habitat Assessment for the Lakeview Substation and Transmission Line Project, Riverside County, California. Prepared for Southern California Edison (September 2010);
- Results of the Special-Status Plant Surveys for the Lakeview Substation Project, Prepared for Southern California Edison (October 2010 & October 2011);
- BonTerra Consulting, Results of a habitat assessment and trapping survey for three target sensitive small mammals, including: the federally endangered San Bernardino kangaroo rat (*Dipodomys merriami parvus*) (SBKR); the federally endangered Stephens' kangaroo rat (*Dipodomys stephensi*) (SKR); and the California sensitive (CSC) Los Angeles pocket mouse (*Perognathus longimembris brevinasus*) (LAPM), along the proposed alignments for the SCE Lakeview Substation and Transmission Line Project, in the Lakeview area of Riverside County, California. Prepared for Southern California Edison (October 2011).<sup>2</sup>

SCE's attached matrices make reference to these reports where appropriate. SCE's application and proponent's environmental assessment ("PEA") included these reports and thus, they should be included within the administrative record and made part of the Final Environmental Impact Report ("FEIR").

The attached matrices also make reference to other reports and documents that are not yet part of the formal administrative record (e.g., the Jurisdictional Delineation Report, Lakeview Substation Project, Riverside County, California (expected May 2012)). Given the relevance of the referenced reports, and support they provide for the environmental analyses undertaken in support of the Project, these reports should also be made part of the FEIR and administrative record.

In addition, various comments within the Letters reference alleged environmental consequences of Fiber Optic Route 3. As indicated in SCE's comments on the DEIR, Fiber Optic Route 3 was removed from the Project. SCE's attached matrices note the removal of this route from consideration where appropriate. See e.g., SCE Matrix responding to Union Letter at 9, 11, 17, 24-25, 28, 38, and 48. As Fiber Optic Route 3 has been eliminated from the Project, comments pertaining to said route are no longer relevant.

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<sup>2</sup> Pages 4.4-36 to 4.4-39 of the Lakeview Draft Environmental Impact Report ("DEIR") list references for biological resources as of January 2012.

## **II. GO 131-D and SCE's Licensing Process**

### **A. GO 131-D**

As the CPUC is aware, electrical utility infrastructure projects (including the proposed Lakeview Project) are regulated by the CPUC *via* GO 131-D. Section XIV.B of GO 131-D explicitly states that the CPUC has preempted the field of regulating such facilities:

...local jurisdictions acting pursuant to local authority are preempted from regulating electric power line projects, distribution lines, substations, or electric facilities constructed by public utilities subject to the Commission's jurisdiction. However, in locating such projects, the public utilities shall consult with local agencies regarding land use matters.

Because the CPUC has sole and exclusive jurisdiction over transmission infrastructure project siting and design, all licensing and discretionary construction permits for the Lakeview Project will be issued by the CPUC and no other agency. Despite the preemptive permitting jurisdiction of the CPUC, SCE routinely consults with local jurisdictions regarding land use matters.

### **B. SCE's projects present unique challenges**

In making the CPUC the sole authority for the permitting of SCE's projects, the California legislature implicitly recognized the complex, specialized, and unique nature of electric power line transmission and distribution projects. These projects are unique for a variety of reasons, chief among them being their importance to California's economic well-being and the welfare of its citizens. Given the state-wide importance of power distribution, the California legislature sought to remove siting and licensing considerations from certain local decision-making processes.

The linear nature and sheer size of these projects lead to environmental documentation and planning challenges that are also unique to utilities. Moreover, because of these complex environmental issues, the considerable amount of work and planning required for these projects is unique in and of itself. Typically, SCE's preparations for the licensing process begin over a year before any draft environmental impact report is issued and dwarf other "typical" development projects.

### **C. SCE's siting and licensing process balances the unique challenges faced by its projects with the requirements of CEQA**

Every year, SCE updates a projected electrical planning and needs assessment for its service area. When an electrical need is identified in a particular area, SCE will assemble a project team to develop a solution to address this need. This team will then evaluate and identify various potential substation sites, which are then ranked for further consideration based on

environmental impacts, technical feasibility, and/or the ability to effectively satisfy the electricity needs of the area. The identification of potential substation sites then allows for the identification of potential transmission routes to and from these sites.

Once these potential sites are narrowed and proposed in the PEA, it will likely be another year before a DEIR is issued as SCE and the CPUC work together to evaluate the proposed project under CEQA. SCE will review the DEIR for consistency with the PEA and provide clarification where necessary.

At the time the FEIR is issued, SCE will have conducted preliminary engineering to support the required environmental analyses under CEQA. For example, at the time of the DEIR, SCE and the CPUC understand the location of the proposed project, the area around the project that may be impacted, as well as the habitat and species of concern adjacent to the project and potentially affected thereby. However, final engineering, *i.e.*, the exact configuration of poles, precise location of laydown areas, *etc.*, will not be initiated until the CPUC selects the project and issues the FEIR. Once the CPUC, as lead agency, selects the final project, final engineering begins, usually taking six to nine months to complete.

Delaying final engineering until the CPUC identifies the final project is standard SCE protocol. First, final engineering does not change the scope of the proposed project; it merely confirms exactly how the project will be carried out. The DEIR will have already considered a scope of environmental impacts which captures the potential impacts of any final design. Second, to prematurely engage in final engineering when the CPUC has not approved the final design makes little economic sense for SCE's ratepayers.

CEQA is, of course, sufficiently flexible to take the unique nature, size, planning, and timing associated with SCE's projects into account. For example, if it is determined that significant project changes are necessary after the FEIR is issued, SCE will initiate a petition for modification ("PFM") in support of the project and support the preparation of supplemental CEQA documentation as necessary.

It is against the background of efforts described above that SCE offers the following comments and responses.

### III. CEQA Arguments <sup>3</sup>

Contrary to the assertions of the Union, the Lakeview Project's environmental analysis does not violate CEQA. First, the Project description is sufficiently precise to support environmental analysis and the documentation of potential environmental impacts. Second, the mitigation required by the Project commits SCE to the mitigation of impacts to the extent feasible, and is not improperly deferred. Third, the robust range of alternatives considered in support of the Lakeview Project corresponds with the unique nature of the Project itself, and satisfies CEQA.

#### A. SCE's Project description is accurate and adequately supports environmental analysis under CEQA

The Union argues that the Lakeview Project fails to satisfy CEQA because the description of the marshaling yards, laydown areas, and staging areas is allegedly inadequate. *See* Union Letter at 3-6, 10, 23, Attch A at 4-5. <sup>4</sup>

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<sup>3</sup> In addition to the CEQA arguments explored here, the Union also argues that by not including the ultimate distribution circuits within the Lakeview Project, the CPUC has impermissibly "piecemealed" the Lakeview Project. *See* Union Letter at 2-3. First, the design and construction of the actual distribution circuits are not part of the Lakeview Project as proposed because the exact location and routing of each of these proposed 12 kV distribution circuits have yet to be determined. These 12 kV distribution circuits cannot be designed at this time due to the uncertainty of where load relief will be needed and where future load growth will precisely occur in addition to unforeseen changes in the physical and environmental condition of the surrounding area. Thus, while the *general* electrical needs of the area are understood, the *specific* needs which may dictate the ultimate design and orientation of the distribution circuits are unknown and remain speculative. Additionally, detailed design of the circuit routes requires the most complete and comprehensive details that can be provided by other utilities regarding their existing and planned infrastructure in the area. The locations of these facilities will impact the ultimate electrical distribution line routes. This information must be provided as close to the operating date as possible to minimize design conflicts and construction delays due to additional changes. Only when this information has been thoroughly vetted and it is determined, upon final engineering, whether distribution circuits are required (and if so, how many), will SCE begin to design and plan construction of the distribution circuits. The detailed design of the initial 12 kV distribution circuits would be completed approximately 12 months prior to the operating date of the Proposed Project. *See Laurel Heights Improvement Assn. v. Regents of University of California*, 47 Cal.3d 376, 395 (1988) ("where future development is unspecified and uncertain, no purpose can be served by requiring an EIR to engage in sheer speculation as to future environmental consequences" (citation omitted)). Second, the Union's implication that the CPUC is somehow employing this "piecemealing" as a means to shortcut the environmental analysis is illogical. Improper piecemealing is typically used to avoid an EIR level of analysis, along with the time and resources such an analysis requires. This is not the case here. The CPUC is already developing an EIR level analysis for the Lakeview Project. Neither the CPUC nor SCE gain any advantage (*e.g.*, expedited or lessened environmental review, *etc.*) from the alleged piecemealing. The Union's allegations of piecemealing demonstrate a failure to understand the unique nature and scope of utility projects such as Lakeview.

<sup>4</sup> In a related argument, the Union also generally alleges that the CPUC improperly deferred the acquisition of data needed to describe the environmental setting and properly disclose existing conditions (and thus precluding an effective evaluation of project impacts and/or formulation appropriate mitigation measures). *See e.g.* Union Letter at 7-11 (biological surveys & hazardous materials), 35-36 (completion of an Multiple Species Habitat Conservation Plan ("MSHCP") consistency analysis), 42-50 (surveys for Stephens' Kangaroo Rat, Riverside Fairy Shrimp, Burrowing Owl, and San Jacinto Valley Crownscale), Attch A at 7-13. Guidelines section 15125(a) provides that the EIR must include "a description of the physical environmental conditions in the vicinity of the project" but that this description "shall be no longer than is necessary to an understanding of the significant effects of the proposed

Section 15124 of the CEQA Guidelines<sup>5</sup> states that the project description should provide, among other things, the project's location and boundaries on a detailed map as well as a general description of the project's technical, economic, and environmental characteristics. The Guidelines caution however, that the description of the project "should not supply extensive detail beyond that needed for evaluation and review of the environmental impact." See Guidelines § 15124. Thus, the level of detail required for the project description is limited to that which is sufficient to understand the proposed project's potentially significant environmental impacts.

A review of relevant CEQA case law bears this out. While "an accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR" (*County of Inyo v. City of Los Angeles*, 71 Cal.App.3d 185, 199 - 200 (1977)), CEQA "does not mandate perfection, nor does it require an analysis to be exhaustive." *Kings County Farm Bureau v. City of Hanford*, 221 Cal.App.3d 692, 712 (1990). "CEQA requires an EIR to reflect a good faith effort at full disclosure...." *Id.*; Guidelines § 15151.

The level of detail contained in the Lakeview EIR is adequate to understand the environmental impacts consistent with Guidelines section 15124. For example, while the exact locations of the laydown areas are not known and thus are not mapped at this time, SCE has provided that they will be "located along the proposed subtransmission source line segments within SCE [right-of-way] or franchise." See DEIR at 2-20; SCE Matrix responding to Union Letter at 6. Having considered the environmental resources along these rights-of-way, the level of detail within the EIR is sufficient to understand potentially significant environmental impacts consistent with Guidelines section 15124.

Moreover, contrary to the Union's assertions, the eventual determination of the precise location of the laydown areas will not require recirculation of the EIR. First, not all new information must be added to an EIR. Only "significant new information" (*i.e.*, a new significant environmental impact or substantial increase in the severity of an environmental impact which cannot be reduced to a level of insignificance *via* mitigation) requires recirculation. With the CPUC having already studied a buffer zone along the planned subtransmission route, the precise

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project and its alternatives." In response to the Union's charge, SCE's attached matrix describes the acquisition of data supporting the description of the environmental setting and documentation of existing conditions consistent with Guidelines section 15125(a). See *e.g.* SCE Matrix responding to Union Letter at 9 (Biological Technical Report), 9-10 (participation in MSHCP), 11 (biological resource surveys), *etc.* Despite the considerable length of its comments, the Union's vague and general assertions provide insufficient evidence to disrupt the conclusions of the CPUC, as supported by SCE's responses and attached matrices.

<sup>5</sup> All references to "Guidelines" are to the California CEQA Guidelines, which implement the provisions of CEQA. (Cal. Code Regs., tit. 14, § 15000.)

identification of the laydown yards within that buffer zone will not evidence “significant new information” - such potential impacts have already been considered. *See Western Placer Citizens For An Agricultural And Rural Environment v. County of Placer*, 144 Cal. App. 4th 890, 898-900 (2006) (describing circumstances where recirculation would be required); Cal. Pub. Res. Code § 21092.1; Guidelines § 15088.5.

Given the physical length and considerable timeframes required to permit and develop utility projects, certain decisions, such as the precise identification of laydown yards, must await consideration of up-to-date and localized field conditions. Such practices do not imply that the environmental analyses are slight, or that the CPUC’s decision is uninformed. On the contrary, by studying the buffer area along the subtransmission route where the potential environmental impacts are to occur, the CPUC and SCE have complied with CEQA. Moreover, determining the precise location of the laydown areas within that buffer zone as close in time as possible to the point of construction allows SCE to be more responsive to current field conditions and leads to fewer environmental impacts.

**B. The Project does not improperly defer mitigation in violation of CEQA**

The Union alleges that the CPUC improperly deferred the formulation of mitigation measures appropriate to protect sensitive biological resources. *See e.g.* Union Letter at 23, 35-36, 42-50, Atch A at 7-13. Specifically, the Union repeatedly asserts that the Lakeview Project’s biological mitigation measures are limited to the performance of pre-construction surveys and that reliance upon such surveys amounts to improperly deferred mitigation. *See e.g.* Union Letter at 49 (“pre-construction surveys do not mitigate potentially significant impacts”). Unfortunately, the Union appears to confuse the referenced pre-construction surveys with the mitigation measures themselves.

Section 15126.4(a)(1)(B) of the Guidelines provides that the “[f]ormulation of mitigation measures should not be deferred until some future time. However, measures may specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way.” “Deferral of the specifics of mitigation is permissible where the [lead agency] commits itself to mitigation and lists the alternatives to be considered, analyzed and possibly incorporated in the mitigation plan. On the other hand, an agency goes too far when it simply requires a project applicant to obtain a biological [or other] report and then comply with any recommendations that may be made in the report.” *Defend the Bay v. City of Irvine*, 119 Cal.App.4th 1261, 1275 (2004). “If mitigation is feasible but impractical at the time of [project approval], it is sufficient to articulate specific performance criteria and make further approvals contingent on finding a way to meet them.” *Endangered Habitats League, Inc. v. County of Orange*, 131 Cal.App.4th 777, 793 (2005).

The mitigation measures identified in the Biological Resources Report and as SCE's APMs comply with the standard articulated above. APM-BIO-1, 2 and 3, each provide enough specificity to adequately mitigate for any potential impacts, are fully enforceable, and are not improperly deferred. For example, APM-BIO-1 first outlines specific measures to be taken to avoid impacts to nesting birds and raptors.<sup>6</sup> APM-BIO-1 goes on to provide that if preconstruction surveys identify active nests that will be impacted by project activities, the APM requires SCE to delineate an appropriate buffer zone around the nest and act in accordance with the recommendations of a qualified biologist. Thus, in addition to mitigation efforts that will occur regardless (*i.e.*, vegetation clearing), APM-BIO-1 identifies specific performance criteria (*i.e.*, the presence of nesting birds/raptors) and specific actions that must be taken in the event this performance criteria is triggered (*i.e.*, buffer zone, follow recommendations of biologist, consult with CDFG and USFWS if necessary).

Exemplified by APM-BIO-1, the Lakeview Project's mitigation measures are not a "do a report and comply with the recommendations" approach as warned against by *Defend the Bay v. City of Irvine*. Biological resources are not static. Similar to the discussion in Section III.A. above, it is in the best interests of the potentially impacted biological resources that the determination of whether a particular mitigation measure be implemented be left to a contemporaneous determination based on actual field conditions. Of course, if no such species are encountered, these efforts will not be implemented; no mitigation is required for speculative or less-than-significant impacts. *See* Guidelines Section 15126.4(a)(3)-(4).

The Lakeview Project does not impermissibly defer appropriate mitigation measures in violation of CEQA.

### C. The Project identifies a reasonable range of alternatives

Lastly, the Union alleges that the Lakeview DEIR does not present a reasonable range of

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<sup>6</sup> APM-BIO-1 provides "Preconstruction surveys for Nesting Birds/Raptors. To minimize potential impacts to selected nesting special-status birds, raptors, or other [Migratory Bird Treaty Act] MBTA bird species, planned vegetation clearing will take place during the non-breeding season (between September 1 and January 31) to the extent feasible. This will discourage the species from nesting within the work area. Existing trees, shrubs, or other vegetation that would provide suitable structure for nesting would be removed. If vegetation clearing must take place during nesting season (February 1–August 31), a biologist shall conduct pre-construction nesting bird surveys prior to clearing for the sites that have potential to support nesting birds/raptors. If the biologist finds an active nest within or adjacent to the construction area and determines that there may be impacts to the nest, s/he will delineate an appropriate buffer zone around the nest depending on the sensitivity of the species and the type of construction activity. Only construction activities (if any) approved by the biologist will take place within the buffer zone until the nest is vacated. If nests are found and cannot be avoided by the project activities, or if work is scheduled to take place near an active nest, SCE shall coordinate with the CDFG and USFWS and obtain written concurrence prior to moving the nest."

alternatives to avoid or minimize impacts to listed species. *See* Union Letter at 51 (“Because listed species occur on the project site, the DEIR should have presented an alternative location or design for the Project that avoids or minimizes impacts to listed species in compliance with state and federal laws that protect wildlife and plant species. It does not do that.”). In so arguing, the Union fails to take into account the unique nature of utility infrastructure projects and the efforts made in support of their siting and licensing as explained above.

Guidelines section 15126.6(a) provides, in relevant part

An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. An EIR is not required to consider alternatives which are infeasible. The lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives. There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason.

*See also* Cal. Pub. Res. Code §§ 21002, 21002.1 & 21061.

Expanding on this “rule of reason,” California courts have stated the alternatives analysis in an EIR “must be specific enough to permit informed decision making and public participation....The need for thorough discussion and analysis is not to be construed unreasonably, however, to serve as an easy way of defeating projects. Absolute perfection is not required....” *Laurel Heights Improvement Assn. v. Regents of University of California*, 47 Cal.3d 376, 392 (1988). “CEQA establishes no categorical legal imperative as to the scope of alternatives to be analyzed in an EIR. Each case must be evaluated on its facts....” *Citizens of Goleta Valley v. Board of Supervisors*, 52 Cal.3d 553, 566 (1990). The range of alternatives considered must “(1) offer substantial environmental advantages over the project proposal; and (2) may be feasibly accomplished in a successful manner considering the economic, environmental, social and technological factors involved.” *See id.* (citing Cal. Pub. Res. Code §§ 21002, 21061.1 & Guidelines § 15364). However, “the law does not require in-depth review of alternatives which cannot be realistically considered and successfully accomplished....” *See id.* at 575. Thus, the CPUC “must make an initial determination as to which alternatives are feasible and merit in-depth consideration, and which do not.” *See id.* at 569; *see also Save San Francisco Bay Association v. San Francisco Bay Conservation and Development Comm’n*, 10 Cal.App.4th 908, 922-23 (1992) (upholding alternatives analysis for unique project where administrative record indicated lead agency considered alternatives not discussed in EIR because “their advantages and disadvantages did not substantially differ from the...sites selected for in-depth discussion”).

In the case of the Lakeview Project, SCE performed the siting process described in Section II.C. above. Once various alternatives had been considered, SCE developed the Lakeview PEA and documented how its preferred project alternative was selected. *See* Lakeview PEA § 2 (describing three alternatives).<sup>7</sup> The Lakeview PEA eliminated Project Alternatives 2 and 3 from further consideration for failure to meet the stated project objectives, recommending Alternative 1 as the preferred project alternative.<sup>8</sup>

The CPUC then expanded upon the alternatives analysis within the Lakeview DEIR. DEIR Section 3 describes the CPUC's consideration of five *additional* alternatives, three of which were eliminated from future consideration for failure to meet the basic Project objectives.<sup>9</sup> The remaining two alternatives (1 and 2) and the CEQA-required "No Project" alternative were carried forward for full analysis in the EIR. The CPUC then compared the Lakeview Project against these alternatives, finding the currently proposed Lakeview Project met the stated project objectives and was the environmentally superior alternative. *See* DEIR at 5-5.

In total, the proposed Lakeview Project studied a total of eight different project configurations: two in the PEA (including the ultimately proposed project), five in the DEIR, and a CEQA-mandated "no project" option considered in both the PEA and DEIR. Contrary to the assertions of the Union, this range of alternatives did consider impacts to special-status species and other biological resources, among other environmental criteria. *See* DEIR §§ 4.4 (including Table 4.4-2 which compares special-status species impacts of the proposed project and alternatives considered in the DEIR), 5 (including Table 5-2, finding that impacts to biological resources would be less than significant with mitigation).

Consistent with CEQA law and jurisprudence, the Lakeview Project considered a reasonable range of alternatives in light of the project objectives and unique environmental constraints presented by utility infrastructure projects.

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<sup>7</sup> While the Lakeview EIR sets forth the alternatives that were considered by the CPUC, the administrative record, including the SCE's PEA, may be studied to assess the degree of discussion any particular alternative deserves. *See Citizens of Goleta Valley v. Board of Supervisors*, 52 Cal.3d at 568-70.

<sup>8</sup> As articulated in the Lakeview PEA and DEIR, the Project Objectives are: (1) Serve existing and long-term projected electrical demand requirements in the Electrical Needs Area beginning in mid-2013; (2) Improve the reliability and system operational flexibility within the Electrical Needs Area; and (3) Accomplish the above objectives while minimizing environmental impacts. *See* Lakeview PEA at 2-2; DEIR at 3-3.

<sup>9</sup> The CPUC originally considered: (1) Alternative 1: Phased Construction Alternative; (2) Alternative 2: Relocated Substation Alternative; (3) Alternative 3: Partial Underground Subtransmission Line Route; (4) Alternative 4: Non-Wires Alternative – Conservation and Demand Management; (5) Alternative 5: Non-Wires Alternative – New Renewable or Conventional Distributed Generation Energy Resources; and (6) a "No Project" alternative. Only Project Alternatives 1, 2 and the "No Project" Alternative were carried forward for further analysis. *See* Lakeview DEIR at 3-5, 3-11 to 3-14, Table 3-2.

#### IV. Conclusion

Again, SCE appreciates the CPUC's work in analyzing the Lakeview Project, as well as this opportunity to work with the CPUC to address concerns raised by the Letters. SCE looks forward to the CPUC's preparation of the FEIR with the evidence provided in this letter and the enclosed matrices.

Sincerely,

A handwritten signature in black ink, appearing to read "Tammy Jones". The signature is written in a cursive style with a large, stylized initial "T".

Tammy Jones, Esq.

Enclosure(s)

**LAKEVIEW RESPONSE TO DEIR COMMENTS**

**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
CalFire	1	<p>“The Project meets what CEQA defines as having “direct” and “growth inducing impacts” which must be considered and mitigated for, i.e. it allows for the future growth and development of that area that would otherwise not be possible. Ordinarily, a Project’s impacts are offset through the County’s Ordinance 659 for impact fees. Because of the nature of the Project, that ordinance is not practically or easily applied. A simple development agreement might suffice to reach the intent of that impact fee ordinance.”</p>	<p>As explained on Page 7-3 of the DEIR, “the Project is needed to ensure the availability of reliable electric service to meet customer electrical demand in the Electrical Needs Area.” It is further explained that, “... the Project is designed to increase reliability and accommodate existing and planned electrical load growth, rather than to induce growth”</p> <p>Additionally, on Page 4.15-5 of the DEIR, it is explained that, “The Project would not result in a population increase, nor introduce any new uses to the Project area, that would generate increased long-term demand for fire protection services (see Section 4.14, <i>Population and Housing</i>, for more information related to potential population increase).”</p> <p>Based on the information provided in the DEIR, the Project is not considered growth inducing and as such there is no mitigation that would be warranted (e.g. the suggested development agreement).</p>
Friends of Northern San Jacinto Valley	1	<p>“In addition, the Project proponent’s indecision whether or not to participate in the MSHCP (DEIR p. 4.4-34) is in and of itself a conflict with the provisions of the adopted MSHCP/NCCP for western Riverside County. Further consideration of this project should therefore be deferred, or the No Project alternative should be selected, pending preparation and public review of an adequate CEQA document for the Project.”</p>	<p>As explained in SCE’s comments to the DEIR (comment #180), Based on 2011 survey results, SCE has determined that impacts to Los Angeles pocket mouse, Coulter’s goldfields, and San Jacinto Valley Crownscale are likely unavoidable and would mitigate by participating in the MSHCP.</p>
Friends of Northern San Jacinto Valley	1-2	<p>“We are particularly concerned that the ongoing improper implementation of the MSHCP will result in the extinction of the San Jacinto Crownscale, a federal endangered plant species. We are also concerned the U.S. Army Corp of Engineers is not correctly exercising its jurisdiction pursuant to the federal Clean Water Act on the San Jacinto River.”</p>	<p>Implementation of the MSHCP is administered by the Riverside Conservation Authority (RCA).</p> <p>As evidenced in the Jurisdictional Delineation Report dated May 2012, SCE would not have impacts to the jurisdictional waters seen within the report, including the San Jacinto River and thus not triggering involvement of the ACOE.</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**

**SCE COMMENTS & SUGGESTED RESPONSE**

<b>Letter</b>	<b>Page</b>	<b>Comment</b>	<b>Response</b>
Friends of Northern San Jacinto Valley	2	<p>“The purpose of this Project, as stated in the Villages of Lakeview EIR, is to serve the Villages and the County’s new dream City of Lakeview. The applicant and the County stated that the Villages would not begin construction until 1. Housing prices return to August 2007 levels 2. In more than ten years 3. When the developer decides it is economically feasible to build. This means the twelfth of never. Whether construction beings now or whether you await construction until the need arises, it is certain that a new EIR will be required and probable that the means for delivering electricity will have changed, so that this project, as currently designed, will be obsolete.”</p>	<p>The purpose and need of the Lakeview Substation Project is best explained by SCE in Chapter 1 of the Lakeview Substation PEA. Chapter 1 of the PEA states the following:</p> <p>“The purpose of the Project is to ensure the availability of safe and reliable electric service to meet customer electrical demand in the Electrical Needs Area.”</p> <p>“The Electrical Needs Area (Figure 1.1) for the Lakeview Substation Project is defined as the portion of unincorporated western Riverside County served by SCE’s existing Nuevo Substation (33/12 kV) and temporary Model 33/12 kV P.T Substation. These substations currently provide electrical service to approximately 1,800 metered customers.”</p> <p>The Lakeview Substation Project is not proposed to solely serve the Village of Lakeview project but rather to serve the Electrical Needs Area which does encompass the Villages Project.</p>
Ybarrola	1	<p>“Our primary concern is the negative environmental impact of the Project on the aesthetics (visual character and visual quality) to our property, the surrounding area and the subsequent negative economic impact. The 100-acre farm is a beautiful site—having a subtransmission line through the middle of our 100 acres would definitely detract from the visual quality of the property. Motorists driving on Lakeview Avenue would also have an adverse visual impact due to the additional wooden poles for the subtransmission line.”</p>	<p>The DEIR at section 4.1 includes a thorough discussion of the Project’s impacts on aesthetics, including evaluation of the existing setting and how that setting may be impacted by the project. Impact 4.1-3 analyzes whether the Project could substantially degrade the existing visual character or quality of the site and its surroundings.</p> <p>Page 4.1-30 concludes that the Project would have a less than significant impact with regard to Aesthetics. The comment does not provide any new evidence not already considered by the DEIR analysis.</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
Ybarrola	1	Due to the visual character and visual quality adverse impacts of a subtransmission line through our property as discussed above, the value of the property would also be significantly reduced. The research study, <i>Valuation Guidelines for Properties with Electric Transmission Lines</i> by Kurt C. Kielisch, ASA, IFAS, SR/WA, R/W-AC, concluded that, “In conclusion, it can be stated with a high degree of certainty that there is a significant negative effect ranging from -10% to -30% of property value due to the presence of the high voltage electric transmission line.”	Property values are not considered an environmental impact pursuant to CEQA. Land acquisition rights will be negotiated between the land owner and SCE as appropriate.
Ybarrola	1	Considering the rapid growth expected in Riverside County over the next two decades (DEIR 6-17), we support the construction of a substation in the Lakeview/Nuevo and recommend the approval of Alternative 2: Relocated Substation Alternative. Alternative 2 would move subtransmission line segment 2 to the west and locate it along the future Avenue “A”. Subtransmission line segment 2 would no longer bisect our property and would be moved (along with the proposed substation) further away from current residences and future developed residences. The impact on the visual character and visual quality for the entire valley would be lessened significantly.	Please see page 5-5 of the DEIR, in which Alternative #2 was considered environmentally inferior to the proposed project.

**LAKEVIEW RESPONSE TO DEIR COMMENTS**

**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
Ybarrola	1-2	<p>An additional concern with the Project is the negative environmental impact on Agriculture Resources. Our property is still being used for agricultural purposes, primarily for growing potatoes and oat hay. During the construction phase of the Project, with subtransmission line segment 2 running through the middle of our property, the farming operations would be disrupted. More importantly, the proposed service road, again through the middle of our property, would permanently take land out of agricultural production and require a modification to the way our property is farmed, both creating a negative environmental impact on the our agriculture resources.</p> <p>Alternative 2, moving subtransmission line segment 2 to the west and locate it along the future Avenue “A” would align more of subtransmission line segment 2 along existing property lines and result in less of an impact on the agricultural resources of the environment.</p>	<p>Please see section 4.2.4 of the DEIR in which impacts to the permanent conversion of farmland are analyzed and mitigated to a less than significant impact. Additionally, as explained in SCE’s DEIR comments (comment #114), SCE typically negotiates and compensates the property owner for any crop take associated with the construction of the Project.</p> <p>SCE’s Proposed Subtransmission Route is proposed along future Reservoir Avenue, which has been designated as an urban arterial in the Riverside County General Plan (2003). Therefore, this is no different than locating it along future A Avenue, which is also proposed for future development in the Riverside County General Plan.</p> <p>Under both the Proposed Project and Alternative 2, the Subtransmission line Segment 2 would follow existing property lines, and therefore the impacts to conversion of farmland would be the same in either case. Please see section 5.3 of the DEIR for an explanation as to why the Project as a whole is considered environmentally superior over Alternative 2.</p>
Ybarrola	2	<p>Another issue which should be considered is electric and magnetic fields (EMF). There appears to be no conclusive agreement from scientists of health risks; the negative effects of EMF continue to be an area of debate. Since there is a potential of health risks associated with EMF, wouldn’t it be prudent to place transmission lines where they would lessen potential impacts? Alternative 2, with subtransmission line 2 further away from the central part of the valley and nearer the undevelopable 100-year flood hazard zone, would lessen exposure to the potential health risks of EMF.</p>	<p>Please see SCE’s Field Management Plan, attached as Appendix B of the DEIR. See also section 4.9 of the DEIR, where it is discussed that the CPUC does not consider EMF in the context of CEQA as an environmental impact.</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**

**SCE COMMENTS & SUGGESTED RESPONSE**

<b>Letter</b>	<b>Page</b>	<b>Comment</b>	<b>Response</b>
Ybarrola	2	DEIR Table 5-2, Summary of Environmental Impact Conclusions, indicates there is a slight preference for Alternative 2. The run distance would be reduced by approximately 2,900 feet, there would be fewer wood poles needed, fewer miles of road rehabilitation, fewer road miles constructed overall and a decrease in the visual impact for motorists and residences along the western edge of Lakeview (DEIR 3.4.2).	CEQA requires that the Project be analyzed as a whole. Please see section 5.3 of the DEIR for an explanation as to why the Project as a whole is considered environmentally superior over Alternative 2.
Ybarrola	2	The main disadvantage of Alternative 2 appears to be the impact of the 100-year flood hazard zone. DEIR 5-4 indicates mitigating the impact of constructing the Lakeview Substation in the 100-year flood hazard zone could be less than significant. If located on the southwest corner of 10 <sup>th</sup> Street and the future Avenue A, part of the proposed substation may lie in the 100-year flood hazard zone. DEIR 5.3, Environmentally Superior Alternative, indicates the impact could be mitigated to less than significant. The entrance to the substation, if located at the intersection of 10 <sup>th</sup> street and the future Avenue A, remains outside the 100-year flood hazard zone. Additionally, if the proposed substation were located on the southeast corner of 10 <sup>th</sup> Street and the future Avenue A, the entire site is outside the 100-year flood hazard zone.	When compared to the Proposed Project, as discussed in section 3.4.2 of the DEIR, the relocated substation would be constructed in a flood zone, unlike the Proposed Project, which would be constructed outside of a flood zone. As a result, the Proposed Project was considered environmentally superior to Alternative 2.

**LAKEVIEW RESPONSE TO DEIR COMMENTS**

**SCE COMMENTS & SUGGESTED RESPONSE**

<b>Letter</b>	<b>Page</b>	<b>Comment</b>	<b>Response</b>
RCHCA	1	<p>“The Lakeview Substation Project is located within the area covered by the SKR HCP. For that reason the Draft EIR should include reference to the SKR HCP and its relationship to the Project.”</p>	<p>SCE would agree with the RCHCA and included the following comment to the DEIR (comment #160) “a discussion should be added regarding the Stephen’s kangaroo rat habitat conservation plan, which is administered by the Riverside County Habitat Conservation Authority.” As mentioned on page 6 of SCE’s Small Mammal Report, an SKR Habitat Conservation Plan (HCP) was prepared by the Riverside County Habitat Conservation Agency in 1995 (RCHCA 1995). This plan established a number of SKR preserves throughout the species’ range in the County, most of which encompass portions of existing public conservation lands such as the PLRA and SJWA. Within the boundaries of the current proposed SCE project, the South Section falls outside of the LPRA and SJWA core SKR preserve but within the SKR Plan Fee Area. The North Section occurs within the LPRA/SJWA core SKR preserve.</p> <p>For lands that will be developed within the SKR HCP Fee Area, a fee typically must be paid to the RCHCA. However, for public utility projects that will only minimally (and largely temporarily) disturb the existing substrates, and where most or all disturbed substrates can be restored to their original condition, the fee is not required (see Section 10 of Ordinance 663 of the SKR HCP).</p>
RCHCA	1	<p>“Impact 4.4-7 references the MSHCP only and goes to state “There are no Natural Community Conservation Plan or other approved local, regional, or state habitat conservation plan that would be applicable to this Project”. Without mention of the SKR HCP, this is an erroneous statement.”</p>	<p>Please see response above.</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
Pechanga	1	The Tribe is highly concerned about the lack of consultation and communication by the CPUC and Southern California Edison (SCE) with the Tribe on this Project.	<p>SCE’s outreach to date with the Tribe has been:</p> <ul style="list-style-type: none"> <li>• April 25, 2008 SCE Sacred Lands File Search Request submitted to the Native American Heritage Commission (NAHC); response received April 29, 2008 from the NAHC providing a list of Native American contacts for the Lakeview Project. PDF of these letters will be uploaded to RCMS.</li> <li>• March 23, 2010 Tribal consultation letters sent by SCE to the 7 Native American contacts provided by the NAHC. PDF of these letters will be uploaded to RCMS.</li> <li>• April 10, 2010 The Cahuilla tribe e-mail response to the SCE letter stating that they did not have "knowledge of cultural resources within the project area" but request cultural resource documentation completed for the project and suggest the use of monitors in areas of ground disturbance. PDF of e-mail will be uploaded to RCMS</li> <li>• August 6, 12, and 16, 2010 E-mail exchange between the Pechanga tribe and SCE. The Pechanga requested the contact information for the CPUC Lakeview Project Manager in order to request formal consultation between the CPUC and Pechanga tribe. SCE Archaeologist Sara Bholat provided the contact information. PDF of e-mails will be uploaded to RCMS.</li> </ul>
Pechanga	2	“In addition, the Cultural Resources section in the DEIR is deficient: it incorrectly states the actual number of cultural sites within the Project boundaries or within the 100 foot boundary; it does not indicate that the Pechanga Tribe conveyed comments to the Project archeologist orally via telephone; it does not adequately address indirect, visual, auditory or cumulative effects to cultural resources; and it does not provide adequate mitigation measures such as appropriate buffer zones for the Environmentally Sensitive Area (ESA) designations and tribal consultation or monitoring during earthmoving.”	The Tribe’s reference to the cultural sites appears to refer to the sites located in the Bernasconi Hills. However, as stated in SCE’s DEIR comments, the Project scope of work no longer includes Fiber Optic Cable Route 3 located in the Bernasconi Hills, therefore those sites are no longer considered within the Project area.

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

<b>Letter</b>	<b>Page</b>	<b>Comment</b>	<b>Response</b>
Pechanga	2	“THE CPUC MUST INCLUDE INVOLVEMENT OF AND CONSULTATION WITH THE PECHANGA TRIBE IN ITS ENVIRONMENTAL REVIEW PROCESS	SCE provided the Tribe with the contact information for the CPUC Project Manager in email correspondence dated August 6, 12, and 16, 2010. A copy of this email correspondence was provided to the CPUC in a data request, Lakeview ED-03 dated 3/15/12.
Pechanga	7	Under the heading titled “The DEIR does not properly address significant sites within and near the Project area”	Pursuant to CEQA, only those impacts to cultural resources that are eligible for listing in the California Register of Historic Places need to be mitigated in the EIR. Cultural resources have not been identified within the revised project area, therefore there would be no impact.
Pechanga	8	Under the heading titled “Piecemealing/Landscape Analysis”	Pursuant to CEQA, only those impacts to cultural resources that are eligible for listing in the California Register of Historic Places need to be mitigated in the EIR. Cultural resources have not been identified within the revised project area, therefore there would be no impact.
Pechanga	9	Under the heading titled “Inadequate Data Collection”	Pursuant to CEQA, only those impacts to cultural resources that are eligible for listing in the California Register of Historic Places need to be mitigated in the EIR. Cultural resources have not been identified within the revised project area, therefore there would be no impact.
Pechanga	10	“While the mitigation measures do provide some protection for indirect impacts to sites located within 50 feet of the Project area, we believe a more protective distance would be 100 feet.”	For the reasons explained in SCE’s accompanying cover letter to its DEIR comment matrix, Fiber Optic Cable Route 3 has been removed from the Project. Therefore, a more protective distance of 100 feet is not required, given that Fiber Optic Cable Route 3 located in the Bernasconi Hillside is no longer part of the Project area.
Pechanga	10	Under the heading “Cumulative Impact Analysis”	Pursuant to CEQA, only those impacts to cultural resources that are eligible for listing in the California Register of Historic Places need to be mitigated in the EIR. Cultural resources have not been identified within the revised project area, therefore there would be no impact.

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
Pechanga	11	<p>Additionally, this section does not address the fact that once construction occurs – no matter whether it is a transmission line, roadway, residence or industrial building, it will bring people into the area and increase the potential for cultural resources to be impacted (i.e., is growth inducing). This can occur in many ways including obvious impacts like graffiti or looting as well as less obvious impacts such as the build-up of air pollutants on <i>toola yixelval</i>. Very little research has been conducted to determine the effects of air pollutants on boulder outcrops and rock art; however, the Tribe knows that the constant exposure will erode the delicate pigments left on the rocks. This kind of indirect and cumulative impact needs to be addressed in more detail in the final document. We know that resources sensitive to these kinds of exposures are present within and around the Project. As such, the document is inadequate in that it fails to assess and address these kinds of impacts.</p>	<p>Please see heading 7.3.2 on page 7-3 of the DEIR, where it is noted that “The project is needed to ensure the availability of reliable electric service to meet customer electrical demand in the Electrical Needs Area. Therefore, the Project is designed to increase reliability and accommodate existing and planned electrical load growth, rather than to induce growth.”</p>
Pechanga	11	<p>Under the Heading “Cultural Studies Should be Completed for Analysis Prior to Approval and Certification of the DEIR”</p>	<p>All cultural surveys have been completed, which have not identified any cultural resources that will be impacted by the project, therefore further surveys are not required.</p>
Pechanga	12	<p>Under the heading “Project Mitigation Measures are Inadequate”</p>	<p>All cultural surveys have been completed, which have not identified any cultural resources that will be impacted by the project, therefore no mitigation is required.</p>
Pechanga	13	<p>DEIR Mitigation Measure 4.5-1a</p>	<p>Please see SCE’s DEIR comments (comment number 189), which states that the Project scope of work no longer includes Fiber Optic Cable Route 3 located in the Bernasconi Hills, therefore those sites are no longer considered within the Project area.</p> <p>Since there are no impacts, mitigation measures 4.5-1a and 4.5-1b are not needed. Please see SCE’s DEIR comment number 193.</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**

**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
Pechanga	13	Pechanga-proposed Mitigation Measure 4.5-1b	<p>Because there are no known cultural resources within the Project area, there is no requirement for SCE to develop a Cultural Resources Treatment and Monitoring Agreement, nor is there a requirement to hire archeological or tribal monitors. However, SCE will contact the Pechanga tribe if there were an unanticipated discovery.</p> <p>Please see SCE’s DEIR comment number 193. Since there are no impacts, mitigation measures 4.5-1a and 4.5-1b are not needed.</p> <p>SCE recommends the following edit to the Pechanga-proposed Mitigation Measure 4.5-1b as follows: <b>Mitigation Measure 4.5-1b: At least 30 days prior to beginning Project construction, SCE shall contact the Pechanga Tribe to notify the Tribe of any grading, excavation or ground disturbing activities and to provide the Tribe with a copy of the monitoring program, as well as to develop a Cultural Resources Treatment and Monitoring Agreement. The Agreement shall address the treatment of known cultural resources, the designation, responsibilities, and participation of professional Native American Tribal monitors during grading, excavation and ground disturbing activities in conjunction with the archaeological monitors specified in 4.5-2a; Project grading and development scheduling; terms of compensation for tribal monitors; and treatment and final disposition of any cultural resources, sacred sites, and human remains discovered on the site.</b> SCE shall notify the Pechanga tribe at least 30 days prior to beginning Project construction.</p>
Pechanga	13	DEIR Mitigation Measure 4.5-1b(c)	<p>The Tribe’s reference to the cultural sites appears to refer to the sites located in the Bernasconi Hills. However, as stated in SCE’s DEIR comments (comment number 189), the Project scope of work no longer includes Fiber Optic Cable Route 3 located in the Bernasconi Hills, therefore those sites are no longer considered within the Project area.</p> <p>Please see SCE’s DEIR comment number 193. Since there are no impacts, mitigation measures 4.5-1a and 4.5-1b (revised by the Tribe to 4.5-1c) are not needed.</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**

**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
Pechanga	14	Mitigation Measure 4.5-2a,b	Mitigation Measures 4.5-2a and 4.5-2b both apply to Fiber Optic Cable Route 3, as noted in SCE’s comments to the DEIR, the Project scope of work no longer includes this route and therefore these Mitigation Measures are not applicable. Please see SCE’s DEIR comment number 194.
Pechanga	15	<p>Mitigation Measure 4.5-4</p> <p><b>Mitigation Measure 4.5-4:</b> If human remains are uncovered during Project construction, SCE and/or its contractors shall immediately halt all work, SCE shall contact the County Coroner to evaluate the remains, and follow the procedures and protocols set forth in §15064.5 (e)(1) of the CEQA Guidelines. If the County coroner determines that the remains are Native American, SCE and/or its contractors the Coroner shall contact the NAHC, in accordance with Health and Safety Code §7050.5, subdivision (c), and Public Resources Code 5097.98 (as amended by AB 2641). Per Public Resources Code 5097.98, SCE shall ensure that the immediate vicinity, according to generally accepted cultural or archaeological standards or practices, where the Native American human remains are located, is not damaged or disturbed by further development activity until the SCE and/or its contractor has discussed and conferred, as prescribed in this section (PRC 5097.98), with the most likely descendents regarding their recommendations, if applicable, taking into account the possibility of multiple human remains.</p>	<p>Since the Coroner is not a party to the Mitigation Monitoring and Compliance Reporting Program (MMRCP) for the Project, SCE cannot obligate the Coroner to act, therefore the following revision is suggested:</p> <p><b>Mitigation Measure 4.5-4:</b> If human remains are uncovered during Project construction, SCE and/or its contractors shall immediately halt all work, SCE shall contact the County Coroner to evaluate the remains, and follow the procedures and protocols set forth in §15064.5 (e)(1) of the CEQA Guidelines. If the County coroner determines that the remains are Native American, SCE and/or its contractors the Coroner shall may contact the NAHC, in accordance with Health and Safety Code §7050.5, subdivision (c), and Public Resources Code 5097.98 (as amended by AB 2641). Per Public Resources Code 5097.98, SCE shall ensure that the immediate vicinity, according to generally accepted cultural or archaeological standards or practices, where the Native American human remains are located, is not damaged or disturbed by further development activity until the SCE and/or its contractor has discussed and conferred, as prescribed in this section (PRC 5097.98), with the most likely descendents regarding their recommendations, if applicable, taking into account the possibility of multiple human remains.</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

<b>Letter</b>	<b>Page</b>	<b>Comment</b>	<b>Response</b>
Pechanga	15	Mitigation Measure 4.5-5	SCE recommends the following edits. Please revise as follows: “Mitigation Measure 4.5.5: The CPUC and SCE agree to assist the Pechanga Tribe in working with the landowner to relinquish ownership of all cultural resources, including sacred items, burial goods and all archaeological artifacts that are found on the Project area to the Pechanga Tribe for proper treatment and disposition. <u>However, the CPUC and SCE cannot require private landowners to relinquish ownership of cultural materials.</u> ”

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
Pechanga	15	Mitigation Measure Alternative 2-CUL-1	<p>Because there are no known cultural resources within the Project area, there is no requirement for SCE to develop a Cultural Resources Treatment and Monitoring Agreement, nor is there a requirement to hire archeological or tribal monitors. However, SCE will contact the Pechanga tribe if there were an unanticipated discovery.</p> <p>Please revise Mitigation Measure Alternative 2-CUL-1 as follows:</p> <p><b>Mitigation Measure Alternative 2-CUL-1:</b> SCE and/or its contractors shall retain a qualified archaeologist (defined as an archaeologist meeting the Secretary of the Interior’s Standards for professional archaeology) to survey those portions of the final selected Project footprint that have not been previously subjected to systematic pedestrian cultural resources survey. <u>SCE shall also contact the Pechanga Cultural Resources Department at least 14 days in advance in order to notify them of the survey and to schedule a Native American monitor.</u> After additional archaeological survey is carried out, the archaeologist shall prepare a report, for approval by the CPUC, that summarizes the survey efforts, and evaluates any identified cultural resources for their eligibility for listing in the National Register, California Register, or local register, or as a unique archaeological resource pursuant to §15064.5. <del>Any resources determined to be significant</del> <u>All resources</u> shall be avoided if feasible. If avoidance is infeasible, a Treatment Plan that documents the research approach and methods for data recovery shall be prepared and implemented in consultation with CPUC and with <u>the Pechanga Tribe and or additional</u> appropriate Native American representatives (if the resources are prehistoric or Native American in nature).</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**

**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
SCAQM D	3	<p>“In its air quality analysis, the lead agency has determined that construction emission impacts would exceed the SCAQMD recommended daily significance thresholds for both PM10 and NOx. In order to minimize significant impacts from PM10 emissions, the lead agency included Mitigation Measure 4.3-1b on page 4.3-17, which refers to measures found Table 4.3-3 (SCAQMD Fugitive Dust Best Available Control Measures (BACMs) for All Construction Activity Sources). From that measure, the lead agency states, in part, that “SCE shall develop a Fugitive Dust Control Plan that specifically describes how compliance with each of SCAQMD Rule 403 BACMs shall be achieved.” Although the lead agency intends to identify specific measures at a later date, the lead agency is reminded that complying with a rule, regulation, law, etc., in itself should not be considered mitigation if it is required. The AQMD staff would further recommend that the lead agency commit to specific measures from the table now based on the information at hand, include those specific measures in the project description, and incorporate those measures in the project specific impact calculations in the Final EIR.”</p>	<p>With regard to fugitive dust emissions, SCE’s Fugitive Dust Plan would be consistent with the best available control measures outlined in SCAQMD’s Rule 403. Additionally, during construction, SCE would implement Best Management Practices described in a SWPPP that would also manage fugitive dust emissions, therefore, no additional mitigation is warranted.</p>
SCAQM D	3	<p>“Based on the lead agency’s determination that project construction emissions will exceed the recommended thresholds for NOx and PM10, the AQMD staff recommends the following mitigation measures to further reduce construction NOx and PM10 impacts in addition to Mitigation Measures 4.3-1a and 4.3-1b listed in the Draft EIR, if applicable and feasible:</p> <p><b>Recommended Additions – NOx</b></p> <p>a) Prohibit truck idling in excess of five minutes, on- and off-site;”</p>	<p>SCAQMD has stated on page 3 that, “complying with a rule, regulation, law, etc., in itself should not be considered mitigation if it is required.” It is a California Air Resources Board regulatory measure that heavy-duty diesel fueled vehicles shall not idle for longer than five minutes. Furthermore, in alignment with the CARB anti-idling regulation, it is also SCE policy that diesel equipment not idle for longer than five minutes. Therefore, the SCAQMD recommended action will be adhered to, but should not be listed in the Final EIR as a Project mitigation measure.</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**

**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
SCAQM D	3	b) “Require use of 2010 and newer diesel haul trucks (e.g., material delivery trucks and soil import/export) and if the lead agency determines that 2010 model year or newer diesel trucks cannot be obtained the lead agency shall use trucks that meet EPA 2007 model year NOx and PM emissions requirements;”	SCE concurs with the SCAQMD recommended mitigation measure with the following revisions: “Require use of 2010 and newer diesel haul trucks (e.g., material delivery trucks and soil import/export) <u>unless it is determined that 2010 model year or newer diesel trucks cannot be obtained, in which case</u> trucks that meet EPA 2007 model year NOx and PM emissions requirements will be used.”
SCAQM D	3	c) “Use electricity from power poles rather than temporary diesel or gasoline power generators;”	<u>The project cannot be constructed without the use of generators and cannot rely solely on power from temporary power poles. Temporary generators would be needed at areas such as the laydown areas, structure locations, and at the Lakeview Substation site due to the remote locations and the lack of access to temporary power, therefore, this mitigation is not feasible.</u>
SCAQM D	3	d) “Use street sweepers that comply with SCAQMD Rules 1186 and 1186.1;”	SCAQMD Rule 1186 and 1186.1 specifically apply to federal, state, county, city, or government agencies, special districts, and private firms providing sweeping services to those agencies. As such, SCAQMD, Rule 1186 and 1186.1 are not applicable to SCE. Moreover, such requirements are not necessary because SCE’s compliance with Rule 403 will be described in its future Fugitive Dust Control Plan and implementation of the SWPPP will further minimize track out and therefore the need for street sweeper use. Consequently, additional mitigation is not warranted.

**LAKEVIEW RESPONSE TO DEIR COMMENTS**

**SCE COMMENTS & SUGGESTED RESPONSE**

<b>Letter</b>	<b>Page</b>	<b>Comment</b>	<b>Response</b>
SCAQM D	3	e) “Provide dedicated turn lanes for movement of construction trucks and equipment on- and off-site.”	The Proposed Project is not located in a high traffic volume area. Based on the narrow size of the streets that the project will be utilizing for construction trucks and equipment, it is not practical or feasible for the Project to provide dedicated turn lanes for movement of equipment on- and off-site. Therefore, this proposed measure is not feasible.
SCAQM D	3	<b>Recommended Additions – PM10</b> a) “Limit soil disturbance to the amounts analyzed in the air quality analysis;”	As noted in the Mitigation Monitoring, Reporting and Compliance Program included in the DEIR on page 9-3, there is a process in place in the event that, upon Final Engineering, it is determined that there will be minor changes from what is described in the FEIR. In the event that changes occurs, and it is determined that there will be no new or additional environmental impacts, SCE will obtain variances from CPUC as appropriate.
SCAQM D	3	b) “All trucks hauling dirt, sand, soil, or other loose materials are to be covered;”	SCAQMD has stated on page 3 that, “complying with a rule, regulation, law, etc., in itself should not be considered mitigation if it is required.” According to California Vehicle Code Section 23114, a vehicle may not transport any aggregate material upon a highway unless the material is covered. Therefore, the SCAQMD recommended action will be adhered to, but should not be listed in the Final EIR as a Project mitigation measure.

**LAKEVIEW RESPONSE TO DEIR COMMENTS**

**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
SCAQM D	3	c) “Install wheel washers where vehicles enter and exit the construction site onto paved roads or wash off trucks and any equipment leaving the site each trip;”	For the purposes of this Project, the measure refers to a “construction site” which typically applies to a singular construction area, not a linear project area that would require numerous wheel washing stations to meet the intent of having them located at each paved to unpaved intersection where vehicles enter and exit the project area. Additionally, SCE prefers the implementation of other similarly effective means and methods to control track out from construction sites. In order to reduce potential emissions of fugitive dust from trackout, SCE will implement the Best Available Control Measures from SCAQMD Rule 403 and the applicable SWPPP to reduce mud/dirt trackout from applicable unpaved truck exit routes. Therefore, no additional mitigation is warranted.
SCAQM D	3	d) “Apply non-toxic soil stabilizers according to manufacturers’ specifications to all inactive construction areas (previously graded areas inactive for ten days or more);”	<p>Pursuant to SCAQMD’s Rule 403, “<u>inactive disturbed surface area means any disturbed surface area upon which active operations have not occurred or are not expected to occur for a period of twenty consecutive days.</u>”</p> <p><u>SCE’s recommended edits are as follows: Stabilize all inactive construction areas (previously graded areas inactive for twenty days or more) by applying non-toxic soil stabilizers according to manufacturers’ specifications, or similarly effective soil stabilization methodologies;</u></p>
SCAQM D	3	e) “Suspend all excavating and grading operations when wind speeds (as instantaneous gusts) exceed 25 mph;”	The project is not located in a known high wind area. SCE will comply with SCAQMD Rule 403 with its Fugitive Dust Control Plan in order to minimize dust emissions to the extent feasible. Therefore, no additional mitigation is warranted.
SCAQM D	3	f) “Traffic speeds on all unpaved roads to be reduced to 15 mph or less;”	Construction crew vehicle speeds on unpaved roadways would be restricted to 15 miles per hour.

**LAKEVIEW RESPONSE TO DEIR COMMENTS**

**SCE COMMENTS & SUGGESTED RESPONSE**

<b>Letter</b>	<b>Page</b>	<b>Comment</b>	<b>Response</b>
SCAQM D	4	g) “Apply non-toxic soil stabilizers according to manufacturers’ specifications to all inactive construction areas (previously graded areas inactive for ten days or more);”	This comment is duplicative of a comment addressed above.
SCAQM D	4	h) “Replace ground cover in disturbed areas as quickly as possible;”	The proposed measure does not quantifiably reduce an impact to a less than significant level. Moreover, timely restoration activities are already included in SCE’s construction schedule as a Best Management Practice. Therefore, no additional mitigation is warranted.
SCAQM D	4	i) “Apply water three times daily, or non-toxic soil stabilizers according to manufacturers’ specifications, to all unpaved parking or staging areas or unpaved road surfaces;”	The proposed mitigation is unnecessary and impractical given that certain areas of construction will require varying watering frequencies. For example, inactive road surfaces may not require frequent watering, while other active areas may require watering in excess of three times a day. Regardless, SCE will comply with the best available control measures outlined in SCAQMD’s Rule 403. Therefore, no additional mitigation is warranted.
SCAQM D	4	j) “Sweep streets at the end of the day if visible soil is carried onto adjacent public paved roads (recommend water sweepers with reclaimed water);”	With regard to trackout, SCE’s Fugitive Dust Plan would require the sweeping of streets at the end of the day, or more frequent if appropriate if visible soil is carried onto adjacent public paved roads. As the availability of reclaimed water at the site is not known at this time, its use should not be required. Furthermore, SCE’s Fugitive Dust Plan would be consistent with the best available control measures outlined in SCAQMD’s Rule 403. Additionally, during construction, SCE would implement Best Management Practices described in a SWPPP that would also manage trackout. Therefore, no additional mitigation is warranted.
SCAQM D	4	k) “Appoint a construction relations officer to act as a community liaison concerning on-site construction activity including resolution of issues related to PM10 generation;”	SCE concurs with the SCAQMD recommended mitigation measure, with the following revision: “SCE will appoint a <u>representative construction relations officer</u> to act as a <u>community</u> liaison in the event SCAQMD receives any questions about on-site construction activity including resolution of issues related to PM10 generation.”

**LAKEVIEW RESPONSE TO DEIR COMMENTS**

**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
SCAQM D	4	<p>“Further, other lead agencies in the region including LA County Metro, the Port of Los Angeles, and the Port of Long Beach have also enacted the following mitigation measures. AQMD staff recommends the following measures to further reduce air quality impacts from construction equipment exhaust:</p> <ul style="list-style-type: none"> <li>• Project start to December 31, 2014: All off-road diesel-powered construction equipment greater than 50 hp shall meet Tier 3 off-road emissions standards. In addition, all construction equipment shall be outfitted with BACT devices certified by CARB. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 3 diesel emissions control strategy for a similarly sized engine as defined by CARB regulations.</li> <li>• Post-January 1, 2015: All off-road diesel-powered construction equipment greater than 50 hp shall meet the Tier 4 emission standards, where available. In addition, all construction equipment shall be outfitted with BACT devices certified by CARB. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 3 diesel emissions control strategy for a similarly sized engine as defined by CARB regulations.</li> </ul> <p>A copy of each unit’s certified tier specification, BACT documentation, and CARB or AQMD operating permit shall be provided at the time of mobilization of each applicable unit of equipment.</p>	<p>SCE provided comments to Mitigation Measure 4.3-1a comment # 140 specifically referencing the use of off-road diesel equipment that meets Tier 3 Standards as a means to reducing emissions, and therefore achieving what SCAQMD is suggesting in their comments. No additional mitigation is warranted.</p>
RWQCB	1	<p>I tend to concur with Mr. Cashen's assertions, and support his effort to see photos and large scale maps included in the DEIR to indicate probable wetlands and/or seasonal ponds that have taken on beneficial uses, as well as alkali playa/wetland, and representation of the southern willow scrub and other riparian-related vegetative communities listed (Table 4.4-1; ps. 4.4-4 - 4.4-6). This is part of the Regional Board's purview.</p>	<p>The proposed project is not expected to impact jurisdictional features as evidenced in the Jurisdictional Delineation Report dated May 2012.</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

<b>Letter</b>	<b>Page</b>	<b>Comment</b>	<b>Response</b>
CDFG	2	<p>“Sensitive species listed in Table 4.4-2 are missing from the analysis discussion. For example, Los Angeles pocket mouse (LAPM) is known to occur on the project site. Except for mention in Table 4.4-2, there is no discussion of where they occur, avoidance of the suitable habitat, or appropriate mitigation measures. The MSHCP conservation strategy for this species includes avoidance of areas with long-term conservation value for this species. The FEIR should identify appropriate mitigation and avoidance measures for this species and identify the degree to which the project’s avoidance and mitigation measures will affect the MSHCP conservation strategy for LAPM.</p>	<p>Participation in the MSHCP would serve as mitigation for permanent and temporary impacts to the LAPM located in the project areas. Therefore, no additional mitigation is warranted.</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
CDFG	2	<p>“Additionally, MSHCP monitoring surveys have documented spreading navarretia (<i>Navarretia fossalis</i>) near the project site. Table 4.4-2 indicates low potential within the portions of the project site. Please provide details of the habitat and survey results for this species.</p>	<p>Page 4.4-24 of the Draft EIR acknowledge that spreading [Moran’s] navarretia is known to occur in the region:  “Five narrow endemic plant species are known to occur within the Project area including, Munz’s onion, slender-horned spineflower (<i>Dodecahema leptoceras</i>), Moran’s navarretia, California Orcutt grass (<i>Orcuttia californica</i>), and Wright’s trichocoronis (SCE, 2010, pg. 4.4-79).”</p> <p>This species is discussed in detail on page 28 of the Biological Technical Report for the proposed project as follows:  <b><i>Moran’s navarretia (Navarretia fossalis)</i></b>  <i>Moran’s navarretia is a federally Threatened and a CNPS List 1B.1 species (CNPS 2010). It typically blooms April through June (CNPS 2010). This annual herb occurs in chenopod scrub, marshes and swamps, playas and vernal pools (CNPS 2010). Historically, this species is known from Los Angeles, Riverside, San Luis Obispo and San Diego Counties as well as parts of Baja California, Mexico (CNPS 2010). Focused surveys for special status plant species were conducted in spring/summer 2009 and 2010; Moran’s navarretia was not observed within the Survey Area.</i></p> <p>As discussed in the Biological Technical Report from page 56 through 58, because <i>Moran’s navarretia</i> was not observed within the Survey Area, construction and operation of the proposed project would not impact this special status plant species and no Mitigation Measures would be required.</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**

**SCE COMMENTS & SUGGESTED RESPONSE**

<b>Letter</b>	<b>Page</b>	<b>Comment</b>	<b>Response</b>
CDFG	2	“Please include all potential species in the analysis and propose appropriate avoidance, minimization, and/or mitigation measures. These measures should be coordinated with the Wildlife Agencies as appropriate. Impacts to the MSHCP covered species that could undermine or interfere with the MSHCP conservation strategy for that species should be identified and discussed. “	BonTerra Consulting identified all species that could potentially be present based on habitat occurring locally. The proposed project occurs within a matrix of agriculture with small patches of disturbed native habitat. Specialists at BonTerra only analyzed species that would likely occur and then conducted surveys for these species. SCE’s proposed project will impact LAPM, San Jacinto Valley Crownscale, Stevens’ kangaroo rat, and potentially Coulter’s goldfields. As mentioned in SCE’s comments to the draft EIR, participation in the MSHCP is anticipated based on project design. Participation in the MSHCP would serve as mitigation for permanent and temporary impacts to vegetation types located in the project area.
CDFG	2	“Future surveys are not mitigation for impacts to sensitive species therefore we cannot agree that the project is consistent with the MSHCP policies. If SCE proposes to complete focused species surveys after project approval. SCE must first clearly describe and commit to specific, well-defined mitigation and avoidance measures that will be implemented if sensitive species are found.”	SCE conducted surveys for Quino checkerspot butterfly, California coastal gnatcatcher, Stevens’ kangaroo rat, Los Angeles pocket mouse (2 surveys), sensitive plants (2 seasons), and a habitat assessment for Riverside fairy shrimp. Specialists at BonTerra Consulting identified all potential special-status species that could occur and subsequently conducted a protocol-level surveys or a habitat assessment for these species. All reports have been provided to the CPUC for incorporation into the EIR. SCE is not proposing to complete focused surveys after project approval since surveys for all potentially occurring special-status species have been conducted. Additional pre-construction surveys will be conducted to identify any changes in identified populations of flora and fauna.
CDFG	3	“We recommend that SCE does not defer development of mitigation and monitoring plans for special status plants species, such as the San Jacinto Valley crownscale and burrowing owl.”	Potential impacts to special status plant species and burrowing owl would be mitigated by fees paid to the Riverside County Habitat Conservation Agency by participation in the MSHCP.

**LAKEVIEW RESPONSE TO DEIR COMMENTS**

**SCE COMMENTS & SUGGESTED RESPONSE**

<b>Letter</b>	<b>Page</b>	<b>Comment</b>	<b>Response</b>
CDFG	3	“The DEIR must discuss how the project does or does not impact the MSHCP conservation strategy. The DEIR does not adequately address if the project is in conflict with the conservation strategy of the MSHCP.”	<p>CEQA requires that a finding of significance is required if a “project conflicts with the provisions of an adopted Habitat Conservation Plan; Natural Community Conservation Plan; or other approved local, regional, or State Habitat Conservation Plan (CEQA Guidelines, Appendix G, IV[f]).</p> <p>As discussed on page 4.4-34 of the Draft EIR, the proposed project is located within the Western Riverside County MSHCP boundary and within several Criteria Areas. The proposed project currently supports agriculture and does not provide habitat for Criteria Area species. Therefore, the proposed project would not result in the significant loss of habitat for Criteria Area species and would not significantly conflict with the provisions of the MSHCP.</p>
CDFG	3	“The DEIR includes a description of permanent and temporary land disturbance for various construction components in Chapter 2. This discussion does not include the acres of each vegetation type that would be impacted by the project.”	SCE provided a DEIR comment (#165) that the impact acreages were provided in the PEA, but were not included in the DEIR. Impacts to special status plant communities will be mitigated for by participation in the MSHCP.
CDFG	3	“Portions of the proposed project are located within the San Jacinto Wildlife Area”.	Fiber Optic Cable Route 3 is the only project component that was proposed within the San Jacinto Wildlife Area and for the reasons explained in SCE’s accompanying cover letter to the DEIR comment matrix, Fiber Optic Cable Route 3 has been removed from the Project.

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
CDFG	3	<p>“The project is located within a raptor concentration area. The DEIR does not adequately address this resource and the potential impacts of the project on raptors. We recommend the report include additional available data documenting the avian resources in and adjacent to the Lake Perris State Recreation Area/San Jacinto Wildlife Area. Other raptors and avian species documented in or near the project vicinity are MSHCP covered species.”</p>	<p>The known and potential presence of both common and special status raptor species is discussed in detail in the Biological Technical Report. Page 16 of the Biological Technical Report described the following species as being observed onsite: northern harrier (<i>Circus cyaneus</i>), Cooper’s hawk (<i>Accipiter cooperii</i>), red-tailed hawk (<i>Buteo jamaicensis</i>), and American kestrel (<i>Falco sparverius</i>). In addition, detailed discussions of special status raptor species that have the potential to occur in the project region are discussed in the Biological Technical Report from page 37 through 41. Special status raptor species discussed include Cooper’s hawk, golden eagle (<i>Aquila chrysaetos</i>), ferruginous hawk (<i>Buteo regalis</i>), Swainson’s hawk (<i>Buteo swainsoni</i>), northern harrier, white-tailed kite (<i>Elanus leucurus</i>), bald eagle (<i>Haliaeetus leucocephalus</i>), Merlin (<i>Falco columbarius</i>), prairie falcon (<i>Falco mexicanus</i>), American peregrine falcon (<i>Falco peregrinus anatum</i>), long-eared owl (<i>Asio otus</i>), and burrowing owl (<i>Athene cunicularia</i>).</p> <p>As discussed on page one of the Biological Technical Report, the Survey Area for the project is located on the U.S. Geological Survey’s (USGS’s) Perris, Lakeview, Romoland, Winchester, Sunnymead, and El Casco 7.5-minute quadrangle maps. These quads cover the Lake Perris State Recreation Area/San Jacinto Wildlife Area. The project analysis included a literature review for special status species known to occur in the vicinity of the Survey Area including these quadrangles. Data sources and literature evaluated relative to raptors included the CDFG’s California Natural Diversity Database (CNDDB) (CDFG 2010) and the Riverside County Integrated Project (RCIP) Conservation Summary Report Generator for the Western Riverside County MSHCP (RCIP 2010).</p> <p>Raptor species covered in the MSHCP are discussed on page 4.4-25 of the Draft EIR as follows:</p> <p style="padding-left: 40px;"><i>MSHCP-covered wildlife species with potential to occur in the Project area include Riverside fairy shrimp, Quino checkerspot butterfly, western spadefoot, coast horned lizard, northern reddiamond rattlesnake, Cooper’s hawk, golden eagle, northern harrier, white-tailed kite, merlin, prairie falcon, mountain plover, burrowing owl, loggerhead shrike, California horned lark, coastal California gnatcatcher, southern California rufous-crowned sparrow, grasshopper sparrow, Bell’s sage sparrow, tricolored blackbird, San Diego black-tailed jackrabbit, northwestern San Diego pocket mouse, Stephens’ kangaroo rat, Los Angeles pocket mouse, and San Diego desert woodrat (SCE, 2010, pg. 4.4-79).</i></p> <p>Potential impacts to nesting raptors are discussed on page 4.4-31 and -32 of the Draft EIR and mitigation to reduce potential impact is discussed on page ES-4 and 4.4-32 of the Draft EIR. In addition, cumulative impacts to raptors by the proposed project are discussed on page 6-11 of the Draft EIR.</p> <p>A nesting survey will be conducted 15-30 days prior to construction to identify active nests. If SCE does identify active nests in the project vicinity, a Nesting Bird Management Plan will be developed to determine appropriate buffers depending on the species. Any nest removal activities will be conducted in coordination with the USFWS.</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
CDFG	3	<p>“There is a known turkey vulture nest located in the Bernasconi Hills near the project location. This is an MSHCP covered species and few nests are known within the MSHCP Plan Area. Conservation requirements of the MSHCP for this species include protection and buffering of nests from disturbance. We recommend that the FEIR include measures to avoid or minimize nest disturbance.”</p>	<p>Fiber Optic Cable Route 3 was the only portion of the Proposed Project that would occur near the Bernasconi Hills. For the reasons explained in SCE’s accompanying cover letter to the DEIR comment matrix, Fiber Optic Cable Route 3 has been removed from the Project. All Subtransmission elements will be built in accordance of the <i>Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006</i> to minimize incidental mortality to avian species.</p>
CDFG	3	<p>“Mitigation Measure 4.4-4 is proposed to minimize collision and electrocution risk for raptors. We recommend that the mitigation measure be more inclusive of elements of the <i>Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006 (APLIC 2006)</i> report to also include, but not be limited to, perch management techniques, post-construction mortality monitoring and reporting, and development of an Avian Protection Plant</p>	<p>Project components would be built based on APLIC guidelines to minimize collision and electrocution risk for raptors. Additional mitigation is not warranted nor needed to mitigate the potential impact, as Mitigation Measure 4.4-4 as currently drafted is sufficient.</p>
CDFG	4	<p>The Proposed Project has the potential to impact Golden Eagle. The golden eagle is a State fully protected species, and is federally protected under the Migratory Bird Treaty Act of 1918, as amended and under Executive Order 13186- Responsibility of Federal Agencies to Protect Migratory Birds. In addition to MBTA, eagles are protected under the Bald and Golden Eagle Protection Act. Golden eagles are known to occur in the vicinity of the project. We recommend providing up-to-date biological survey information about eagles that breed, forage, shelter and/or migrate within a 10-mile buffer of the project site. Please refer to the Interim Golden Eagle Inventory and Monitoring Protocols from appropriate survey methods.</p>	<p>The known and potential presence of golden eagles is discussed in detail on Page 37 in the Biological Technical Report. The Survey Area for the project is located on the U.S. Geological Survey’s (USGS’s) Perris, Lakeview, Romoland, Winchester, Sunnymead, and El Casco 7.5-minute quadrangle maps. These quads cover over 372 square miles within the project vicinity. The closest CDFG’s California Natural Diversity Database (CNDDDB) reference for a golden eagle is over 14 miles to the southwest. Given the lack of nesting occurrences in the project vicinity (which is dominated by agricultural fields not considered suitable nesting habitat for this species), the literature search, survey methods, and impact analysis were more than adequate to identify potential impacts to this species. Additional surveys for the CEQA analysis are not warranted.</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**

**SCE COMMENTS & SUGGESTED RESPONSE**

<b>Letter</b>	<b>Page</b>	<b>Comment</b>	<b>Response</b>
CDFG	4	Stevens' kangaroo rat is known to occur in the project site. We are aware that an agreement is in development between the Riverside County Habitat Conservation Agency (RCHCA) and SCE for authorization of take of SKR through the SK HCP. We recommend that the FEIR provide clarification that the project will receive take authorization for SKR by participating in the SKR HCP. Also, the FEIR needs to be clear on when and when SKR have been documented on the project site. Future surveys for SKR are not mitigation for impacts to SKR. Avoidance, minimization, and conservation measures, such as payment of the SKR fee, should be clearly identified in the FEIR.	In the small mammal survey report (BonTerra, 2010d; 2011), SKR locations are identified as result of two years of small mammal surveys. SCE provided comment #163 indicating the location of SKR populations and identified that the proposed project is in a SKR fee area; therefore, to mitigate for potential impacts to this species, SCE will pay a fee in coordination with the Riverside County Habitat Conservation Agency.

**LAKEVIEW RESPONSE TO DEIR COMMENTS**

**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
CDFG	4	<p>“Remote photo studies are not a valid survey methodology for jurisdictional waters or any other sensitive species. A Jurisdictional Delineation for State and Federal Agencies must be prepared to identify impacts to State waters.”</p>	<p>SCE did not originally conduct a wetland delineation at the Proposed Project site due to the following reasons:</p> <ul style="list-style-type: none"> <li>• Construction activities are primarily limited to areas that have been previously disturbed, including existing roadways, or within areas that are currently being utilized for agriculture.</li> <li>• BonTerra Consulting utilized the NWI to identify areas containing potential “Waters of the State” under the jurisdiction of the CDFG pursuant to Fish &amp; Game Code Section 1602, or “Waters of the United States” under the jurisdiction of the U.S. Army Corps of Engineers pursuant to Clean Water Act Section 404 .</li> <li>• A fairy shrimp habitat assessment was conducted by a permitted fairy shrimp biologist (Jeff Crain, BonTerra Consulting). This habitat assessment includes identifying water features such as vernal pools, detention basins, and drainages that may support populations of fairy shrimp. The assessment did not identify wetlands within the project footprint, excluding the active channel of the San Jacinto River, detention basins, and irrigation canals.</li> <li>• Jeff Crain is a local biological expert within the region and conducted vegetation restoration work on the CDFG conservation area located north of the project area which included restoring vernal pool habitat. He has worked extensively with wetlands in the Proposed Project’s vicinity and determined that no wetlands had been previously identified within the Proposed Project’s footprint based on his prior knowledge of the region.</li> <li>• Plant surveys did not identify vegetation (outside of the San Jacinto River channel) that supports vegetation associated with wetlands. Hydrophytic vegetation is defined as any plant that is typically adapted to and subsequently grows within water or that is on a substrate that is at least periodically deficient in oxygen; this oxygen deficiency can be a result of excessive saturation conditions that range from open water to periodically saturated soils. In other words, these plant species are used as indicators of wetlands. The U.S. Fish and Wildlife Service has identified approximately 2,000 plant species of this type within the State of California; none of these species were identified within the project area excluding the alkali wetland located in the San Jacinto River channel.</li> </ul> <p>However, despite the reasoning provided above, SCE recently performed a jurisdictional delineation. As evidenced in the Jurisdictional Delineation Report dated May 2012, SCE would not have impacts to the jurisdictional waters seen within the report.</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**

**SCE COMMENTS & SUGGESTED RESPONSE**

<b>Letter</b>	<b>Page</b>	<b>Comment</b>	<b>Response</b>
CDFG	4	“Several habitat communities previously disclosed in the document are missing in the DEIR analysis. Please clarify if the project will impact Alkali Scrub Playa, Alkali Wetland, and/or Southern Willow Scrub. Please note that mitigation for impacts to these sensitive vegetation communities is likely to be required as part of the project.”	SCE provided a similar comment to the DEIR (Comment #165). The PEA indicates that with the exception of 0.2 acres of impacts to alkali grassland, all impacts would be occurring to non-sensitive habitat types (ruderal, disturbed, agricultural, ornamental). The FEIR needs to assess the impacts to the alkali grassland, and also needs to emphasize the low impact nature of this project and the fact that direct construction impacts will be occurring almost entirely in habitats that do not support sensitive biological resources. Based on the relatively minor impacts expected to result from Project construction, these indirect impacts are likely to be less than significant. This conclusion needs to be supported in the FEIR by incorporating the references and factual assertions made here.
CDFG	4	“Section 6.2.4 Biological Resources states that the Proposed Project will impact 0.02 acres of Sensitive Natural Communities. This is inconsistent with previous sections.”	SCE provided a DEIR comment (#165) that the impact acreages were provided in the PEA but were not included in the DEIR.
CDFG	4	“If effects to spreading navarretia and San Jacinto Valley crowscale cannot be avoided, SCE can choose to become a Participating Special Entity in the MSHCP and receive coverage for project-related impacts to those species.”	As noted in SCE’s DEIR, comment #180 that recent survey results identified species that occur within the footprint of project elements and therefore SCE would likely participate in the MSHCP to mitigate for impacts to these species.
CDFG	5	“An agreement is in development between RCHCA and SCE for authorization of “take” of SKR through the SKR HCP. The final EIR should specify how or whether the project will obtain take of affected state and federally listed species.”	SCE identified in its DEIR comment #171: The Project is within a Stephens’ kangaroo rat fee area; therefore, if the species is detected, a fee would be paid to the County of Riverside in lieu of performing additional surveys.

**LAKEVIEW RESPONSE TO DEIR COMMENTS**

**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
CDFG	5	<p>“A Lake and Streambed Alteration Agreement Notification will be required by the Department should the site contain State jurisdictional waters. Additionally, the Department’s criteria for determining the presence of jurisdictional waters are more comprehensive than the Clean Water Act. Any mitigation measures required by the resource protection policies of the Army Corps of Engineers should be included in the CEQA document. Additionally, project impacts to resources that would be avoided or protected under the MSHCP’s Riparian Riverine Protection Policy should be discussed.”</p>	<p>As evidenced in the Jurisdictional Delineation Report dated May 2012, SCE would not have impacts to the jurisdictional waters seen within the report.</p>
Drury	2-3	<p>A project description may not break a project into smaller components, “thereby ‘segmenting’ or ‘piecemealing’ the project in order to avoid analyzing it as a whole.” (Kostka and Zischke, “Guide to the California Environmental Quality Act,” 11th Edition, 2007, p. 419.)  A project description is inadequate where (1) a future expansion or other action is a reasonably foreseeable consequence of the initial project, and (2) the future expansion or action will change the scope of the initial project or its effects. (<i>Laurel Heights Improvement Ass’n. v. Regents of the Univ. of California</i> (1988), 47 Cal. 3d 376, 393-399.)</p> <p>As noted above, future components of the project consist of future distribution circuits to be connected from the substation “to areas of demand on an as-needed basis...” (DEIR, p. 2-9)</p> <p>This future activity is reasonably foreseeable given growing population trends in the state of California. This expansion would also change the scope of environmental effects by, among other things, impacting extensive areas of soil and underground habitat for mammals, other animals, and rare plants. An analysis of its effects and proposed mitigation is therefore required under CEQA.</p>	<p>As explained in Section 15145 of the CEQA Guidelines, “If after thorough investigation, a Lead Agency finds that a particular impact is too speculative for evaluation, the agency should note its conclusions and terminate discussion of the impact.”</p> <p>As explained on page 2-9 of the DEIR, “...analysis of potential impacts related to these distribution circuits would be premature and speculative. Consequently, this EIR does not evaluate impacts related to construction, operation and maintenance of the remaining distribution circuits. Under CPUC General Order 131-D, the future 12 kV distribution circuits would not be subject to additional CEQA analysis or CPUC review.”</p> <p>The DEIR complies with Section 15145 of the CEQA Guidelines and is not ‘piecemealing’ the Project for purposes of avoiding analyzing the Project as a whole.</p> <p>The distribution circuits for Lakeview Substation are not dependent on “growing population trends in the state of California,” but rather those elements identified on page 2-9 of the DEIR:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> The location of the current load growth</li> <li><input type="checkbox"/> Existing electrical distribution facilities in the area</li> <li><input type="checkbox"/> The location of roads and existing SCE rights-of-way</li> </ul> <p>As mentioned above the DEIR states, “Under CPUC General Order 131-D, the future 12 kV distribution circuits would not be subject to additional CEQA analysis or CPUC review,” thus the commenter’s letter inaccurately makes the following statement, “analysis of its effects and proposed mitigation is therefore required under CEQA.”</p> <p>For further clarification, please refer to SCE’s accompanying cover letter.</p>
Drury	3	<p>The DEIR, however, avoids this required analysis as follows:  The exact location, routing and timing of construction of the remaining</p>	<p>As explained in Section 15145 of the CEQA Guidelines, “If after thorough investigation, a Lead Agency finds that a particular impact is too speculative for</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**

**SCE COMMENTS & SUGGESTED RESPONSE**

<b>Letter</b>	<b>Page</b>	<b>Comment</b>	<b>Response</b>
		<p>distribution circuits have yet to be determined. Whether they would be installed aboveground or below, the sites and types of supporting infrastructure (including the soil sensitivity, mineral availability, or habitat present in the areas affected by such infrastructure), and other details essential to environmental analysis of impacts associated with these distribution circuits is unknown. Without this information, analysis of potential impacts related to these distribution circuits would be premature and speculative. Consequently, this EIR does not evaluate impacts related to construction, operation and maintenance of the remaining distribution circuits. Under CPUC General Order 131-D, the future 12 kV distribution circuits would not be subject to additional CEQA analysis or CPUC review. (DEIR, p. 2-9)</p> <p>This avoidance constitutes an impermissible piecemealing of the project into separate segments in violation of CEQA. Among other reasons why this piecemealing is impermissible is the result that the analysis fails to address cumulative impacts from the extension taken together with the initial phase of the project. This analysis is defective and must be cured. Then the public must be given an opportunity to evaluate the complete analysis in a recirculated document.</p>	<p>evaluation, the agency should note its conclusions and terminate discussion of the impact.”</p> <p>As explained on page 2-9 of the DEIR, “...analysis of potential impacts related to these distribution circuits would be premature and speculative. Consequently, this EIR does not evaluate impacts related to construction, operation and maintenance of the remaining distribution circuits. Under CPUC General Order 131-D, the future 12 kV distribution circuits would not be subject to additional CEQA analysis or CPUC review.”</p> <p>The DEIR complies with Section 15145 of the CEQA Guidelines and is not ‘piecemealing’ the Project for purposes of avoiding analyzing the Project as a whole.</p> <p>The distribution circuits as explained in the DEIR (p.2-9) are not a part of the Project as information related to the design is speculative. Since the distribution circuits are not a part of the Project and since the distribution circuits,” ...would not be subject to additional CEQA analysis or CPUC review,” there is no merit to the point raised by the commenter that there is a potential cumulative impact not analyzed by the “extension taken together with the initial phase of the project.”</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
Drury	3	<p>The DEIR provides vague and imprecise information on Project features (except for the substation location). Furthermore, the DEIR indicates a final engineering plan has not been prepared for the Project. The lack of detailed information on the locations of Project features prevents thorough analysis of Project impacts and the formulation of reliable mitigation.</p>	<p>As explained on Page 2-2 of the DEIR, “Two subtransmission source line segments are proposed. Segment One would extend east from the Valley-Moval 115 kV subtransmission line paralleling the Colorado River Aqueduct until it spans the San Jacinto River and intersects and follows the planned 10<sup>th</sup> Street route. It then would extend southeast along the planned 10th Street route until entering the substation property near the corner of the planned 10th Street route and Reservoir Avenue. Segment Two would extend southeast from the Valley-Moval 115 kV subtransmission line, spanning the San Jacinto River, before reaching 11th Street. The new facilities then would follow 11th Street to the intersection of Reservoir Avenue, extending north before entering the proposed substation property.”</p> <p>Additionally, the location of the proposed subtransmission lines, telecommunications lines, the Lakeview Substation site and Nuevo Substation and Temporary Model Pole Top Substation are depicted of Figure 2-2.</p> <p>Section 15161 of the CEQA guidelines explains, Project EIRs, “...should focus primarily on changes in the environment that would result from the development of the Project,” and the Lakeview Substation DEIR, regardless of a final engineering plan, has sufficient information to focus on the changes to the environment that would result from development of the Project.</p> <p>For further clarification, please refer to SCE’s accompanying cover letter.</p>
Drury	4	<p>The DEIR describes the existing conditions at the Lakeview Substation site. However, it does not describe the existing conditions at the other three marshalling yards other than stating each potential marshalling yard “previously has been disturbed.” This statement does not sufficiently describe existing conditions such that Project impacts to biological resources can be evaluated. Based on review by expert wildlife biologist Scott Cashen, M.S., of Google Earth imagery:</p> <ol style="list-style-type: none"> <li>1. The parcel adjacent to the Lakeview Substation site (i.e., Marshalling Yard #4) contains an agricultural field (perhaps fallow).</li> </ol>	<p>With respect to the marshalling yards, as described in the DEIR on page 2-18, “each location offers up to five acres of space and has previously been disturbed.”</p> <ol style="list-style-type: none"> <li>1. The parcel adjacent to the Lakeview Substation site, Marshalling Yard #4 does contain an agricultural field and would be classified as “previously disturbed” as explained in the DEIR.</li> <li>2. As explained in the DEIR the marshalling yards would be limited to areas that are previously disturbed at these facilities, the native</li> </ol>

## LAKEVIEW RESPONSE TO DEIR COMMENTS

### SCE COMMENTS & SUGGESTED RESPONSE

Letter	Page	Comment	Response
		<p>2. Both the SCE Menifee Service Center (i.e., Marshalling Yard #2) and the Valley Substation site (i.e., Marshalling Yard #3) contain native (or naturalized) vegetation and potentially jurisdictional drainage features (Figures 1 through 4).</p> <p>These areas have the potential to support sensitive biological resources that may be directly or indirectly impacted by Project activities. Consequently, the DEIR must: (a) identify the specific areas within each site that will be used as a marshaling yard; (b) describe the existing vegetation communities, habitat types, and habitat elements (e.g., burrows, trees) present at the proposed marshaling yards; (c) provide an assessment of the sensitive biological resources that may be directly or indirectly impacted by the marshaling yards; and (d) propose mitigation for any potentially significant Project impacts associated with the marshaling yards.</p>	<p>vegetation along the perimeters of the facility would not likely be suitable for laydown areas and would not be consistent with “previously disturbed” areas.</p> <p>By classifying that the marshalling yards would occur within previously disturbed areas at the existing SCE facilities does provide enough detail regarding the specific areas within each site where the marshaling yard would be located. Again, by stating that the marshaling yards would occur within previously disturbed areas the potential for vegetation communities, habitat elements, and general biological sensitivities is very limited, as these areas are cleared and do not contain vegetation.</p>
Drury	6	<p>The Project would require up to 90 laydown areas that would be cleared of existing vegetation and graded. Each laydown area would disturb up to 20,000 square feet. The DEIR does not map or otherwise describe the precise location of each laydown area. This precludes a thorough assessment of potentially significant impacts associated with the Project.</p> <p>The Project would require one or more staging areas. Temporary storage of construction materials and equipment at staging areas creates the potential for release of hazardous materials or sediment to nearby water bodies. Because the DEIR was unable to identify the location of staging areas, impacts to biological resources cannot be thoroughly evaluated.</p>	<p>Although laydowns areas are not precisely located or mapped, the DEIR does provide sufficient information related to laydown areas so as to be able to determine the potential environmental impacts. The DEIR states on Page 2-20 of the DEIR that, “Laydown areas would be located along the proposed subtransmission source line segments within SCE ROW or franchise,” therefore the DEIR does describe the relative location of each laydown.</p> <p>For purposes of the DEIR, Laydown Areas and Staging Areas essentially represent the same project component, as evidenced in the title of the section seen on page 2-20 “2.8.3 Staging Area/ Laydown Area.” Therefore, potential biological resources within the laydown areas and potential project impacts have been fully evaluated within the Draft EIR.</p>
Drury	7	<p>The DEIR violates CEQA by failing to document and describe existing conditions pertaining to biological resources and existing soil contamination that will be affected by the Project.</p>	<p>Section 4.4.1 Setting (p. 4.4-1) of the Biological Resources Section of the DEIR describes the existing setting for biological resources.</p> <p>Section 4.9.1 Setting, subsection Existing Environment (starting on page 4.9-2) of the Hazards and Hazardous Material Section of the DEIR describes the</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

<b>Letter</b>	<b>Page</b>	<b>Comment</b>	<b>Response</b>
			baseline conditions with relation to potential contamination.
Drury	7	“Hydrogeologist and hazardous material expert Matthew Hagemann, MS, P.G., C. Hg., the former West Coast Regional Director of US EPA’s Superfund Program, concludes that the Project may disturb soil contaminated with highly toxic chemicals, and that this contamination may adversely affect construction workers and nearby residents.”	The DEIR, specifically section 4.9 Hazards and Hazardous Materials, and the 2009 Phase 1 analysis performed by Rubicon Engineering Corp. reviewed and analyzed potential impacts from hazards and hazardous materials resulting from the Proposed Project, including those from contaminated soils. The DEIR concludes on page 4.9-13, “Because SCE would be required to comply with all hazardous materials laws and regulations for the transport, use and disposal of hazardous materials, as well as construction stormwater regulations, the potential hazard to the public or the environment from hazardous materials use during construction would be less than significant.”

**LAKEVIEW RESPONSE TO DEIR COMMENTS**

**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
Drury	8	<p>Because of the Site’s long history of agriculture, soil sampling should be conducted for residual pesticide levels. Because potatoes are currently grown on Site, methyl bromide is most likely present in soil and may persist into the construction phase. During construction, workers may be exposed to residual pesticides when inhaling dust or when handling soil. Soil sampling should be conducted throughout the Site to ensure that the pesticides on the Site, used for the historical and ongoing agricultural processes, are not present in concentrations that could pose harmful health effects to construction workers. The results of the sampling and an analysis of potential health effects should be included in a revised DEIR.</p>	<p>While the substation site was originally used for agricultural purposes, it has not been used for that purpose since SCE purchased the property in November 2009.</p> <p>Page 4.9-2 of the DEIR states the following, “While historical agricultural uses of the Project area and vicinity could have resulted in residual pesticide contamination in soil, the investigations discussed above in the Section 4.9.1, <i>Setting</i> for the proposed schools indicate that residual pesticides in soil, if any, would not pose a threat to public health or the environment.”</p> <p>Additionally page 4.9-2 of the DEIR notes, “Although there is a low potential for contaminated soil to be encountered during construction excavation and grading, soil samples would be analyzed for hazardous materials prior to construction during the geotechnical investigation. If chemicals are detected in the soil samples at concentrations above regulatory action levels, SCE would decide whether to remove the contaminated soil, or modify the design of the Project to the extent necessary to avoid contaminated soil. During WEAP training, construction workers would be instructed on the procedures to follow in the event unanticipated soil contamination is encountered.”</p> <p>The DEIR, specifically section 4.9 Hazards and Hazardous Materials, and the 2009 Phase 1 analysis performed by Rubicon Engineering Corp. reviewed and analyzed potential impacts from hazards and hazardous materials resulting from the Proposed Project, including those from contaminated soils. The DEIR concludes on page 4.9-13, “Because SCE would be required to comply with all hazardous materials laws and regulations for the transport, use and disposal of hazardous materials, as well as construction stormwater regulations, the potential hazard to the public or the environment from hazardous materials use during construction would be less than significant.”</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**

**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
Drury	8	<p>The Phase I ESA identifies a water well on the property that was abandoned because of high selenium concentrations in groundwater. The Phase I ESA identifies a water well on the property that was abandoned because of high selenium concentrations but also states that it was not properly abandoned’ (p. D-11). The California Water Code states that improperly abandoned water wells can be a source of groundwater contamination and a threat to public health. A Well Completion Report needs to be filled out and filed with the California Department of Water Resources. The well should be properly abandoned, as the Phase I ESA itself notes, in accordance with the Riverside County Environmental Health Requirements and all other state requirements prior to any construction beginning on Site.</p>	<p>Please reference SCE’s response to CPUC data request 2, question 6, where it is noted that “For safety and liability purposes, the water well located on the proposed substation site was abandoned in August of 2010. A well drilling permit was obtained from the Riverside County Community Health Agency Department of Environmental Health for the purposes of well abandonment.”</p>
Drury	8	<p>The DEIR states that the current Nuevo Station and Model Pole Top facilities include equipment such as transformers and circuit breakers that contain 17,500 gallons of mineral oil (DEIR, p. 4.9-3). Prior to project construction, the equipment will be decommissioned. The DEIR acknowledges that, historically, mineral oil constituents can include elements of concern such as lead, petroleum hydrocarbons, and polychlorinated biphenyls (PCBs) (DEIR, p. 4.9-3). However, the DEIR does not provide any mitigation measures to address spillage of this oil during decommissioning activities. The DEIR states only that testing of mineral oil will be conducted during dismantling to see if it is contaminated with PCBs.</p>	<p>Compliance with applicable hazardous materials laws and regulations would reduce the potential impact to less than significant as explained in the following sentence seen on p. 4.9-13 of the DEIR, “Because SCE would be required to comply with all hazardous materials laws and regulations for the transport, use and disposal of hazardous materials, as well as construction stormwater regulations, the potential hazard to the public or the environment from hazardous materials use during construction would be less than significant.” Given that SCE will be complying with all applicable hazardous materials laws, no additional project specific mitigation measures related to potential spill of mineral oil at the site are required.</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**

**SCE COMMENTS & SUGGESTED RESPONSE**

<b>Letter</b>	<b>Page</b>	<b>Comment</b>	<b>Response</b>
Drury	9	Testing should instead occur prior to decommissioning. Test results and any appropriate mitigation measures to protect worker health should be included in a revised DEIR. Additionally, a Spill Prevention, Control, and Countermeasure Plan (SPCC) should be prepared now and included in a revised DEIR, not following certification as proposed in the DEIR.	<p>Compliance with applicable hazardous materials laws and regulations would reduce the potential impact to less than significant as explained in the following sentence seen on p. 4.9-13 of the DEIR, “Because SCE would be required to comply with all hazardous materials laws and regulations for the transport, use and disposal of hazardous materials, as well as construction stormwater regulations, the potential hazard to the public or the environment from hazardous materials use during construction would be less than significant.”</p> <p>Given that SCE will be complying with all applicable hazardous materials laws, no additional project specific mitigation measures related to potential spill of mineral oil at the site are required.</p> <p>Should those applicable hazardous materials laws require the preparation of a SPCC, SCE will prepare the plan.</p>
Drury	9	The Project will install approximately 73 wood poles (DEIR, p. 2-24) and remove 18 existing poles (DEIR, p. 4.9-4). The new and existing poles are likely to have been treated with pentachlorophenol which is used as a wood preservative. Pentachlorophenol on utility poles may be a source of contamination for stormwater runoff, especially in areas where new or decommissioned poles are stored. Mitigation measures should be identified in a revised DEIR to address this potential source of stormwater contamination.	<p>Compliance with applicable hazardous materials laws and regulations would reduce the potential impact to less than significant as explained in the following sentence seen on p. 4.9-13 of the DEIR, “Because SCE would be required to comply with all hazardous materials laws and regulations for the transport, use and disposal of hazardous materials, as well as construction stormwater regulations, the potential hazard to the public or the environment from hazardous materials use during construction would be less than significant.”</p> <p>Given that SCE will be complying with all applicable hazardous materials laws, no additional project specific mitigation measures related to the treatment of the poles with pentachlorophenol at the site are required.</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
Drury	9	<p>... Several special-status species have previously been documented occurring in the Project area (referenced CNDDDB). These include five narrow endemic plant species, the Riverside fairy shrimp, the Stephens' kangaroo rat, and the western spadefoot, among others. The DEIR does not map or discuss the locations of these occurrences in relation to Project features. Because the DEIR lacks information on historic occurrences of special-status species in the Project area, it fails to provide information essential to establishing existing conditions, assessing Project impacts, and evaluating the proposed mitigation.</p>	<p>As stated on Page 4.4-1 of the Draft EIR, a query of the California Department of Fish and Game (CDFG) California Natural Diversity Database (CNDDDB) (CDFG, 2011) was conducted for the proposed project. As stated on Page 9 of the Biological Technical Report for the proposed projects, this search included a review of the USGS's Perris, Lakeview, Romoland, Winchester, Sunnymead, and El Casco 7.5-minute quadrangles in the California Native Plant Society's (CNPS's) <u>Electronic Inventory of Rare and Endangered Vascular Plants of California</u> and the CNDDDB. In addition, the Assessor's Parcel Numbers (APNs) for the project Survey Area were run through the Riverside County Integrated Project (RCIP) Conservation Summary Report Generator for the Western Riverside County MSHCP. These data resource, along with others evaluated in the Biological Technical Report, identified the known or potential occurrence of species status resources in the area including, but not limited to, the five narrow endemic plant species, the Riverside fairy shrimp, Stephens' kangaroo rat, and western spadefoot. Detailed descriptions of these resources, including the areas in the project vicinity where they are known to occur are included within the Biological Technical Report.</p>
Drury	9	<p>Adequate baseline survey data have not been collected for the project. Several special-status species were detected during surveys conducted for the Project. The DEIR does not map all of these species, nor does it provide information on their distribution and abundance in the Project area.</p>	<p>As noted in the Biological Technical Report for the proposed project, maps are identified on pages 22-28. In addition, as provided in Exhibits 6, 7, and 8, baseline surveys indicated that special status plant species were observed within the Project study area (San Jacinto Valley crownscale, smooth tarplant, vernal barley, and Coulter's goldfields). SCE recommends that this information be included in the final EIR for the project.</p>
Drury	9	<p>Special-status plants have the potential to occur along Fiber-Optic Cable Route 3. Plant surveys have not been completed along this route, and the extent of focused wildlife surveys along the route is unclear.</p>	<p>For the reasons explained in SCE's accompanying cover letter to its DEIR comment matrix, Fiber Optic Cable Route 3 has been removed from the Project.</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

<b>Letter</b>	<b>Page</b>	<b>Comment</b>	<b>Response</b>
Drury	10	Neither study area was sufficient for adequately disclosing impacts of the Project, evaluating impacts, and formulating appropriate mitigation.	<p>The study area for the proposed project included 50 feet of buffer on either side of a project feature. This included all general vegetation and wildlife surveys and protocol surveys for special status species such as the Quino checkerspot butterfly, coastal California gnatcatcher, burrowing owl, and listed small mammals. These study areas were provided to the USFWS as part of the protocol requirements (i.e., Quino, gnatcatcher, mammal trapping) and no additional information was requested. This protocol has been used in the evaluation of many SCE projects within the Southern California area with concurrence from the resources agencies.</p> <p>Potential biological impacts and mitigation for those impacts were identified and analyzed in Section 4.4 of the DEIR.</p>
Drury	10	...the DEIR does not accurately disclose impacts from roads.	<p>The disturbance for the access roads only accounts for a 14' width. The reasoning for calculating the disturbance at 14' is because most of the project area is relatively flat, therefore the 2' shoulders on either side may not be needed. Until final engineering has been performed, it is too speculative at this time to determine whether any additional shoulders would be required.</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
Drury	10	... The study area failed to consider the footprints of the Project's laydown sites.	<p>Although not precisely located or mapped, the DEIR does provide sufficient information related to laydown areas so as to be able to determine the potential environmental impacts. The DEIR states on Page 2-20 that, "Laydown areas would be located along the proposed subtransmission source line segments within SCE ROW or franchise," therefore the DEIR does describe the relative location of each laydown.</p> <p>In addition, the project area entails primarily disturbed land and any impacts to the species on that land have likely been identified and mitigation for impacts to those species (e.g., participation in the MSHCP) has been proposed in the DEIR.</p> <p>For further clarification, please refer to SCE's accompanying cover letter.</p>
Drury	10	...the need to survey a relatively wide buffer area is reflected in survey guidance issued by the California Department of Fish and Game ("CDFG") and U.S. Fish and Wildlife Service ("USFWS"). For example, CDFG's burrowing owl survey guidance recommends surveys within 150 meters (approximately 500 feet) of project boundaries.	As previously explained, SCE used sufficient buffers to determine biological impacts. Typically, buffer areas are not standardized by CDFG and USFWS, however, protocol surveys including buffers for listed species were followed.
Drury	10	... The study area did not encompass all of the areas that would be directly impacted by the Project. Specifically, surveys were not conducted at (a) the proposed marshalling yards; (b) the proposed staging areas; and (c) potential sites for distribution circuits.	<p>Although not precisely located or mapped, the Project Description in the DEIR does provide sufficient information related to proposed marshalling yards and staging areas so as to be able to determine the potential environmental impacts. With respect to distribution circuits, page 2-9 of the DEIR discusses the fact that the exact location, routing, and timing of construction of the distribution circuits have yet to be determined and without this information, analysis of potential impacts related to these distribution circuits would be premature and speculative.</p> <p>For further clarification, please refer to SCE's accompanying cover letter.</p>
Drury	11	...the mitigation measures in the DEIR provide only vague information on the proposed pre-construction surveys, including the level of effort that	Mitigation Measure 4.4-1 states the following, "SCE and/or its contractors shall complete focused, in-season botanical surveys for Fiber-Optic Cable Route 3 consistent with the most recent CDFG survey guidance (e.g., CDFG,2009) to

**LAKEVIEW RESPONSE TO DEIR COMMENTS**

**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
		<p>will be devoted to the surveys, the methods that will be used, and the survey areas (including the project features and buffer zones that will be surveyed).</p> <p>...this measure only provides that a survey will occur, without assurance that protocols will be performed in a manner calculated to detect the species. The DEIR relies on many of these APMs without any additional mitigation measures or performance criteria, with the result that the mitigation provided is inadequate under CEQA, as discussed more fully <i>infra</i>.</p>	<p>document the presence or absence or special-status plants. SCE shall coordinate survey findings with CDFG and/or USFWS, as appropriate depending upon the listing status of identified species (e.g., federal- or state-listed).</p> <p>Mitigation Measure 4.4-1 is the only mitigation measure in the DEIR related to preconstruction biological resource surveys. For the reasons explained in SCE’s accompanying cover letter to the DEIR comment matrix, Fiber Optic Cable Route 3 has been removed from the Project. Therefore, Mitigation Measure 4.4-1 should not be included in the FEIR (SCE comment #166).</p> <p>Removal of Mitigation Measure 4.4-1 would eliminate the concerns related to vagueness, level of effort, methodologies, etc.</p> <p>Regarding APM-BIO-3, SCE conducted protocol level trapping for the Stephens’ Kangaroo Rat after submittal of the PEA and prior to the DEIR. SCE provided comment to the DEIR regarding APM-BIO-3 (comment #12) to update the language of the measure to the following, “A habitat assessment for Stephens’ kangaroo rat <del>shall be</del> <u>was</u> conducted <del>by a biologist qualified to conduct Stephens’ kangaroo rat surveys along Segment 1, 2 and 3 and the Proposed Telecommunications Route.</del> <u>for the entire Proposed Project. Protocol level trapping was conducted along Subtransmission Segments One and Two. Stephens’ kangaroo rat was detected along Segment One. The proposed project is in a Stephens’ kangaroo rat fee area; therefore, to mitigate for potential impacts to this species, SCE will pay a fee in coordination with the Riverside County Habitat Conservation Agency. If no potential occupied habitat is found during this assessment, then no further action is necessary. If potential for occupied habitat is found, protocol trapping surveys shall be conducted. The Proposed Telecommunications Route is within a Stephens’ kangaroo rat fee area; therefore, if suitable habitat for this species is found, a fee shall be paid in lieu of further surveys (County of Riverside, 1996).”</u></p> <p>Based on SCE’s suggested revisions to APM-BIO-3, no additional surveys will be conducted for the Stephens’ Kangaroo Rat, therefore concerns related to</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
			<p>vagueness, level of effort or methodologies would be eliminated.</p> <p>Regarding APM-BIO-1 and APM-BIO-2, related to preconstruction surveys, the language included in the APMs does provide enough specificity in order to adequately mitigate for any potential impacts. For example, if active nests are identified during the preconstruction survey that will be impacted by project activities, the APM requires SCE to delineate an appropriate buffer zone around the nest.</p>
Drury	11-12	<p>Furthermore, although the DEIR indicates the Applicant will conduct pre-construction surveys for burrowing owls, nesting birds, rare plants, Stephens' kangaroo rats, and fairy shrimp habitat, it lacks provisions for pre-construction surveys for wetlands (or other jurisdictional waters), the Los Angeles pocket mouse, golden eagle, American badger, and the numerous other sensitive biological resources that have the potential to be impacted by the Project.</p>	<p>With respect to preconstruction surveys for wetlands, the Biological Technical Report at Table 3 indicates that multiple features in the Survey Area may be under the jurisdiction of the USACE and/or the CDFG. As evidenced in the Jurisdictional Delineation Report dated May 2012, SCE would not have impacts to the jurisdictional waters seen within the report.</p> <p>All protocol level surveys have been conducted and no additional protocol level surveys are required. However, as referenced on page 2-15 of the DEIR, SCE will perform preconstruction surveys prior to ground disturbing activities, which will cover the Los Angeles pocket mouse, golden eagle, American badger, and the numerous other sensitive biological resources that have the potential to be impacted by the Project.</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**

**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
Drury	12	A formal wetland delineation has not been conducted for the Project.	<p>SCE did not originally conduct a wetland delineation at the Proposed Project site due to the following reasons:</p> <ul style="list-style-type: none"> <li>• Construction activities are primarily limited to areas that have been previously disturbed, including existing roadways, or within areas that are currently being utilized for agriculture.</li> <li>• BonTerra Consulting utilized the NWI to identify areas containing potential “Waters of the State” under the jurisdiction of the CDFG pursuant to Fish &amp; Game Code Section 1602, or “Waters of the United States” under the jurisdiction of the U.S. Army Corps of Engineers pursuant to Clean Water Act Section 404 .</li> <li>• A fairy shrimp habitat assessment was conducted by a permitted fairy shrimp biologist (Jeff Crain, BonTerra Consulting). This habitat assessment includes identifying water features such as vernal pools, detention basins, and drainages that may support populations of fairy shrimp. The assessment did not identify wetlands within the project footprint, excluding the active channel of the San Jacinto River, detention basins, and irrigation canals.</li> <li>• Jeff Crain is a local biological expert within the region and conducted vegetation restoration work on the CDFG conservation area located north of the project area which included restoring vernal pool habitat. He has worked extensively with wetlands in the Proposed Project’s vicinity and determined that no wetlands had been previously identified within the Proposed Project’s footprint based on his prior knowledge of the region.</li> <li>• Plant surveys did not identify vegetation (outside of the San Jacinto River channel) that supports vegetation associated with wetlands. Hydrophytic vegetation is defined as any plant that is typically adapted to and subsequently grows within water or that is on a substrate that is at least periodically deficient in oxygen; this oxygen deficiency can be a result of excessive saturation conditions that range from open water to periodically saturated soils. In other words, these plant species are used as indicators of wetlands. The U.S. Fish and Wildlife Service has identified approximately 2,000 plant species of this type within the State of California; none of these species were identified within the project area excluding the alkali wetland located in the San Jacinto River channel.</li> </ul> <p>However, despite the reasoning provided above, SCE recently performed a jurisdictional delineation. As evidenced in the Jurisdictional Delineation Report dated May 2012, SCE would not have impacts to the jurisdictional waters seen within the report.</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
Drury	16	The biologist's conclusion conflicts with National Wetlands Inventory maps and imagery available through Google Earth. It also conflicts with the field observations made by other biologists that conducted surveys on the Project site, and with California Natural Diversity Database ("CNDDDB") records that document potential fairy shrimp habitat between 11th Street and the San Jacinto River.	<p>In SCE's fairy shrimp report dated October 2010, the biologist (Jeff Crain) physically surveyed all areas with suitable soils and examined potential areas evidence of ponding habitat for fairy shrimp. Physical surveys are significantly more reliable than the National Wetlands Inventory as suggested by the commenter. The Data Limitations and Uses of the National Wetlands Inventory is clearly stated on their web site as follows:</p> <p>"The maps are prepared from the analysis of high altitude imagery. Wetlands are identified based on vegetation, visible hydrology and geography. A margin of error is inherent in the use of imagery; thus, detailed on-the-ground inspection of any particular site may result in revision of the wetland boundaries or classification established through image analysis."</p> <p><a href="http://www.fws.gov/wetlands/Data/Limitations.html">http://www.fws.gov/wetlands/Data/Limitations.html</a></p> <p>Furthermore, a review of the CNDDDB reflects that the closest two recorded occurrences of Riverside fairy shrimp in the six (6) USGS quadrangles occurred approximately 12 miles south and 8 miles southeast of the study area. There are no occurrences for this species within the study area.</p> <p>The fairy shrimp report dated October 2010 should be included in the FEIR.</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
Drury	17	<p>The DEIR indicates golden eagle nest sites may occur in the vicinity of Fiber-Optic Cable Route 3, and that the remainder of the Project site provides suitable foraging habitat for eagles. The DEIR further indicates that there were “recent nearby observations” of golden eagles along the Fiber-Optic Cable Route 3.40 The DEIR does not discuss these observations, nor does it provide any other information pertaining to golden eagles in the Project area.</p> <p>... The Applicant has not conducted the recommended surveys, nor has it provided existing data acquired through protocol surveys conducted for other projects.</p>	<p>For the reasons explained in SCE’s accompanying cover letter to its DEIR comment matrix, Fiber Optic Cable Route 3 has been removed from the Project.</p> <p>Additionally, the known and potential presence of golden eagles is discussed in detail on Page 37 in the Biological Technical Report. The Survey Area for the project is located on the U.S. Geological Survey’s (USGS’s) Perris, Lakeview, Romoland, Winchester, Sunnymead, and El Casco 7.5-minute quadrangle maps. These quads cover over 372 square miles within the project vicinity. The closest CDFG’s California Natural Diversity Database (CNDDDB) reference for a golden eagle is over 14 miles to the southwest. Given the lack of nesting occurrences in the project vicinity (which is dominated by agricultural fields not considered suitable nesting habitat for this species), the literature search, survey methods, and impact analysis were more than adequate to identify potential impacts to this species. Additional surveys for the CEQA analysis are not warranted.</p>
Drury	17	<p>The lack of this essential baseline information on golden eagle nest sites in the Project area prevents an assessment of the risk of eagles colliding with, or becoming electrocuted by, the Project’s transmission lines, and the potential for the Project to cause take of eagles through disturbance and loss of foraging habitat.</p>	<p>Potentially significant impacts to raptor species are discussed extensively on Pages 4.4-31 and 4.4-32 of the Draft EIR relative to the operation of the proposed project. The Draft EIR identified a Mitigation Measure (4.4-4) that requires SCE to follow Avian Power Line Interaction Committee/USFWS guidelines for avian protection on powerlines. SCE shall use current guidelines to reduce bird mortality from interactions with powerlines.</p>
Drury	18	<p>The Applicant’s consultants apparently made no attempt to relocate the plants documented in the CNDDDB.</p> <p>The MSHCP identifies the floodplains of the San Jacinto River from the Ramona Expressway south to Railroad Canyon as a “Core Area” for the species, and the USFWS has identified the San Jacinto River corridor as critical habitat. Therefore, based on the definitions applied in the DEIR, Moran’s navarretia should be categorized as present in the Project area, or at a minimum, categorized as having a high potential of occurring. An impact to critical habitat is a significant impact under CEQA.</p>	<p>Prior to the initiation of focused plant surveys onsite, a reference population for Moran’s navarretia (<i>Navarretia fossalis</i>) in the region was located on May 12, 2011 to verify that the focused survey efforts were conducted when the species was observable.</p> <p>As identified on page 6 of the Special Status Plant Survey Report as referenced in the DEIR as Bonterra 2010b as well as SCE’s DEIR comment #150, the species was not observed during the focused surveys. However, suitable habitat was identified on the proposed subtransmission source line route 1 and 2 and the proposed telecommunications route 1.</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
		<p>Since the PEA states the Project will impact critical habitat for Moran’s navarretia, the DEIR may not ignore this finding of a previous environmental document.</p>	<p>The designation of a “Core Area” within the MSHCP for this species does not warrant a higher finding of potential occurrence. The MSHCP states that the Plan Area supports approximately 8,270 acres of potential habitat for spreading navarretia (potential habitat was considered to be grasslands and vernal pools). Based on the habitat types present within the project study area, the study (survey) area represents less than 1% (approximately 0.66%) of the 8,270 acres of potential habitat for spreading navarretia. Based on the reasoning provided above, the Final EIR should conclude that there is a less than significant impact to this species.</p> <p>The PEA (p. 4.4-87) explains that suitable habitat for a variety of special status plant species, including Moran’s navarretia occurs along Segment 1 and Segment 2 of the Proposed Subtransmission Route. The PEA however does not state that Moran’s navarretia were observed and does not state that it would be impacted by the Project. The discussion in the PEA is consistent with page 6 of the Special Status Plant Survey Report. The report identified that the species was not observed during the focused surveys. This information should be included in the FEIR.</p>
Drury	19	<p>According to the special-status plant species survey report prepared for the Project, botanists detected chaparral sand verbena in the Project area.</p>	<p>Chaparral sand verbena was not observed during two years of focused surveys for special status plant species as confirmed by the reports provided to the CPUC dated October 2010 and October 2011.</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

<b>Letter</b>	<b>Page</b>	<b>Comment</b>	<b>Response</b>
Drury	19	The Applicant's consultants apparently made no attempt to relocate the plant documented in the CNDDDB. Based on the DEIR's own definitions, south coast saltscale and Davidson's saltscale should be categorized as either being present in the Project area, or as having a high potential of occurring.	<p>Focused surveys for south coast saltscale and Davidson's Saltscale were conducted in 2009 and 2010. These species were not observed within the Survey Area in either year.</p> <p>Prior to the initiation of focused plant surveys onsite, a reference population for Davidson's Saltscale in the region was located on May 12, 2011 to verify that the focused survey efforts were conducted when the species was observable. The determination of potential occurrence onsite for these species was made by Senior Botanists based on knowledge of the vegetation and soil types onsite, distribution of these species in the area, knowledge of these species, their professional knowledge, and the results of focused surveys. The potential for occurrence of these species is accurate as stated.</p>
Drury	20	Therefore, based on the DEIR's own definitions, Parish's brittlescale should be categorized as having a high potential of occurring in the Project area.	<p>The determination of potential occurrence onsite for this species was made by Senior Botanists based on knowledge of the vegetation and soil types onsite, distribution of this species in the area, knowledge of this species, their professional knowledge, and the results of focused surveys. While Parish's Brittlescale is found regionally, it was not found during focused plant surveys, therefore, the botanist correctly determined that the species does not have a high potential of occurring in the project area.</p> <p>For further clarification, please refer to SCE's accompanying cover letter addressing the assertion that the CPUC improperly deferred the acquisition of data needed to describe the environmental settings and properly disclose existing conditions. The vague and general assertions noted here provide insufficient evidence to disrupt the CPUC's conclusions.</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
Drury	20	Wright's trichocoronis should be considered to have at least moderate potential of occurring in the Project area.	Focused surveys for <i>Wright's trichocoronis</i> were conducted in 2009 and 2010. This species was not observed within the Survey Area in either year. The determination of potential occurrence onsite for this species was made by Senior Botanists based on knowledge of the vegetation and soil types onsite, distribution of the species in the area, knowledge of the species, their professional knowledge, and the results of focused surveys. While Wright's trichocoronis is found regionally, it was not found during focused plant surveys, therefore, the botanist correctly determined that the species does not have a high potential of occurring in the project area.
Drury	21	<p>The DEIR does not report the presence of any special status bird species in the project study area. This conflicts with the PEA, which reports the presence of two special-status bird species: loggerhead shrike and California horned lark. In fact, neither document accurately reports the occurrence of special-status bird species. According to the species lists provided in the survey reports prepared for the Project, the following special-status bird species were detected in the Project study area:</p> <ul style="list-style-type: none"> <li>• Cooper's hawk</li> <li>• Tricolored blackbird</li> <li>• Southern California rufous-crowned sparrow</li> <li>• Bell's sage sparrow</li> <li>• Northern harrier</li> <li>• California horned lark</li> <li>• Loggerhead shrike</li> </ul>	<p>The Biological Technical Report for the proposed project documents the known or potential occurrence of the following species and potential project impacts (page number of the report is provided in parentheses): loggerhead shrike (41), California horned lark (42), Cooper's hawk (37), tricolored blackbird (44), Southern California rufous-crowned sparrow (44), Bell's sage sparrow (44), and northern harrier (38).</p> <p>The Biological Technical Report was not carried forward in the DEIR, and should be included in the FEIR.</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
Drury	21	The DEIR's states, "[t]he proposed Lakeview Substation site currently supports agriculture and does not provide habitat for [MSHCP] Criteria Area Species." The DEIR's statement is incorrect.	<p>The PEA states the following:  Construction and operation of the Proposed Substation Site would not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. The Project site is within a Criteria Area Cell (2445) of the Western Riverside County MSHCP (Dudek 2003); however current land use for this site is agriculture and does not provide habitat for the Criteria Area Species (Bell's sage sparrow, Quino checkerspot butterfly, bobcat, and Stephens' kangaroo rat). The Proposed Substation would result in no impact under this criterion and no APMs would be required.</p> <p><i>2445 of the Plan States that</i> Conservation within this Cell Group will contribute to assembly of Proposed Extension of Existing Core 4. Conservation within this Cell Group will focus on playas/vernal pool habitat and agricultural land adjacent to the San Jacinto River. Areas conserved within this Cell Group will be connected to playas/vernal pool habitat proposed for conservation in Cell Groups I to the northwest and G to the west, and to agricultural land proposed for conservation in Cell #2349 to the north and #2549 to the south. Conservation within this Cell Group will range from 55%-65% of the Cell Group focusing 1 H 2445 18 NW in the western portion of the Cell Group.</p> <p>This information was not carried forward in the DEIR and should be included in the FEIR.</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**

**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
Drury	23	Section 2.8.1 of the DEIR states: “[n]ew roads (up to 3.5 miles) would be needed to access the new sub-transmission source line segments, resulting in a disturbance of approximately 8.0 acres.” However, Table 2-2 of the DEIR indicates 5.1 acres will be disturbed by the new access roads.	<p>SCE provided comment to the DEIR (#40) to correct the DEIR text as follows: “New roads (up to 3.5 miles) would be needed to access the new subtransmission source line segments, resulting in a disturbance of approximately <del>8.0</del> <u>5.94</u> acres....”</p> <p>Additionally, SCE comments to the DEIR (# 68, # 69) indicated that Table 2-2 should be updated as follows:</p> <p>Table Row :New Access Roads should read</p> <ul style="list-style-type: none"> <li>-Number of Sites: <del>3</del> <u>3.5 miles</u></li> <li>-Acreage Disturbed during Construction: <del>5.1</del> <u>5.94</u></li> <li>-Acreage Permanently Disturbed: <del>5.1</del> <u>5.94</u></li> </ul> <p>”Rehabilitation of Existing Access Roads for Telecommunications”</p> <ul style="list-style-type: none"> <li>-Number of Sites: <del>8</del> <u>1</u></li> <li>-Acreage Disturbed during Construction: <del>7.75</del> <u>0.7</u></li> <li>-Acreage Permanently Disturbed: <del>7.75</del> <u>0.7</u></li> </ul>
Drury	23-24	<p>Impacts from Project roads are based on a 14-foot road width. However, the DEIR states new and rehabilitated roads would be constructed to provide a minimum width of 14 feet, preferably with an additional 2 feet of shoulder on each side. In addition, the PEA indicates roads may be wider (than 18 feet) depending on final engineering. Given this information,</p> <p>a. What is the maximum number of acres that will be impacted by Project roads?</p> <p>b. Under what circumstances will roads be limited to 14 feet even if it is feasible to construct 18-foot or wider roads?</p>	<p>a. The estimated number of acres that would be disturbed by access roads is 8.64 acres (Table 2-2 of the DEIR- Rehabilitation of existing access roads up to 2 acres of disturbance, comments #68 and 69, explained above).</p> <p>b. Access roads are anticipated to be built to 14’ width whenever possible. It is only when additional footage is needed for shoulders, curves, and turnaround points that the additional width would be utilized.</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**

**SCE COMMENTS & SUGGESTED RESPONSE**

<b>Letter</b>	<b>Page</b>	<b>Comment</b>	<b>Response</b>
Drury	24	<p>The footnote to Table 3-4 of the PEA indicates a portion of the ROW within 25 feet of the TSPs and within 10 feet of the wood poles will remain cleared of vegetation.</p> <p>Although perpetual vegetation removal should be considered a permanent impact, it does not appear that it was accounted for as one in the DEIR.</p> <p>Furthermore, assuming the TSPs are located at the edge of the road (i.e., to allow vehicle passage), wouldn't new roads associated with the sub-transmission line routes entail up to 39 feet (or more) of vegetation removal (i.e., 14-foot road plus an additional 25 feet clearance for the TSP)?</p>	<p>The permanent disturbance associated with the vegetation removal and permanent clearance area for TSPs is 1.0 acre and for wood poles 3.7 acres as seen in Table 3-4 of the PEA. The same acres of permanent disturbance for TSPs and Wood Poles is seen in the DEIR in Table 2-8, therefore the permanent impact was accounted for in the DEIR.</p> <p>Although the DEIR Table 3-4 states permanent disturbance of 25' for TSPs and 14' of Access Roads, generally these two areas will overlap and stay within the 30' right of way. Table 2-2 of the DEIR does include estimated land disturbance for those few areas where access roads are expected to be outside of the 30' right of way in order to provide sufficient turnaround space.</p>
Drury	24	<p>Table 4.4-4 of the DEIR indicates the sub-transmission source line routes (Segments One and Two) would impact 26.6 acres of agriculture. However, Table 4.2-3 indicates impacts to farmland from the sub-transmission line routes (including roads and poles) would be limited to 2.6 acres, whereas Table 4.2-2 indicates impacts would be 21.2 acres.</p>	<p>SCE provided the following comment to the DEIR (#115), "SCE suggests that the calculations used to determine the acreage of permanent impacts to designated Farmland resulting from the Subtransmission Source Line and Poles be reconfirmed to ensure their accuracy."</p>
Drury	24	<p>Please clarify the apparent discrepancy between Table 4.4-4 in the PEA, which indicates 36.44 acres of impacts from sub-transmission line segments, and Table 3.4 of the PEA, which indicates up to 45.1 acres. Similarly, please clarify the apparent discrepancies between data presented in Tables 2-2 and 2-8 in the DEIR, and data presented in Table 4.4-4 in the PEA.</p>	<p>Comments related to this DEIR should be limited to the scope of the DEIR. Therefore, comments related to the PEA are beyond the scope of the DEIR and no response is needed.</p>
Drury	24	<p>Table 4.4-9 in the PEA indicates sub-transmission source line segment 3 would not impact any native vegetation communities. This appears to conflict with Figure 4.4-4N in the PEA.</p>	<p>Comments related to this DEIR should be limited to the scope of the DEIR. Therefore, comments related to the PEA are beyond the scope of the DEIR and no response is needed.</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
Drury	24	The existing road along the New Cable to Moval telecommunications route will apparently require road rehabilitation; however, Table 4.4-5 in the PEA indicates there will not be impacts to vegetation along the New Cable to Moval route. Please clarify the extent of vegetation removal and roadwork required along the New Cable to Moval route. If the existing road will be widened, please justify the PEA’s conclusion that rehabilitation will not impact vegetation given the information provided in Figures 4.4A through N in the PEA, and with the images provided in the small mammal trapping reports prepared for the Project.	<p>Comments related to this DEIR should be limited to the scope of the DEIR. Therefore, comments related to the PEA are beyond the scope of the DEIR and no response is needed.</p> <p>For the reasons explained in SCE’s accompanying cover letter to the DEIR comment matrix, Fiber Optic Cable Route 3 has been removed from the Project.</p>
Drury	24	Please clarify the type, extent, and locations of all other ground disturbance activities that will occur along the New Cable to Moval telecommunications route.	For the reasons explained in SCE’s accompanying cover letter to the DEIR comment matrix, Fiber Optic Cable Route 3 has been removed from the Project.
Drury	25	Please clarify the number and size of staging areas that would be used for the Project and identify where staging areas would be located in relation to the San Jacinto River and its floodplain.	As explained on p. 2-20 of the DEIR, “Up to 90 laydown areas would be required, each no larger than 20,000 square feet (typically 200 feet by 100 feet).” Regarding the location of the laydown areas, p.2-20 of the DEIR explains, “Laydown areas would be located along the proposed subtransmission source line segments within SCE ROW or franchise.”
Drury	25	Please identify the status of special-status plant surveys along Fiber-Optic Cable Route 3. In addition, please identify the focused wildlife surveys that have been conducted for Fiber-Optic Cable Route 3 and Sub-transmission Source Line Segment 3.	For the reasons explained in SCE’s accompanying cover letter to the DEIR comment matrix, Fiber Optic Cable Route 3 has been removed from the Project.
Drury	25	Please identify the status of any protocol level fairy shrimp surveys that have been initiated for the Project.	<p>As stated in APM-BIO-4: Riverside Fairy Shrimp. If Riverside fairy shrimp are found, SCE shall consider (1) avoidance measures, (2) enrollment in the MSHCP as a Participating Special Entity, or (3) approvals through the USFWS.</p> <p>In SCE’s fairy shrimp report dated October 2010, the biologist (Jeff Crain) physically surveyed all areas with suitable soils and examined potential areas evidence of ponding habitat for fairy shrimp. Physical surveys are significantly more reliable than the National Wetlands Inventory as suggested by the commenter. The Data Limitations and Uses of the National Wetlands Inventory is clearly stated on their web site as follows:  “‘The maps are prepared from the analysis of high altitude imagery. Wetlands</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
			<p>are identified based on vegetation, visible hydrology and geography. A margin of error is inherent in the use of imagery; thus, detailed on-the-ground inspection of any particular site may result in revision of the wetland boundaries or classification established through image analysis.”  <a href="http://www.fws.gov/wetlands/Data/Limitations.html">http://www.fws.gov/wetlands/Data/Limitations.html</a></p> <p>Furthermore, a review of the CNDDDB reflects that the closest two recorded occurrences of Riverside fairy shrimp in the six (6) USGS quadrangles occurred approximately 12 miles south and 8 miles southeast of the study area. There are no occurrences for this species within the study area.</p> <p>The fairy shrimp report dated October 2010 should be included in the FEIR.</p>
Drury	25	Please clarify whether chemical dust suppressants will be used for the Project. If dust suppressants will be used please identify the type that will be applied, the locations of potential application, and an assessment of the environmental impacts from using them.	<p>The DEIR Table 4.3-3 provides a list of SCAQMD’s Fugitive Dust BACMs, in which the potential use of chemical dust suppressants is listed as a potential control measure.</p> <p>It has not been determined at this time if a chemical dust suppressant will be used for the Project. It is very rare for chemical dust suppressants to be necessary, so long as water is readily available. In the event chemical dust suppressants should be utilized, SCE only recommends the use of CARB approved dust suppressants.</p>
Drury	25	Please clarify whether pull and tension sites, TSPs, and wood poles would be located immediately adjacent to the San Jacinto River as depicted in Figure 2-2 in the DEIR.	The exact location of pull and tension sites, TSPs and wood poles would be determined upon final engineering,
Drury	25	The Project would require roads to support the two sub-transmission line routes. Please identify the proximity of roadwork (either new construction and rehabilitation) and other ground disturbance activities in relation to the San Jacinto River.	The Section 2.8.1 of the DEIR (p. 2-17) explains that access roads would parallel the poles and existing roads would be used where available. The exact location of ground disturbing activities would be determined upon final engineering. The access road would be located on each side of the San Jacinto River.

**LAKEVIEW RESPONSE TO DEIR COMMENTS**

**SCE COMMENTS & SUGGESTED RESPONSE**

<b>Letter</b>	<b>Page</b>	<b>Comment</b>	<b>Response</b>
Drury	25	First, the DEIR’s conclusion conflicts with the PEA, which indicates wetlands occur throughout the Project area, and that “the Proposed Project may impact...alkali wetland.” Second, a formal wetland delineation has not been conducted for the Project, and until a formal wetland delineation has been verified by the U.S. Army Corps of Engineers (“Corps”), the DEIR has no basis to conclude the Project will not impact wetlands (or other jurisdictional waters).	As evidenced in the Jurisdictional Delineation Report dated May 2012, SCE would not have impacts to the jurisdictional waters seen within the report.
Drury	25	Third, biologists that conducted surveys for the Project reported detecting hydrologically dependent, special-status plant species in “depressions” (i.e., vernal or seasonal pools). These observations compliment existing CNDDDB records of “pools” in the Project area.	As stated in the Fairy Shrimp Habitat Assessment Report dated October 2010, vernal pools were not identified within the study area or impact areas of the proposed project. Therefore, there would be no indirect impacts to this resource in the project area.
Drury	25	Fourth, a branch of the San Jacinto River occurs west of the main river channel. The Applicant has proposed building a new access road across this branch of the river.	As evidenced in the Jurisdictional Delineation Report dated May 2012, SCE would not have impacts to the jurisdictional waters seen within the report.
Drury	25-26	Fifth, as previously discussed, Google Earth imagery clearly depicts wetland features in the Project area, including within the footprints of roads and pull-sites proposed for the Project (Figures 5 through 10). The Project, as currently proposed, would impact these wetlands. Moreover, given the dimensions of the proposed pull-sites, and the configuration of roads proposed for the Project, the Applicant may not be able to avoid potentially jurisdictional wetlands (Figure 11). Because the DEIR does not require the Applicant to obtain authorization from the Corps, State Water Resources Control Board, and CDFG, the Project would have an unmitigated, significant impact on wetland resources.	As evidenced in the Jurisdictional Delineation Report dated May 2012, SCE would not have impacts to the jurisdictional waters seen within the report.

**LAKEVIEW RESPONSE TO DEIR COMMENTS**

**SCE COMMENTS & SUGGESTED RESPONSE**

<b>Letter</b>	<b>Page</b>	<b>Comment</b>	<b>Response</b>
Drury	26	The DEIR states: “[n]on-listed special-status wildlife species, species determined to have a low potential to occur in the study area, and birds that may forage (but not nest) in the area are identified, but related impacts are not analyzed under CEQA.” This approach omits analysis of the project’s effects on foraging habitat in violation of CEQA. CEQA provides protection not only for State-listed or federally-listed species, but also for any species that can be shown to meet the criteria for listing. Species that meet these criteria are often considered species of special concern by the CDFG.	SCE’s Biological Technical Report evaluated all potential locally occurring species that were identified in the MSHCP Conservation Strategy. This species list includes state and federally listed species as well as locally occurring non listed species as identified as being narrow endemic species. This information should be included in the FEIR.
Drury	27	<p>...the DEIR does not provide an assessment of the Project’s compliance with the Eagle Act, nor does it analyze potentially significant Project impacts on the golden eagle and other raptor species.</p> <p>It is important to note also that under California FGC § 3511, take of golden eagle is prohibited and take authorization by the Department of Fish and Game cannot occur. Therefore, the project will have to avoid take of golden eagle entirely. Any take of golden eagle would constitute a significant impact under CEQA. The Project includes two new transmission lines that would span the San Jacinto River. The San Jacinto River serves as a corridor for birds. The DEIR lacks an assessment of the collision and electrocution risk that the Project poses to birds flying along the river corridor, or to the high concentration of raptors that occur in the Project area.</p>	<p>The known and potential presence of golden eagles is discussed in detail on Page 37 in the Biological Technical Report. The Survey Area for the project is located on the U.S. Geological Survey’s (USGS’s) Perris, Lakeview, Romoland, Winchester, Sunnymead, and El Casco 7.5-minute quadrangle maps. These quads cover over 372 square miles within the project vicinity. The closest CDFG’s California Natural Diversity Database (CNDDDB) reference for a golden eagle is over 14 miles to the southwest. Given the lack of nesting occurrences in the project vicinity (which is dominated by agricultural fields not considered suitable nesting habitat for this species), the literature search, survey methods, and impact analysis were more than adequate to identify potential impacts to this species. Additional surveys for the CEQA analysis are not warranted.</p> <p>In addition, potentially significant impacts to raptor species are discussed extensively on Pages 4.4-31 and 4.4-32 of the Draft EIR relative to the operation of the proposed project. The Draft EIR identified a Mitigation Measure (4.4-4) that requires SCE to follow Avian Power Line Interaction Committee/USFWS guidelines for avian protection on powerlines. SCE shall use current guidelines to reduce bird mortality from interactions with powerlines.</p>
Drury	28	The DEIR acknowledges the Project may have significant impacts on the Stephens’ kangaroo rat. However, it fails to quantify the impacts or put	The Biological Technical Report and the focused survey reports were prepared for the proposed project and are part of the administrative record for the project.

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
		<p>them into context. Moreover, it fails to disclose important information pertaining to impacts reported by the Applicant’s consultant and the MSHCP.</p>	<p>This includes the July 18, 2011 small mammal report prepared for the project. The small mammal report concluded there was presence of the Stephens’ Kangaroo Rat.</p> <p>The Draft EIR identified potentially significant impacts to this species with project implementation. As required by CEQA, measures were identified by SCE that would reduce impacts to a less than significant level. Specifically, please refer to SCE’s comment #12 to the DEIR, which requests as follows: “A habitat assessment for Stephens’ kangaroo rat <del>shall be</del> <u>was</u> <del>conducted by a biologist qualified to conduct Stephens’ kangaroo rat surveys along Segment 1, 2 and 3 and the Proposed Telecommunications Route. for the entire Proposed Project. Protocol level trapping was conducted along Subtransmission Segments One and Two. Stephens’ kangaroo rat was detected along Segment One. The proposed project is in a Stephens’ kangaroo rat fee area; therefore, to mitigate for potential impacts to this species, SCE will pay a fee in coordination with the Riverside County Habitat Conservation Agency. If no potential occupied habitat is found during this assessment, then no further action is necessary. If potential for occupied habitat is found, protocol trapping surveys shall be conducted. The Proposed Telecommunications Route is within a Stephens’ kangaroo rat fee area; therefore, if suitable habitat for this species is found, a fee shall be paid in lieu of further surveys (County of Riverside, 1996).”</del></p> <p>For clarification the Stephens’ kangaroo rat is not covered by the MSHCP but rather the SKRHCP administered by the Riverside County Habitat Conservation Agency. SCE also suggested in comments to the DEIR (#160) a discussion should be added to the Biological Resources Section regarding the Stephens’ kangaroo rat habitat conservation plan.</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**

**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
Drury	28	The northern portion of the Project site is within a Core Area for the Stephens' kangaroo rat.	For the reasons explained in SCE's accompanying cover letter to the DEIR comment matrix, Fiber Optic Cable Route 3 has been removed from the Project. Fiber Optic Cable Route 3 was the only project component located with the Core Reserve Area.
Drury	28	The DEIR does not specifically address Project impacts to the Los Angeles pocket mouse even though it was one of the MSHCP Group 3 species documented occurring on the Project site.	The Draft EIR discussion related to Impact 4.2-2 (p. 4.4-30 to 4.4-31) identified potentially significant impacts to this species.
Drury	29	<p>Similarly, the DEIR lacks an assessment of, or mitigation for, potentially significant impacts to the western spadefoot. Western spadefoots have been documented occurring in a series of shallow, man-made ponds approximately 150 feet north of the end of 11th Street, east of the San Jacinto River.<sup>101</sup></p> <p>Approximately 700 "toadlets" (i.e., juveniles) were observed at the ponds, indicating the ponds serve as breeding sites. The Applicant proposes to construct a road directly through this location. This would result in a significant impact to the western spadefoot population.</p>	<p>Pages 4.4-91 and 4.4-92 of the PEA state that due to the limited amount of habitat loss relative to the availability of habitat for the western spadefoot in the region, impacts would be considered adverse but less than significant; therefore, no APMs or mitigation measures would be required.</p> <p>The western spadefoot, as it relates to the Project, is discussed in the Biological Technical Report on pages 61 and 62. The fairy shrimp assessment did not identify vernal pools or any other wetland features within project impact areas. As evidenced in the Jurisdictional Delineation Report dated May 2012, SCE would not have impacts to the jurisdictional waters seen within the report.</p>
Drury	30	<p>1. "[i]nclude within the MSHCP Conservation Area at least six Core Areas at the Santa Rosa Plateau (8,360 acres), <i>San Jacinto River</i> (7,680 acres)..."</p> <p>2. "[w]ithin the MSHCP Conservation Area, maintain successful reproduction at a minimum of 75 percent of the conserved breeding locations as measured by the presence/absence of tadpoles, egg masses, or juvenile toads once every 8 years."</p> <p>The Project is not consistent with these conservation objectives. As a result, to obtain coverage under the MSHCP, the Project must be redesigned to protect breeding and aestivation habitat for the western spadefoot on the Project site. Similarly, if the Applicant does not solicit coverage under the MSHCP, the DEIR must be revised such that the Project would avoid, minimize, and mitigate significant impacts to the species.</p>	SCE noted in comment #180 of the DEIR that based on 2011 survey results, for impacts that are likely unavoidable, SCE would mitigate by participating in the MSHCP.

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
Drury	30-31	<p>Although the DEIR acknowledges that the Project site (including substation and linear facilities) provides suitable habitat for these species, no bat surveys were conducted for the Project.</p> <p>The DEIR does not disclose, assess, or provide mitigation for this potentially significant impact.</p>	<p>Page 4.4-85 of the PEA discusses the potential impacts to the western yellow bat and western mastiff bat. The PEA found that the construction is expected to impact foraging opportunities for these species. Although construction activities may discourage use of the area within the immediate vicinity of the active work site, this disruption in foraging is expected to be extremely localized and temporary in nature. Impacts on foraging habitat for these species would be considered adverse, but would not be expected to appreciably affect the overall population of these species given the amount of potentially suitable foraging habitat in the immediate vicinity. Therefore, impacts on these species would be considered less than significant and no APMs were proposed.</p> <p>This information should be carried forward in the FEIR.</p> <p>The western yellow bat and the western mastiff bat are discussed in the Biological Technical Report on pages 58 through 62.</p>
Drury	31-32	<p>The PEA indicates that portions of the Project site are within critical habitat for Moran's navarretia (also known as spreading navarretia). The DEIR, however, omits this information. In addition, neither the DEIR nor the PEA provides any discussion of the PCEs for Moran's navarretia, and they do not provide analysis of Project impacts to critical habitat for the species.</p> <p>Because the DEIR lacks appropriate mitigation, the Project may have an unmitigated, significant impact on critical habitat for Moran's navarretia.</p>	<p>The U.S. Fish and Wildlife Service (USFWS) designated 6,720 acres of Critical Habitat for spreading (Moran's) navarretia (<i>Navarretia fossalis</i>). These 6,720 acres are located across Los Angeles, Riverside, and San Diego Counties. As identified on page 6 of the Special Status Plant Survey Report as referenced in the DEIR as Bonterra 2010b as well as SCE's DEIR comment #150, the species was not observed during the focused surveys. However, suitable habitat was identified on the proposed subtransmission source line route 1 and 2 and the proposed telecommunications route 1.</p> <p>The impact areas of these three potential line segments range from approximately 14 to 23 acres. This area represents 0.21 to 0.34 % of the designated 6,720 acres of Critical Habitat for spreading (Moran's) navarretia. Primary Constituent Elements (PCEs) are a subset of the areas designated as Critical Habitat. These impacts are considered less than significant and no mitigation is warranted under CEQA.</p> <p>The PEA (p. 4.4-87) explains that suitable habitat for a variety of special status plant species, including Moran's navarretia occurs along Segment 1 and</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
			Segment 2 of the Proposed Subtransmission Route. The PEA however does not state that Moran’s navarretia were observed and does not state that it would be impacted by the Project. The discussion in the PEA is consistent with page 6 of the Special Status Plant Survey Report. The report identified that the species was not observed during the focused surveys. This information was not carried forward into the DEIR and should be included in the FEIR.
Drury	31	The DEIR lacks any discussion of Project impacts on PCEs for thread-leaved brodiaea. However, considering the aforementioned information, and given the Project involves the construction of roads through the San Jacinto River corridor, it’s clear that the Project would impact PCEs for the thread-leaved brodiaea and that the DEIR’s “less than significant” determination is not warranted.	In 2011, the U.S. Fish and Wildlife Service (USFWS) designated 2,947 acres of Critical Habitat for thread-leaved brodiaea. These 2,947 acres are located within 10 units in Los Angeles, San Bernardino, Riverside, Orange, and San Diego Counties, California. As noted in the Biological Technical Report at page 31, none of the 2011 designated Critical Habitat areas for the thread-leaved brodiaea occur within the project impact areas. Therefore, there would be no significant impact to Critical Habitat for the thread-leaved brodiaea as a result of project implementation. As discussed in the Draft EIR, the Primary Constituent Elements (PCEs) are a subset of the areas designated as Critical Habitat. There is no critical habitat within the project impact area; similarly, there are no PCEs within the project impact area.
Drury	32	The PEA concludes both impacts are “considered adverse but not significant; therefore, no APMs are required.” The PEA lacks the basis for this conclusion. First, the PEA’s conclusion that the impacts would not be significant lacks justification and is not substantiated by scientific analysis. To the contrary, the PEA’s aforementioned discussion of the impacts suggests they may be significant. Second, the PEA explicitly states that “[i]ndirect impact analysis is subject to final Project Design.” Thus, how can one conclude indirect impacts would be less than significant if the analysis has yet to be completed?	Comments related to this DEIR should be limited to the scope of the DEIR. Therefore, comments related to the PEA are beyond the scope of the DEIR and no response is needed.
Drury	32-33	Heightened predation pressure due to night lighting could have significant consequences on these species, particularly because their populations are relatively small and vulnerable. In addition, research on the Stephens’ kangaroo rat concluded anthropogenic noise may not only mask signaling among individuals, but that it may also function as a deceptive signal. The researchers concluded the combined effects of communication disruption	As noted in the DEIR, page 4.4-35, the Project would comply with the MSHCP Urban/Wildlands Interface Guidelines (MSHCP Section 6.1.4.) which relate to issues of drainage, toxics, lighting, noise, invasive plant species, wildlife barriers, and grading and land development. As provided in SCE’s DEIR Comment #180 that based on 2011 survey results, for impacts that are likely unavoidable, SCE would mitigate by participating in the MSHCP.

**LAKEVIEW RESPONSE TO DEIR COMMENTS**

**SCE COMMENTS & SUGGESTED RESPONSE**

<b>Letter</b>	<b>Page</b>	<b>Comment</b>	<b>Response</b>
		and signal deception may further tax already endangered populations of Stephens' kangaroo rats. Because the DEIR does not address the indirect impacts from lighting and noise, the Project could have unmitigated, significant indirect impacts on sensitive biological resources.	In addition, temporary noise and lighting impacts during construction of the proposed project would not have a substantial adverse effect on biological resource in the project vicinity because it would not substantially diminish population numbers of a species or eliminate the functions and values of a biological resource in the region.
Drury	33	Neither the PEA nor DEIR address the numerous other indirect impacts that are likely to be caused by the Project. Vernal pool (or seasonal wetland) species are exceptionally vulnerable to indirect impacts. Indirect impacts to vernal pool species include dumping, trampling, vehicular activity, runoff, intrusion of nonnative species, hydrological changes, erosion, sedimentation, and fuel and chemical spills. These impacts are discussed thoroughly in the USFWS' Recovery Plan for vernal pools of Southern California.	As stated in the Fairy Shrimp Habitat Assessment Report dated October 2010, vernal pools were not identified within the study area or impact areas of the proposed project. Therefore, there would be no indirect impacts to this resource in the project area. This report and its findings should be incorporated into the FEIR.
Drury	33	The Project would involve the installation of approximately 3.3 miles of new transmission lines supported by up to 90 new poles. These features would be located in a "raptor concentration area" that currently has few perches. The creation of perch sites is likely to have adverse effects on the Stephens' kangaroo rat, Los Angeles pocket mouse, northwestern San Diego pocket mouse, and other special-status prey species. This conclusion is supported by the Draft Recovery Plan for the Stephens' kangaroo rat, which states constant predation pressure can push small populations of native mammals past the point of recovery and result in local extirpation.	Any potential impacts to the Stephens' kangaroo rat, Los Angeles pocket mouse, northwestern San Diego pocket mouse, and other special-status prey species would be mitigated by SCE's participation in the MSCHP and SKRHCP.
Drury	34	4. The list of projects considered in the DEIR does not appear to match the list provided in the PEA.	The project list provided in the PEA was generated by SCE. For purposes of the DEIR, ESA prepared an independent list that does not match the list provided in the PEA.  Comments related to this DEIR should be limited to the scope of the DEIR. Therefore, comments related to the PEA are beyond the scope of the DEIR and no response is needed.
Drury	34	6. The DEIR suggests the Project's relatively small footprint in relation to other potential projects justifies the conclusion that the Project would not	With respect to the example provided in the comment, the following could be used to support the DEIR conclusion.

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
		<p>cause a cumulatively considerable impact. This suggestion lacks scientific merit because the DEIR does not consider the Project’s contribution to cumulative impacts in relation to the known distribution and population status of each sensitive biological resource. Even “small” projects may have cumulatively considerable impacts on sensitive resources. For example, Coulter’s goldfields is limited to primarily four locations in western Riverside County. Although the Project might be considered “small,” it likely would compromise the viability of one of these populations.</p>	<p>According to the MSHCP, the MSCHP Plan Area includes approximately 8,270 acres of potential habitat for the smooth tarplant and Coulter’s goldfields. The project would impact approximately 1.21 acre of habitat potentially supporting these species. This represents approximately 0.015% of the 8,270 acres of potential habitat within the MSCHP Plan Area. This fraction of a percent loss of suitable habitat would not be considered significant under CEQA and would not require mitigation.</p>
Drury	35	<p>7. The DEIR further justifies its less than cumulatively considerable impact conclusion by stating: “the Project’s incremental contribution to impacts on special-status plant and animal species would not be cumulatively considerable because the number and size of projects in the region are (1) few and small relative to the overall amount of remaining undeveloped land; and (2) western Riverside County is subject to the comprehensive, multi-jurisdictional Western Riverside MSHCP that focuses on the conservation of species and their habitats.”<sup>145</sup></p> <p>This too is indefensible because (a) the DEIR does not substantiate the amount of “remaining undeveloped land” in the region or demonstrate that such land is adequately protected; (b) the Applicant has not committed to participating in the MSHCP; and (c) the DEIR’s rationale fails to consider the Project’s effects on fragmentation, patch dynamics, and species-area requirements.</p>	<p>(a) SCE noted in comment #180 of the DEIR that based on 2011 survey results, for impacts that are likely unavoidable, SCE would mitigate by participating in the MSHCP.</p> <p>(b) The proposed project site is primarily disturbed and has been for a long period of time. Conservation efforts within the project area would not make sense since very little habitat exists and will continue to be used for agriculture. The proposed project will only impact a small portion of alkali grassland which is the only native habitat that will be impacted by the project. Agriculture has disturbed and fragmented the native habitat in the region.</p>
Drury	35-36	<p>The DEIR indicates “[a] consistency analysis to determine the Project’s consistency with the MSHCP criteria has not yet been prepared because SCE has not yet determined whether it would participate in the MSHCP for this Project.” This consistency analysis, however, is a precondition for correct determinations about what the MSHCP requires of this DEIR in terms of adequate baseline analysis, impacts analysis, and mitigation measures. Thus, this deferral is in violation of CEQA because, among other reasons, it postpones the development of adequate mitigation measures without providing adequate, specific performance criteria to</p>	<p>SCE noted in comment #180 of the DEIR that based on 2011 survey results, for impacts that are likely unavoidable, SCE would mitigate by participating in the MSHCP.</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
		<p>assure that future mitigation measures will suffice to reduce effects to a level that is less than significant.</p> <p>...</p> <p>The Applicant's acceptance into the MSHCP (or not) is fundamental to the adequacy of the DEIR. Because the Applicant has not committed to participating in the MSHCP the DEIR must provide comprehensive information on the environmental setting, and the Project's direct, indirect, and cumulative impacts. For any potentially significant impacts, the DEIR must provide mitigation that includes performance standards and a monitoring and reporting program.</p> <p>The DEIR is inadequate in each of these respects.</p> <p>Although the DEIR acknowledges consistency analysis has not been conducted, it somehow concludes the Project would not conflict with the provisions of the MSHCP. This is wrong; the Project would clearly conflict with the provisions of the MSHCP in numerous respects, including without limitation as follows.</p>	
Drury		<p>Consequently, to meet the provisions of the MSHCP, the Applicant first must provide a rigorous and scientifically defensible assessment of the constituent elements needed for the long-term conservation of the identified species. The Applicant then must avoid impacts to 90 percent of the Project site containing the constituent elements. If a Group 3 species is detected on a project site, the requirements of Section 6.3.2 of the MSHCP are not limited to analysis and avoidance of occupied sites. For example, if a Group 3 plant species is limited to a particular soil type, 90 percent of that soil type within the project site must be avoided irrespective of the plant's distribution.</p>	<p>The proposed project will be constructed in disturbed areas that currently support agriculture and are of low conservation value since very little native habitat is present. The RCA oversees the implementation of the MSHCP as it pertains to development projects in the region. The RCA will determine if SCE's Lakeview Substation Project meets the provisions of the MSHCP. Areas of high biological value were identified during SCE's siting process and were subsequently avoided based on the recommendation of the project biologist. Consequently, the majority of project elements were sited in disturbed areas based on the project biologist's recommendation.</p>
Drury	38	<p>The DEIR does not disclose the existence of this key population of Bell's sage sparrow, nor does it provide any analysis of the Project's contribution to fragmentation and edge effects.</p>	<p>The Biological Technical Report for the Proposed Project documents the known or potential occurrence of Bell's sage sparrow on p. 44.</p> <p>Suitable habitat for the Bell's sage sparrow includes low, dense chamise chaparral and in dry scrub vegetation types, often with stands of cactus. This species is not expected to occur within the study area (except for the Fiber-Optic Cable Route 3 area), due to the lack of suitable habitat present. For the</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
			reasons explained in SCE’s accompanying cover letter to the DEIR comment matrix, Fiber Optic Cable Route 3 has been removed from the Project. Because no potential habitat for this species would be impacted by project implementation, there is no potential for “ <i>fragmentation and edge effects</i> ” to a species in the project area.
Drury	38	<p>....Although the DEIR acknowledges the proposed Project is within an area that has features conducive to wildlife movement (i.e., a corridor), it lacks any dedicated analysis of the Project’s impacts on corridor functions. Instead, it simply states that biological monitors would be on-site to aid crews in implementing avoidance measures during Project construction, and thus, any construction-related impacts to corridors would be short-term and less than significant. The DEIR’s justification is misdirected. Avoiding impacts to wildlife during construction has little relevance on the Project’s long-term impacts to corridors.</p> <p>The Project involves construction of two roads that would bisect the San Jacinto River corridor. These roads, and associated disturbance (e.g., vegetation removal, soil compaction), would have long-term effects on corridor function as well as on waters of the United States, but these effects have not been identified or analyzed. Organisms exhibit species-specific responses to roads depending on their habitat requirements. However, it is well established that many species exhibit substantial negative responses to roads (including dirt roads); that roads inhibit wildlife movement; and that roads isolate populations causing them to be at greater of extirpation.</p>	The proposed project components adjacent to San Jacinto River will temporarily impact wildlife movement during construction. Permanent barriers to movement such as fences, walls, and ditches are not components of the project description in this area. Access roads and subtransmission lines do not create a physical barrier to wildlife movement. In a guidance letter on the siting and construction of communications towers, the USFWS (2000) recommends that new towers be less than 199 feet above ground level; the proposed Project would have structures of approximately 85 feet above ground level. Therefore, the proposed project will have a less than significant impact on wildlife movement because such impacts are temporary in nature.
Drury	39-40	<p>Mr. Hagemann concludes that the DEIR fails to evaluate all feasible mitigation measures that are known to reduce construction emissions to levels below thresholds. Measures that are routinely considered in CEQA projects are listed below.</p> <ul style="list-style-type: none"> <li>• Any equipment emissions found to exceed 40 percent opacity shall be repaired immediately, and the lead agency notified within 48 hours of identification of noncompliant equipment.</li> <li>• The construction contractor shall ensure that active grading and parking</li> </ul>	As the local air district responsible for the project area, SCAQMD submitted comments on the DEIR whereby the agency proposed certain mitigation measures be incorporated in the DEIR. SCE commented on those recommended mitigation measures.

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
		<p>areas are watered at least twice daily.</p> <ul style="list-style-type: none"> <li>• The construction contractor shall ensure that exposed stockpiles are enclosed, covered, watered twice daily.</li> <li>• The construction contractor shall ensure that all trucks hauling dirt, sand, silt, or other loose materials are covered or maintain at least two feet of freeboard.</li> <li>• The construction contractor shall utilize ultra-low sulfur fuel (&lt; 15 parts per million).</li> <li>• The construction contractor shall establish an idling limit (e.g., 5 minutes per hour).</li> <li>• Equipment shall be tuned to manufacturers’ specifications at the manufacturers’ recommended frequency.</li> <li>• Any tampering with engines shall be prohibited and continuing adherence to manufacturer’s recommendations will be required.</li> <li>• Receipts of ultra-low sulfur fuel purchase and equipment tuning/repair shall be kept and made available upon request.</li> </ul> <p>These measures were not contemplated in Mitigation Measures 4.3-1a, Exhaust Emissions Control Plan or 4.3-1b, Fugitive Dust Control Plan.</p>	
Drury	41	<p>1. The DEIR needs to establish the timing of pre-construction breeding bird surveys in relation to ground disturbance activities. Some birds can build a nest and initiate egg-laying within a short period of time. The DEIR must establish the timing of preconstruction surveys such that birds will not be able to build a nest during the time that elapses between the pre-construction survey(s) and Project activities.</p> <p>2. The DEIR needs to establish the survey area, specifically the buffer zone around Project activities requiring surveys. The survey area should correspond with buffer sizes recommended by State and federal resource agencies, and/or research biologists. For example, to avoid nest abandonment of golden eagles and prairie falcons, Suter and Jones (1981) recommended a buffer of at least 1 km for construction and similar, noisy extended activities.</p>	<p>The following APM is included in the DEIR on page 4.4-27,</p> <p><b>APM-Bio-1: Preconstruction surveys for Nesting Birds/Raptors.</b> To minimize potential impacts to selected nesting special-status birds, raptors, or other [Migratory Bird Treaty Act] MBTA bird species, planned vegetation clearing will take place during the non-breeding season (between September 1 and January 31) to the extent feasible. This will discourage the species from nesting within the work area. Existing trees, shrubs, or other vegetation that would provide suitable structure for nesting would be removed. If vegetation clearing must take place during nesting season (February 1–August 31), a biologist shall conduct pre-construction nesting bird surveys prior to clearing for the sites that have potential to support nesting birds/raptors. If the biologist finds an active nest within or adjacent to the construction area and determines that there may be impacts to the nest, s/he will delineate an appropriate buffer</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
			<p>zone around the nest depending on the sensitivity of the species and the type of construction activity. Only construction activities (if any) approved by the biologist will take place within the buffer zone until the nest is vacated. If nests are found and cannot be avoided by the project activities, or if work is scheduled to take place near an active nest, SCE shall coordinate with the CDFG and USFWS and obtain written concurrence prior to moving the nest.</p> <p>The abovementioned APM includes timing of preconstruction breeding bird surveys and a discussion of buffer zone delineation.</p>
Drury	41	3. Even if vegetation clearing does not occur during the nesting season, bird nests in the vicinity of other construction activities may be adversely affected by the Project (e.g., due to noise disturbance). As a result, pre-construction bird surveys should be required at all construction sites that are active during the breeding season.	APM-BIO-1: Preconstruction Surveys for Nesting Birds/Raptors applies to the entire Project, therefore preconstruction bird surveys would be required at all construction sites related to the Lakeview Substation Project.
Drury	41	4. The DEIR must establish minimum standards for locating nests and minimizing human induced disturbance. Research indicates nest finding is labor intensive and extremely difficult due to the tendency of many species to construct well-concealed or camouflaged nests.168 In general, bird nests are located when a variety of search techniques are used and considerable time (e.g., multiple surveys) is devoted to the effort.	APM-BIO-1: Preconstruction Surveys for Nesting Birds/Raptors provides sufficient information related to the need to conduct surveys for Nesting Birds/Raptors. Such surveys would be conducted by a Qualified Biologist, therefore they would be familiar with standards for locating nests.
Drury	41	5. Biologists frequently are pressured into making decisions that are based on the needs of the construction contractor rather than the biological needs of the potentially afflicted organism. As a result, the DEIR needs to establish a minimum buffer size that is supported by scientific information. Prior to reducing the buffer, the appointed biologist must present credible scientific information to the USFWS and CDFG substantiating that a reduced buffer is “appropriate.”	APM-BIO-1 : Preconstruction Surveys for Nesting Birds/Raptors explains, “If the biologist finds an active nest within or adjacent to the construction area and determines that there may be impacts to the nest, s/he will delineate an appropriate buffer zone around the nest depending on the sensitivity of the species and the type of construction activity. Only construction activities (if any) approved by the biologist will take place within the buffer zone until the nest is vacated.”
Drury	41	6. The mitigation measure lacks monitoring, reporting, and compliance mechanisms that ensure the mitigation is effective and impacts to nesting birds are effectively avoided.	The Mitigation Monitoring, Reporting and Compliance Program (MMRCP) of the DEIR (Chapter 9), states that, “The purpose of the table is to provide a single comprehensive list of impacts, mitigation measures, monitoring and reporting requirements, and timing... SCE proposed the following APMs to minimize impacts on aesthetic resources, biological resources, and

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
			<p>paleontological resources from Project implementation. The impact analysis in this EIR assumed that these APMs would be implemented as part of the Project.”</p> <p>APM-BIO-1 is included within the list of APMs that the EIR assumed would be implemented as part of the Project.</p>
Drury	42	1. For which species will pre-construction surveys be conducted? Numerous special-status species are known to, or have the potential to, occur in the Project area.	As described in APM-BIO-1: Preconstruction Surveys for Nesting Birds/Raptors and APM-BIO-2: Preconstruction Surveys and Construction Monitoring, preconstruction surveys will be conducted for special-status birds, raptors, or other MBTA bird species, and non-avian special-status wildlife. A list of known or potential special status wildlife species is found on Table 4.4-2 of the Draft EIR.
Drury	42	2. What methods will be used to conduct the surveys? Some species are very difficult to detect and/or require specialized survey techniques. What measures will the biologist implement to detect and capture subterranean and less motile organisms (i.e., slow moving) that are incapable of fleeing the Project area?	<p>Typically, the pre-construction surveys for nesting birds are conducted no more than three days prior to construction within an established buffer around the project impact area. The buffer is determined by the site biologist based on habitat, type of impact, and potential species present.</p> <p>Surveys for other special status, non-avian species, will be limited to visual observations within the study area.</p> <p>No measures will be employed to capture subterranean special status wildlife species (e.g., Los Angeles pocket mouse, American badgers).</p> <p>All protocol level surveys have been conducted, and no additional protocol level surveys are required.</p>
Drury	42	3. What level of effort will be devoted to the surveys and what are the minimum qualifications required of the biologists that conduct the surveys?	A Qualified Biologist will conduct the surveys. The level of effort of the surveys will vary from site to site depending on the area of impact and habitat types. Small areas of impact (i.e., wooden poles located in agricultural fields) would require less time to survey adequately compared to substation grubbing.
Drury	42	4. What is the timing of pre-construction surveys in relation to Project activities?	The pre-construction surveys are conducted typically 3 to 7 days prior to construction.

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
Drury	42	5. What “avoidance measures” will be employed?	Limits of avoidance will be flagged or staked with construction fencing.
Drury	42	6. Will animals be translocated out of work areas? If animals are translocated, where will they be taken and what will prevent them from reentering the work area where they would be subject to direct impacts?	<p>APM-BIO-5 identifies that SCE may actively or passively relocate burrowing owls. If active relocation is not allowed by CDFG, SCE will ask permission to do passive relocation.</p> <p>However, this species was not identified to be present during focused surveys so detailed translocation methods are not necessary.</p> <p>SCE does not propose to translocate any additional species.</p>
Drury	42	<p>Second, the proposed measures defer the formulation of important survey data and mitigation strategies until after the environmental review process terminates. For example, mitigation imposed by the DEIR states “[a]ny significant findings during pre-construction surveys would be added to the WEAP [Worker Environmental Awareness Plan] training.”</p> <p>The intent of a DEIR is to disclose, analyze, and mitigate all potentially significant impacts such that there are not any <i>significant findings</i> after a project has commenced. Furthermore, the proposed mitigation measure lacks a mechanism for vetting what should (or shouldn’t) be considered a “significant finding,” and I contend that simply adding a “new finding” to the WEAP does not absolve the Project from having significant impacts.</p>	The phrase “Any significant findings during pre-construction surveys” is being taken out of context in the comment. It does not mean there would be new significant impacts, but rather it is meant to indicate that important information from pre-construction surveys would be conveyed to the construction staff as part of the Worker Environmental Awareness Program (WEAP).
Drury	43	<p>Third, the proposal to enroll in the MSHCP or to coordinate with the USFWS and CDFG if avoidance cannot be established is not feasible. Both the MSHCP and regulatory agencies have provisions that mandate avoidance under certain circumstances.</p>	SCE will comply with the provisions under the MSHCP as provided with the Letter of Inclusion.
Drury	43	The DEIR proposes a habitat assessment as mitigation for potentially significant impacts to the Stephens’ kangaroo rat. If the habitat assessment reveals potentially occupied habitat, trapping surveys would be conducted and the Applicant would pay a fee for the portion of the Project within the Telecommunications Route. These provisions are wholly inadequate. At the very least, this is a clear case of deferred mitigation, since both the	<p>For clarification, SCE provided the following comment to the DEIR (comment #163), to accurately reflect the habitat assessment work conducted for Stephens’ kangaroo rat surveys for the Proposed Project.</p> <p>Please revise as follows: “A habitat assessment for Stephens’ kangaroo rat <del>shall be</del> <del>was</del> <del>conducted</del> <del>by</del> <del>a</del> <del>biologist</del> <del>qualified</del> <del>to</del> <del>conduct</del> <del>Stephens’</del> <del>kangaroo</del> <del>rat</del></p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
		analysis of the impact and the development of mitigation measures will be deferred until after project approval, in violation of CEQA.	<del>surveys along Segment 1, 2 and 3 and the Proposed Telecommunications Route for the entire Proposed Project. Protocol level trapping was conducted along Subtransmission Segments One and Two. Stephens' kangaroo rat was detected along Segment One. The proposed project is in a Stephens' kangaroo rat fee area; therefore, to mitigate for potential impacts to this species, SCE will pay a fee in coordination with the Riverside County Habitat Conservation Agency. If no potential occupied habitat is found during this assessment, then no further action is necessary. If potential for occupied habitat is found, protocol trapping surveys shall be conducted. The Proposed Telecommunications Route is within a Stephens' kangaroo rat fee area; therefore, if suitable habitat for this species is found, a fee shall be paid in lieu of further surveys (County of Riverside, 1996)."</del>
Drury	43	Consequently, the Project cannot proceed until the Applicant obtains incidental take permit coverage from both the USFWS and CDFG. This is further enforced through Riverside County Ordinance 663.10, which states <i>occupied habitat</i> for Stephens' kangaroo rat cannot be altered without a Section 10(a) Permit from the USFWS. Unfortunately, incidental take authorization will likely not be allowable under California FGC § 2081.	As indicated in SCE's comment to APM-BIO-3 in the DEIR (comment #163), The proposed project is in a Stephens' kangaroo rat fee area; therefore, to mitigate for potential impacts to this species, SCE will pay a fee in coordination with the Riverside County Habitat Conservation Agency.
Drury	43	The Applicant's small mammal expert recommended several measures to minimize take and habitat disturbance to the Stephens' kangaroo rat. Incredibly, the DEIR omits all of the expert's recommendations ... As noted above, incidental take likely cannot be authorized for Stephens' kangaroo rat or Los Angeles pocket mouse. Their occurrence is so rare in the region that any population decline would likely result in local extirpation of the species. Under these circumstances, incidental take cannot be authorized under California FGC § 2081. In order to avoid take of these species, the project may have to be significantly redesigned or relocated. This will of course require recirculation of a new EIR demonstrating that take of these species will be avoided.	The recommendations were included in the report based on the understanding that if impacts could not be avoided such measures would be implemented. However, since development of the report SCE has consulted with the RCHCA regarding the SKRHCP and consistent with the edits to APM-BIO-3 (comment #163) to mitigate for potential impacts to this species, SCE will pay a fee in coordination with the Riverside County Habitat Conservation Agency. No additional mitigation measure is required to offset the impacts.  Regarding the LA Pocket mouse, this species is covered by the MSHCP, and SCE noted in comment #180 of the DEIR that based on 2011 survey results, for impacts that are likely unavoidable, SCE would mitigate by participating in the MSHCP. No additional mitigation measure is required to offset the impacts.
Drury	44	1. The DEIR indicates: "[i]f significant impacts to [fairy shrimp] habitat are unavoidable, focused [protocol] surveys will need to be conducted	As stated in APM-BIO-4: Riverside Fairy Shrimp. If Riverside fairy shrimp are found, SCE shall consider (1) avoidance measures, (2) enrollment in the

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
		<p>prior to construction activities.” The proposed mitigation does not appear to be feasible. As the DEIR acknowledges, Riverside fairy shrimp surveys require either a wet season survey, followed by a consecutive dry season survey, or two wet season surveys done within a five-year period. Although the DEIR does not provide the Project’s timeline, it indicates the objective of the Project is to begin service by mid-2013, and that construction is anticipated to take 12 months. This suggests construction would begin in mid-2012, before the Applicant could conduct the two surveys required by federal protocol.</p>	<p>MSHCP as a Participating Special Entity, or (3) approvals through the USFWS. The surveys identified for this species include wet and dry season efforts that can be accomplished in less than one year.</p> <p>Further, as noted in SCE’s comments on the DEIR, the project need date has shifted to 2014.</p>
Drury	44	<p>2. As previously discussed, the Applicant’s consultant failed to identify all potentially suitable habitat for fairy shrimp in the Project area. Consequently, the DEIR must identify a reliable means for having all potentially affected fairy shrimp habitat surveyed prior to construction.</p> <p>3. The proposed measure inappropriately defers establishing the environmental setting for a federally endangered species until after Project approval.</p>	<p>In SCE’s fairy shrimp report dated October 2010, the biologist (Jeff Crain) physically surveyed all areas with suitable soils and examined potential areas evidence of ponding habitat for fairy shrimp. Physical surveys are significantly more reliable than the National Wetlands Inventory as suggested by the commentator. The Data Limitations and Uses of the National Wetlands Inventory is clearly stated on their web site as follows:            “The maps are prepared from the analysis of high altitude imagery. Wetlands are identified based on vegetation, visible hydrology and geography. A margin of error is inherent in the use of imagery; thus, detailed on-the-ground inspection of any particular site may result in revision of the wetland boundaries or classification established through image analysis.”  <a href="http://www.fws.gov/wetlands/Data/Limitations.html">http://www.fws.gov/wetlands/Data/Limitations.html</a></p> <p>Furthermore, a review of the CNDDDB reflects that the closest two recorded occurrences of Riverside fairy shrimp in the six (6) USGS quadrangles occurred approximately 12 miles south and 8 miles southeast of the study area. There are no occurrences for this species within the study area.</p> <p>The fairy shrimp report dated October 2010 should be included in the FEIR.</p>
Drury	44	<p>4. The measure identifies the actions the Applicant “shall consider” if Riverside fairy shrimp are found.<sup>179</sup> The DEIR needs to specify the actions the Applicant <i>will</i> implement if Riverside fairy shrimp are detected, or if other special-status wildlife (e.g., the federally threatened vernal pool fairy shrimp) are detected during the surveys. Failure to</p>	<p>APM-BIO-4 states, “If Riverside fairy shrimp are found, SCE shall consider (1) avoidance measures, (2) enrollment in the MSHCP as a Participating Special Entity, or (3) approvals through the USFWS.”</p> <p>One of the above mentioned three considerations will be implemented by SCE</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
		identify feasible mitigation measures or specific performance criteria for deferred mitigation violates CEQA.	if Riverside Fairy Shrimp is found.
Drury	44	5. The DEIR indicates: “[i]mpacts to Riverside fairy shrimp habitat will be avoided to the extent feasible in the final Project Design.” The DEIR needs to define what is considered “feasible.”	The term feasible is defined by the CEQA Guidelines section 21061.1. “Feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.”
Drury	44	6. The DEIR further indicates that “[h]abitat areas will be marked as “off limits” in construction plans and specifications.” Fairy shrimp can be adversely affected by water pollution, hydrological changes, erosion, and other indirect impacts. Consequently, the DEIR needs to specify the minimum buffer size needed to protect “habitat areas” from indirect impacts.	A review of the CNDDDB reflects that the closest two recorded occurrences of Riverside fairy shrimp in the six (6) USGS quadrangles occurred approximately 12 miles south and 8 miles southeast of the study area. There are no occurrences for this species within the study area, therefore it is unlikely that unanticipated discoveries of existing Riverside fairy shrimp will occur. Common species of fairy shrimp occur locally; however, SCE is not required by law to avoid impacts to common species, therefore buffer areas are not required. In addition, ponding habitat was not identified during the fairy shrimp assessment indicating that SCE’s proposed project will not impact habitat for common or listed species of fairy shrimp.
Drury	44	7. Because the Riverside fairy shrimp and vernal pool fairy shrimp have the potential to occur in the Project area, and because the Applicant has not conducted surveys supporting their absence, Endangered Species Act consultation with the USFWS is warranted. Failure to survey for fairy shrimp impairs the analysis of the environmental baseline; it also constitutes deferral of impact analysis in violation of CEQA.	<p>In SCE’s fairy shrimp report dated October 2010, the biologist (Jeff Crain) physically surveyed all areas with suitable soils and examined potential areas evidence of ponding habitat for fairy shrimp. Physical surveys are significantly more reliable than the National Wetlands Inventory as suggested by the commentator. The Data Limitations and Uses of the National Wetlands Inventory is clearly stated on their web site as follows:</p> <p>“The maps are prepared from the analysis of high altitude imagery. Wetlands are identified based on vegetation, visible hydrology and geography. A margin of error is inherent in the use of imagery; thus, detailed on-the-ground inspection of any particular site may result in revision of the wetland boundaries or classification established through image analysis.”</p> <p><a href="http://www.fws.gov/wetlands/Data/Limitations.html">http://www.fws.gov/wetlands/Data/Limitations.html</a></p> <p>Furthermore, a review of the CNDDDB reflects that the closest two recorded occurrences of Riverside fairy shrimp in the six (6) USGS quadrangles occurred approximately 12 miles south and 8 miles southeast of the study area. There are</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
			no occurrences for this species within the study area.  The fairy shrimp report dated October 2010 should be included in the FEIR.
Drury	45	1. The DEIR identifies mitigation that will be implemented if any active burrowing owl burrows are “found during survey efforts.” <sup>182</sup> However, the mitigation measure does not identify the surveys that will be required or whether surveyors will be required to adhere to CDFG survey guidelines for the burrowing owl. Because the surveys previously conducted for the Project did not adhere to the standards identified in the CDFG guidelines, they do not provide the data needed to minimize impacts to burrowing owl. <sup>183</sup> Consequently, the DEIR needs to identify the survey methods and effort required as mitigation. Construction of poles will require disturbance up to 200’ but the company biologist only surveyed a 100-foot-wide area. Survey guidelines for golden eagle, burrowing owl, and others recommend much larger survey areas (e.g., 500’ for burrowing owl). This is inadequate deferred mitigation.	Preconstruction surveys would be conducted for the project as part of APM-BIO-1: Preconstruction Surveys for Nesting Birds/Raptors. As previously explained, SCE used sufficient buffers to determine biological impacts. Typically, buffer areas are not standardized by CDFG and USFWS, however, protocol surveys including buffers for listed species were followed
Drury	45	2. The proposed mitigation measure indicates biologists may actively relocate owls out of the Project area. Historically the CDFG has not allowed burrowing owls to be actively relocated (although passive relocation is permitted). Thus, the mitigation measure is inadequate and possibly unlawful.	SCE proposed APM-BIO-5 which identifies active or passive relocation. If active relocation is not allowed by CDFG, SCE will ask permission to do passive relocation.
Drury	45	3. The proposed measure does not incorporate mitigation strategies recommended by the CDFG. These strategies include (a) the enhancement or creation of surrogate burrows; (b) the provision of compensation habitat; and (c) implementation of a mitigation monitoring and reporting program that incorporates success criteria. These mitigation measures are plainly feasible and must be incorporated.	Protocol level surveys for burrowing owl were conducted and did not identify the presence of this species (Bonterra 2010). Therefore, mitigation for this species was not described since it is not warranted
Drury	45	4. The current strategy for surveys and the eviction of owls out of the Project area does not mitigate potentially significant impacts to the species. As with many other species in the project area, deferral of	Protocol level surveys for burrowing owl were conducted and did not identify the presence of this species (Bonterra 2010). Therefore, mitigation for this species was not described since it is not warranted

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
		mitigation without adequate specific performance criteria violates CEQA.	
Drury	45	5. The burrowing owl is a “Group 3” species in the MSHCP. Therefore, if burrowing owls are detected in the Project area, and if the Applicant elects to participate in MSHCP, the Applicant will be required to adhere to the procedures described within Section 6.3.2 of the MSHCP. <sup>184</sup> If the Applicant does not participate in the MSHCP, habitat compensation should be required as mitigation.	If the Applicant solicits coverage under the MSHCP it will conform to the applicable procedures listed in Section 6.3.2 of the MSHCP.
Drury	46	<p>First, as the DEIR acknowledges, “[i]n spite of the best efforts to minimize avian electrocutions, some degree of mortality may always occur due to influences that cannot be controlled, e.g. weather.”<sup>185</sup> The Eagle Act and MBTA are strict liability statutes; the killing of any eagle or other protected migratory bird is not technically allowed under law unless a permit is obtained, and the Service does not issue “incidental or accidental take” permits. Therefore, any mortality without a permit would violate federal law and would constitute a significant impact. And under state law, take of golden eagles and any other fully protected bird species is prohibited. CEQA disallows approval of a project that fails to comply with other laws. A lead agency may not approve a project with significant unavoidable imposed unless it is “otherwise permissible under applicable laws and regulations.” (CEQA §21002.1(c).)</p> <p>Second, the DEIR lacks any mitigation for avian <i>collisions</i> with the Project’s powerlines or poles. Marker balls, bird diverters, and paint on transmission lines have been shown to reduce collisions, sometimes significantly.<sup>186</sup> These measures are feasible, and they should be required mitigation for the Project.</p> <p>Third, if avian mortality is likely to occur, the DEIR needs to put anticipated mortality into context before concluding impacts would be less than significant. This entails species specific analyses that examine regional population status and susceptibility to threats. For example, some</p>	<p>The PEA explained, “Because the Proposed Project is located in a raptor concentration area, all 115 kV subtransmission structures would be designed consistent with the Suggested Practices for Raptor Protection on Power Lines: the State of the Art in 2006.” Additionally, the DEIR identified Mitigation Measure (4.4-4) that requires SCE to follow Avian Power Line Interaction Committee/USFWS guidelines for avian protection on powerlines. SCE shall use current guidelines to reduce bird mortality from interactions with powerlines.</p> <p>The DEIR is mitigating for the potential impact with respect to avian mortality.</p>

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
		species in the Project area (e.g., golden eagle) may be so imperiled that even a few Project-induced mortalities could lead to extirpation in the region. The DEIR does not conduct these analyses, nor does it provide the data needed for an independent assessment.	
Drury	46	1. San Jacinto Valley crownscale is a MSHCP Group 3 species. If the Applicant solicits coverage under the MSHCP it will need to conform to the procedures listed in Section 6.3.2 of the MSHCP. The Applicant has not met the requirements of these procedures.	If the Applicant solicits coverage under the MSHCP it will conform to the applicable procedures listed in Section 6.3.2 of the MSHCP.
Drury	46	2. San Jacinto Valley crownscale is a federally endangered species. Consequently, if the Applicant does not solicit coverage under the MSHCP it will need to obtain an incidental take permit from the USFWS	<p>SCE provided the following revision to APM BIO-7 (DEIR comment #85) to clarify that if impacts to Crownscale are unavoidable, SCE would participate in the MSHCP.</p> <p>Please revise as follows: <b>“APM Bio-7, Avoidance of San Jacinto Valley Crownscale Populations:</b> In order to avoid potential impacts to known populations of San Jacinto Valley crownscale populations, an Environmentally Sensitive Area (ESA) will be developed prior to construction to the extent feasible in the final Project Design ([see PEA] Figure 4.4-5). If significant impacts to San Jacinto Valley crownscale are unavoidable, <del>a biologist will be selected to prepare and implement a mitigation plan, which will include detailed descriptions of maintenance appropriate for the mitigation site, monitoring requirements, and annual report requirements, and will have the full authority to suspend any operation which is, in the biologist’s opinion, not consistent with the mitigation plan. This plan will be submitted for review to the appropriate agencies.”</del> SCE would participate in the MSHCP to mitigate for impacts to this species.</p>
Drury	46	3. The proposed mitigation measure defers establishing the extent of Project impacts to San Jacinto Valley crownscale.	As noted in the Biological Technical Report for the proposed project, maps are identified on pages 22-28. In addition, as provided in Exhibits 6, baseline surveys indicated that special status plant species were observed within the Project study area (San Jacinto Valley crownscale). SCE recommends that this information be included in the final EIR for the project.
Drury	47	4. The DEIR needs to define the minimum buffer size (i.e., “ESA”) afforded to San Jacinto Valley crownscale plants. Although appropriate	SCE provided a revision to APM BIO-7 (DEIR comment #85) to clarify that if impacts to Crownscale are unavoidable, SCE would participate in the MSHCP

**LAKEVIEW RESPONSE TO DEIR COMMENTS**

**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
		buffer size may be species-specific, the California Energy Commission has recommended buffers of at least 250 feet to avoid indirect impacts to rare plant populations.	rather than develop a mitigation plan.
Drury	47	5. The distribution and abundance of San Jacinto Valley crownscale varies considerably from year to year in response hydrology and weather conditions. In addition, a viable seed bank may exist in the soil even if San Jacinto Valley crownscale fails to germinate. As a result, (a) the Applicant cannot rely on survey data that is three years old to avoid impacts to the species; (b) future surveys conducted during low rainfall years (e.g., 2012) would likely provide insufficient data on the distribution and abundance of the species; and (c) direct and indirect impacts to the species and its habitat are likely to occur regardless of avoidance efforts.	SCE provided a revision to APM BIO-7 (DEIR comment #85) to clarify that if impacts to Crownscale are unavoidable, SCE would participate in the MSHCP rather than develop a mitigation plan.
Drury	47	6. The DEIR lacks fundamental information on the proposed mitigation plan. This includes performance standards for mitigation sites, the duration of monitoring efforts, whether compensation will be provided, actions that will be taken to ensure the long-term conservation of the species (e.g., conservation easement), and remedial actions that will be taken if performance standards are not met.	<p>SCE provided the following revision to APM BIO-7 (DEIR comment #85) to clarify that if impacts to Crownscale are unavoidable, SCE would participate in the MSHCP rather than develop a mitigation plan.</p> <p>Please revise as follows: “<b>APM Bio-7, Avoidance of San Jacinto Valley Crownscale Populations:</b> In order to avoid potential impacts to known populations of San Jacinto Valley crownscale populations, an Environmentally Sensitive Area (ESA) will be developed prior to construction to the extent feasible in the final Project Design ([see PEA] Figure 4.4-5). If significant impacts to San Jacinto Valley crownscale are unavoidable, <del>a biologist will be selected to prepare and implement a mitigation plan, which will include detailed descriptions of maintenance appropriate for the mitigation site, monitoring requirements, and annual report requirements, and will have the full authority to suspend any operation which is, in the biologist’s opinion, not consistent with the mitigation plan. This plan will be submitted for review to the appropriate agencies.</del>” <u>SCE would participate in the MSHCP to mitigate for impacts to this species.</u></p>
Drury	47	1. The Applicant’s consultant detected smooth tarplant and Coulter’s goldfields on the Project site, and several other MSHCP Group 3 species	If the Applicant solicits coverage under the MSHCP it will conform to the applicable procedures listed in Section 6.3.2 of the MSHCP.

**LAKEVIEW RESPONSE TO DEIR COMMENTS**

**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
		have been documented occurring in the Project area. <sup>190</sup> If the Applicant solicits coverage under the MSHCP it will need to conform to the procedures listed in Section 6.3.2 of the MSHCP. The Applicant has not met the requirements of these procedures.	
Drury	47	2. Coulter’s goldfields in known primarily from four areas in western Riverside County. <sup>191</sup> Of these, the San Jacinto River population is the largest remaining population representing 70 percent to 90 percent of all Coulter’s goldfields known. <sup>192</sup> Similarly, smooth tarplant is primarily restricted to the alkali floodplains of the San Jacinto River. <sup>193</sup> Consequently, any Project impacts to these species, their habitat, or the ecological processes on which they depend, would be relatively severe.	<p>Surveys conducted for the project were consistent with the guidelines established by the California Native Plant Society.</p> <p>According to the MSHCP, the MSCHP Plan Area includes approximately 8,270 acres of potential habitat for the smooth tarplant and Coulter’s goldfields. The project would impact approximately 1.21 acre of habitat potentially supporting these species. This represents less than 1% (approximately 0.015%) of the 8,270 acres of potential habitat within the MSCHP Plan Area. This fraction of a percent loss of suitable habitat would not be considered significant under CEQA and would not require mitigation.</p> <p>Based on the reasoning provided above, the FEIR should conclude there is a less than significant impact to the species.</p>
Drury	47	3. The distribution and abundance of the special-status species that occur (or may occur) in the Project area are known to vary annually, and the species may be difficult to detect during dry years. As a result, it’s indefensible for the DEIR to conclude that a single year of survey data (from 2009) can be used to avoid impacts.	As noted in SCE’s comments to the DEIR (#150), SCE provided the CPUC with survey results for 2011.
Drury	48	4. The MSHCP reports many of the special-status plants that occur along the floodplains of the San Jacinto River likely require significantly more habitat than is occupied during any one season to maintain population dynamics within the watershed and the microhabitat diversity upon which the taxa depend. As a result, the DEIR must provide additional mitigation measures to reduce Project impacts to a less than significant level.	As described above, SCE provided revisions to APM BIO-7 (DEIR comment #85) to clarify that if impacts to Crownscale are unavoidable, SCE would participate in the MSHCP rather than develop a mitigation plan. Additionally, similar edits were made to APM BIO-6 to clarify that if impacts to native vegetation and/or special status plants are unavoidable, SCE would participate in the MSHCP rather than develop a mitigation plan.
Drury	48	6. The DEIR must identify the performance standards and other components of the special status plant mitigation plan.	As described above, SCE provided revisions to APM BIO-7 (DEIR comment #85) to clarify that if impacts to Crownscale are unavoidable, SCE would participate in the MSHCP rather than develop a mitigation plan. Additionally,

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
			similar edits were made to APM BIO-6 to clarify that if impacts to native vegetation and/or special status plants are unavoidable, SCE would participate in the MSHCP rather than develop a mitigation plan.
Drury	48	Special-status plant surveys have not been completed for Fiber-Optic Cable Route 3. The DEIR proposes completion of the surveys as mitigation. The DEIR suggests the Applicant would coordinate with the CDFG and/or USFWS if any listed species are detected during the surveys. The DEIR concludes the proposed mitigation would reduce impacts to less than significant. This conclusion is not supported by substantial evidence.	For the reasons explained in SCE’s accompanying cover letter to the DEIR comment matrix, Fiber Optic Cable Route 3 has been removed from the Project.
Drury	49	The DEIR lacks information vital to evaluating the effectiveness of the proposed restoration activities. Specifically, the DEIR fails to identify: (a) performance standards; (b) whether the proposed mitigation will be accompanied by monitoring and reporting (and if so, how frequently and for what duration); (c) the timeline for the proposed restoration activities; (d) the seed species and their source (to avoid genetic contamination); (e) what is considered “feasible;” and (f) remedial actions that will be taken if restoration efforts are unsuccessful. This issue is confounded by the DEIR’s failure to require restoration as an enforceable mitigation measure. Natural resource restoration is challenging under any circumstances and it can be extremely difficult in arid environments. <sup>198</sup> Until the aforementioned issues have been resolved, all temporary Project impacts should be considered permanent.	Mitigation for vegetation types is only required when impacts to native vegetation result in a significant impact. No native vegetation types would be impacted by the proposed project including the proposed substation, and source line routes 1 and 2. If in final design, native vegetation was impacted, the impact would have to be substantial to warrant a finding of significance and require mitigation, as described in SCE’s comment #13 to the DEIR for APM-BIO-6: Native or Special Status Vegetation and Special Status Plant Populations.
Drury	49	The introduction and spread of non-native plants as a result of the Project has the potential to result in numerous adverse environmental effects. For example, non-native plants can displace native (and perhaps sensitive) plant species, and they can degrade wildlife habitat by eliminating food sources, cover, and breeding sites. The DEIR does not discuss or provide mitigation for these potentially significant impacts, in violation of CEQA.	Over 95% of the study area is dominated by non-native vegetation types that contain invasive, non-native species. The proposed project would not substantially increase the introduction and spread of non-native plants into the project area. This impact is not significant and no mitigation is warranted.
Drury	49	First, pre-construction surveys do not mitigate potentially significant impacts. Many of the plant and animal species that are present on the Project site are very difficult to detect. It is well established that there is imperfect detection (<100% of individuals are detected) of these species,	As provided in responses above, the information provided within the Applicant Proposed Measures is sufficient with regards to methods, timing, etc. Additionally, as provided in SCE’s DEIR Comment #180 that based on 2011 survey results, for impacts that are likely unavoidable, SCE would mitigate by

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
		and that any effort to achieve perfect detection would—in itself—result in impacts (e.g., due to vegetation trampling). Consequently, it is entirely unreasonable for the DEIR to suggest that surveys and subsequent avoidance measures would, by themselves, reduce Project impacts to a less than significant level. The DEIR must explain with greater specificity and under what performance criteria the surveys will be conducted and measures designed. At the very least, pre-construction surveys are unlawful deferred mitigation.	participating in the MSHCP.
Drury	50	Second, language in the DEIR suggests the Applicant would do everything feasible possible to avoid and minimize impacts to sensitive biological resources. This suggestion lacks credibility. For example, the Applicant already has indicated it intends to use a backhoe instead of an auger “to expedite” installation of transmission poles, even though auger use is feasible, and almost certainly would reduce impacts. The auger has reduced environmental impacts compared to a backhoe, thus, it is a feasible and environmentally superior alternative that must be required.	The comment overstates the environmental superiority of augering and provides no evidence to support such a conclusion.
Drury	50	The Cumulative impacts analysis is wholly inadequate. The DEIR must consider Project impacts in relation to the known distribution and population status of each sensitive resource, as well as current threats and Project’s contribution to those threats. For example, one of the rare plants on the Project site is known from only four main population centers. If the Project wipes out one of the four, that loss would be very significant even if the Project is “small.” Moreover, for biological resources, the DEIR considers only projects within a ten-mile radius of the Project. This ten-mile limitation is arbitrary and likely discounts the incremental effects of the Project with other projects outside the ten-mile radius, in violation of CEQA. This deficiency is especially serious given the dire condition of the Los Angeles pocket mouse and Stephens’ kangaroo rat.	See responses above regarding cumulative impact analysis and cumulative impact study area.
Drury	51	CEQA requires not only adequate mitigation measures, but also a mitigation monitoring plan to ensure that those measures are implemented and effective. The DEIR’s MMRP is inadequate. For example, the DEIR lacks measures to monitor the nests of birds to ensure mitigation measures are successful.	The Mitigation Monitoring, Reporting and Compliance Program (MMRCP) of the DEIR (Chapter 9), states that, “The purpose of the table is to provide a single comprehensive list of impacts, mitigation measures, monitoring and reporting requirements, and timing... SCE proposed the following APMs to minimize impacts on aesthetic resources, biological resources, and

**LAKEVIEW RESPONSE TO DEIR COMMENTS**  
**SCE COMMENTS & SUGGESTED RESPONSE**

Letter	Page	Comment	Response
			<p>paleontological resources from Project implementation. The impact analysis in this EIR assumed that these APMs would be implemented as part of the Project.”</p> <p>APM-BIO-1: Preconstruction Surveys for Nesting Birds/Raptors, is included within the list of APMs that the EIR assumed would be implemented as part of the Project.</p>