



Division of Water Quality

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Arnold Schwarzenegger
Governor

April 14, 2008

CPUC/BLM
c/o Aspen Environmental Group
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SUNRISE POWERLINK PROJECT DRAFT ENVIRONMENTAL IMPACT REPORT/ENVIRONMENTAL IMPACT STATEMENT

State Water Resources Control Board (State Water Board) staff has reviewed the Sunrise Powerlink Project DEIS (proposed project). Anyone proposing to conduct a project that requires a federal permit or involves dredge or fill activities that may result in a discharge to surface waters, including wetlands, is required to obtain a Water Quality Certification (Certification) verifying that the project activities will comply with state water quality standards. Since this proposed project spans more than one Regional Water Quality Control Board (Regional Water Board), the Certification would be issued by the State Water Board.

The California Water Boards (State and Regional Water Boards collectively) expect that for any project subject to their permitting authority, every effort will be made to avoid and minimize impacts to all waters of the State to the maximum extent practicable, and to ensure no net loss of any type of wetlands and their beneficial uses. In the event that unavoidable impacts occur, mitigation for the loss of or adverse effect upon those waters, their functions, or their beneficial uses shall be provided. State Water Board staff plan to work with the proposed project proponents and other regulatory agencies in an effort to ensure that this goal is met.

The size and scope of the Sunrise DEIS does not allow a comprehensive review of all details in the time provided. Our comments (enclosed) cover several general topics of concern and provides examples of classes of specific concerns that will need to be addressed in a final document and in development of subsequent project implementation plans.

Although the comment period closed Friday, April 11, we are submitting these for your consideration. A computer network shut down on Friday caused our delay. However, on Monday, April 14, Bill Orme, Senior Environmental Scientist with the State Water Board, contacted Mike Josselyn, President of WRA Environmental Consulting, to inquire about your acceptance of late comment. Mr. Josselyn indicated that the State Water Board comments would be accepted since the hearings on the Sunrise Powerlink Project are still in progress.

The State Water Board staff thank the CPUC and BLM for this opportunity to comment on this proposed project. Please continue to include our agency in all future correspondence regarding this proposed project. We are available to discuss the project and our comments in detail. For questions or comments, contact Mr. Cliff Harvey at (916) 322-2514 (CHarvey@waterboards.ca.gov)

California Environmental Protection Agency

Sincerely,



Elizabeth L. Haven
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Enclosures (2)

cc:

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COMMENTS OF THE STATE WATER RESOURCES CONTROL BOARD ON SUNRISE
POWERLINK PROJECT DRAFT ENVIRONMENTAL IMPACT REPORT/ENVIRONMENTAL
IMPACT STATEMENT

Please note that when rewording of text in the DEIS is proposed, suggested new text is underlined and suggested deletions are ~~struck through~~ in the quotes from the document that are cited. Text citations in this letter are typically indented.

COMMENT 1:

State Water Board staff concurs with the scoping comments previously submitted by the San Diego Water Board, and reiterates the importance of maintaining the water quality standards described in those comment letters.

COMMENT 2:

Special efforts should be made to avoid impacts to wetlands and waters of all types in California State Parks, designated Wilderness, Wilderness Study Areas (WSAs), Areas of Critical Environmental Concern (ACECs), and similar relatively undisturbed sites. Besides the beneficial uses associated with such sites, it is becoming increasingly important that undisturbed reference sites remain available for the purpose of providing a scientific benchmark for wetland and riparian functional capacity.

COMMENT 3:

Inconsistency between sections occurs, and these inconsistencies are not inconsequential. One example is cited here:

In Section D.2.1.1., (p. d.2-4), Wetlands and Aquatic Resources Methods, it is stated that general wetland assessments of the proposed project were done by noting those areas (i.e., watercourses [see Section D.12] and potential wetland vegetation [see Section D.2.6 below]) that may be subject to the jurisdiction of the U.S. Army Corps of Engineers (ACOE) pursuant to section 404 of the Clean Water Act and the California Department of Fish and Game (CDFG) pursuant to Sections 1600-12 of the California Fish and Game Code. The purpose of a general wetland assessment is to identify potential areas under ACOE and CDFG jurisdiction that would require a formal delineation. For the proposed project and project alternatives, wetland vegetation was mapped (which is anticipated to be jurisdictional), and the NWI and hydrologic study for the proposed project (Section D.12) and project alternatives was used to identify potential jurisdictional drainages.

In reading this section, it appears that no identification method or assessment of non-jurisdictional wetlands that would be protected as waters of the State is included in this analysis. This oversight occurs in many other passages in the DEIS.

However, in Section D.2.3.2, (p. D.2-68) under the discussion of state laws, including the Porter-Cologne Water Quality Control Act (Porter-Cologne), it is acknowledged that:

“The intent of the Porter-Cologne Act is to protect water quality and the beneficial uses of water, and applies to both surface and groundwater. Under this law, the California State Water Resources Control Board develops statewide water quality plans, and the

RWQCBs develop basin plans that identify beneficial uses, water quality objectives, and implementation plans. The RWQCBs have the primary responsibility to implement the provisions of both statewide and basin plans. Waters regulated under Porter-Cologne include isolated waters that are no longer regulated by ACOE. Developments which impact jurisdictional waters must demonstrate compliance with the goals of the Act by developing Storm Water Pollution Prevention Plans, Standard Urban Storm Water Mitigation Plans, and other measures in order to obtain a CWA Section 401 certification.”

While still not a fully complete description of the regulatory functions of the California Water Boards, it is acknowledged that Porter-Cologne protections extend to all surface and groundwater, including those waters no longer under ACOE jurisdiction. These types of inconsistencies relating to wetland and water protection laws, regulations, and policies should be resolved throughout the DEIS.

COMMENT 4:

In Section D.12 (p. D.12-2), it is correctly stated that:

“The project alignments are located in two primary Hydrologic Regions: the Colorado River Hydrologic Region governed by the Colorado River Regional Water Quality Control Board (Colorado RWQCB) and the San Diego Hydrologic Region governed by the San Diego Regional Water Quality Control Board (San Diego RWQCB). These boards are charged with implementing programs that preserve and enhance water quality and protect the beneficial uses of their regional water.”

It should also be stated that, due to the multi-regional nature of the proposed project, the State Water Board would also be involved, especially in regards to Certification, Stormwater Permitting, and as a responsible agency under the California Environmental Quality Act (CEQA). A clear and accurate representation of all regulatory authorities should be provided throughout the DEIS.

It is expected that the State Water Board staff will work closely with Regional Water Boards’ staffs in development of all permit conditions, including mitigation and monitoring requirements.

COMMENT 5:

In Section D.12.3 (p. D.12- 14,15), it is stated that:

“NPDES permitting authority is delegated to, and administered by, California’s nine Regional Water Quality Control Boards (RWQCBs). The Proposed Project is under the jurisdiction of the San Diego Regional Water Quality Control Board, and the Colorado River Basin Regional Water Quality Control Board.”

Again, this statement is incomplete in regards to California Water Boards’ permitting. Although the Regional Water Boards do issue NPDES permits, the State Water Board regulates the NPDES stormwater program. The repeated occurrences of this error in this DEIS should be corrected.

COMMENT 6:

That chapter of Section D.12.3 (p. D.12-16) pertaining to state laws partially describes obligations for compliance with Porter-Cologne.

This section states that:

“Applicable constraints in the water quality control plans relate primarily to the avoidance of altering the sediment discharge rate of surface waters, and the avoidance of introducing toxic pollutants to the water resource.”

This statement is true, but it is incomplete.

A primary focus of water quality control plans is to protect designated beneficial uses of waters, which range from drinking water quality, to recreation and wildlife habitat. Also omitted from this section is the requirement to that anyone proposing to discharge waste that could affect the quality of the waters of the state must make a report of the waste discharge to the Regional Water Board or State Water Board as appropriate, in compliance with Porter-Cologne.

COMMENT 7:

Table D.12-6 presents the Applicant Proposed Measures (APMs) that are relevant to water resources. The following comments relate to the contents of this table.

WQ-APM-1: This measure should be restated to include effects to any landforms that might adversely affect water quality or beneficial uses. This measure should also specify that avoidance of disturbance whenever possible is the first and preferred alternative. Suggested rewording:

All construction and maintenance activities shall be conducted in a manner that avoids ~~minimizes~~ disturbance to riparian/wetland vegetation, drainage channels, and intermittent and perennial stream banks, or to any landforms which, if disturbed, might affect water quality or beneficial uses of waters, to the greatest extent feasible. When such avoidance is infeasible, construction and maintenance activities shall be conducted in a manner that minimizes disturbance to the greatest feasible extent.

WQ-APM-3: Suggested rewording:

Specific sites as identified by authorized agencies (e.g., fragile watersheds) where construction ~~personnel~~, equipment and vehicles are not allowed shall be clearly marked by appropriate flagging and signage on-site before any construction or surface disturbing activities begin. All such flagging and signage shall be maintained on a daily basis throughout the entire construction period, in any and all active project areas where any construction or construction-related activities are or may be occurring. All such signage shall be removed within 30 days of conclusion of construction. Construction personnel shall be trained to recognize these markers and understand the personnel, equipment and vehicle movement restrictions involved.

WQ-APM-4: Suggested rewording:

Adequate distance, as defined in the pertinent permits, from, wetlands, stream banks and beds, and other waters as identified, will be maintained during construction activities and the boundaries shall be identified in the field with flagging and signage.

WQ-APM-4.2.

Construction activities will minimize stream crossings and shall use existing bridges to cross major streams and existing culverts in most dry intermittent streams. If water may be present during the life of the crossing, and there is no existing stream crossing, then stream crossing facilities shall be planned, constructed, and maintained, and removed at the end of construction if the crossing is temporary. When existing bridges and/or culverts are inadequate to withstand construction traffic, any replacements necessary shall be identified on pertinent permit applications, along with proposed replacement specifications. If existing culverts or bridges should fail during construction for any reason, whether or not the reason relates to construction, appropriate regulatory agency personnel shall be contacted immediately to provide for approval of the design of the replacement crossing structure and any other emergency actions that may be necessary. All bridges and culverts, whether new or existing, shall be maintained in good functioning condition throughout the construction process. Bridges shall be provided with decks or underlayment to capture any drips or spills that may otherwise fall into the spanned water body.

WQ-APM-4.3.

Surface water, riparian areas, ~~and~~ floodplains or any other waters of the state or waters of the U.S. will be spanned where feasible. When it is infeasible to span surface water, riparian areas and floodplains or any other waters, site specific alternatives shall be identified. No spans over any waters will be constructed without appropriate agency permit approval.

WQ-APM-4.4.

A Storm Water Pollution Prevention Plan (SWPPP) will be prepared and implemented. The SWPPP will be presented to appropriate regulatory agency personnel for approval at least 30 days before commencement of construction. The SWPPP will address both temporary and permanent stormwater management measures for the entire proposed project area, including provision for removal of temporary measures at the conclusion of construction and the maintenance of permanent measures after construction.

WQ-APM-4.5.

Storm Water Best Management Practices (BMPs) for construction will be implemented per the requirements of the project's SWPPP. Oversight of SWPPP implementation shall be conducted by qualified persons with experience and training in stormwater management, erosion prevention, and erosion control (as evidenced by work experience or certifications such as Certified Professional in Erosion and Sediment Control, or Certified Professional in Storm Water Quality).

WQ-APM-4.6.

An estimated erosion hazard rating map shall be provided to the State Water Board as part of the SWPPP for the plan area. Erosion control measures such as, but not limited to, silt fencing, straw mulch, and straw bale check dams would be installed as

appropriate to contain sediment within construction work areas and staging areas. Where soils and slopes exhibit high erosion potential, erosion control blankets, matting, and other fabrics, and/or other erosion control measures will be used. All erosion control practices will be prescribed specifically in the SWPPP. All supervision of installation and selection of erosion control practices shall be conducted by qualified persons with experience and training in stormwater management, erosion prevention, and erosion control (as evidenced by work experience or certifications such as Certified Professional in Erosion and Sediment Control, or Certified Professional in Storm Water Quality).

WQ-APM-4.7.

The potential for increased sediment loading will be minimized by limiting road improvements to those necessary for project construction, operation and maintenance, and erosion prevention. Erosion prevention measures will be maintained on all roads until the end of the project.

WQ-APM-4.8.

Upland pull sites will be selected to avoid, where feasible, and minimize impacts to surface waters, riparian areas, wetlands and floodplains.

WQ-APM-4.9.

Structures will not be placed in streambeds or drainage channels unless prior permit approval is received by the appropriate agencies. All temporary structures shall be removed before the beginning of the winter period to the extent feasible.

WQ-APM-13.

An emergency spill response plan shall be prepared prior to the start of construction and a spill kit shall be maintained on-site throughout the life of the project. This plan would include a map that delineates construction staging areas, where refueling, lubrication, and maintenance of equipment may occur. All hazardous materials shall be properly stored and handled, and shall not be stored or handled in or near any water bodies unless unavoidable. Hazardous materials will not be disposed of onto the ground, the underlying groundwater, or any surface water. Totally enclosed containment will be provided for trash. All of the proposed project area shall be maintained free of litter of all types at all times, regardless of the source of the litter. All construction personnel will be responsible for maintaining a clean project area. Petroleum products and other potentially hazardous materials would be removed to a hazardous waste facility permitted or otherwise authorized to treat, store, or dispose of such materials. In the event of a release of hazardous materials to the ground, it will be promptly cleaned up in accordance with the emergency spill response plan and all applicable regulations. Treatments for concrete washout, drilling muds, dewatering tail water, and any other similar potential pollutants shall be specified in the SWPPP. Recyclable waste material shall be recycled when possible.

WQ-APM-16.

If sensitive water resource features contain riparian areas, habitats of endangered species, streambeds, cultural resources, and wetlands which cannot be avoided, a qualified biological contractor shall conduct site-specific assessments for each affected site. These assessments shall be conducted in accordance with ACOE wetland delineation guidelines, as well as CDFG streambed and lake assessment guidelines.;

~~and~~ These guidelines shall include impact avoidance and minimization measures to reduce wetland impacts to a less than significant effect on site. When on-site mitigation efforts will not result in less than significant effects, off-site compensatory mitigation measures shall be implemented (e.g., through creation or restoration of wetlands). Compensatory mitigation measures shall be provided through guidelines approved by USEPA, USACE/ACOE, U.S. Fish and Wildlife Service, CDFG, and the California Water Boards. A Mitigation and Monitoring plan shall be prepared and presented to the regulatory agencies no less than 30 days before the start of construction. Monitoring of mitigation effectiveness under this plan shall be undertaken for a minimum of five full growing seasons following the installation or procurement of the site. Though construction or maintenance vehicle access through shallow creeks or streams is allowed, Treatments for all stream crossings for construction and maintenance vehicles shall be specified. Staging/storage areas for equipment and materials shall be located outside of riparian areas. Construction of new access or reconstruction of existing access through streambeds or wetlands that require filling for access purposes would require a Streambed Alteration Agreement from CDFG and/or consultation/approval from ACOE and the California Water Boards. Where filling is required for new access, the installation of properly sized culverts and the use of appropriate erosion control and stormwater management measures shall be specified by qualified persons with experience and training in stormwater management, erosion prevention, and erosion control (as evidenced by work experience or certifications such as Certified Professional in Erosion and Sediment Control, or Certified Professional in Storm Water Quality). geotextile matting should be considered in the CDFG/ACOE consultation process.

New Proposed APM:

Construction shall, to the maximum extent feasible, be conducted in phases so that the area of active construction activity is minimized at any point in time, while allowing for exercise of other environmental mitigation measures, such as wildlife seasonal closures. The construction plan shall, to the maximum extent feasible, also minimize the total duration of the construction time.

New Proposed APM:

A comprehensive restoration and reclamation plan for the entire project area and all sites affected by the project area shall be prepared and approved by the regulatory agencies before construction commences. Restoration and reclamation plan shall identify areas or zones that will be completed in sequence along with the sequence of construction. Implementation of the restoration and reclamation plan shall commence immediately upon completion of construction in any given area of the project. Restoration and reclamation shall not be postponed until full project completion.

New Proposed APM:

All vehicles and equipment, including all hydraulic hoses, shall be maintained in good working order so that they are free of any and all leaks that could escape the vehicle or contact the ground.

New Proposed APM:

All construction personnel shall be trained in the basic environmental guidelines for this proposed project. Personnel with duties pertaining to specialized environmental guidelines shall be trained in compliance for those specialized guidelines.

New Proposed APM:

The construction project area shall be clearly marked. No persons, vehicles, equipment, or other project activity shall take place outside the marked project boundary.

New Proposed APM:

Comprehensive inspection and monitoring for environmental compliance shall be conducted throughout the construction process by qualified, independent inspectors who have authority to enforce all environmental guidelines and mitigation measures. An inspection team shall be assigned, funded, and equipped so that the team is adequate to cover the entire project area for any and all hours and days of operation. This inspection team shall be led and/or staffed by qualified persons with experience and training in natural resources, geology, soils, ecology, or related disciplines. The inspection team shall also include persons qualified in stormwater management, erosion prevention, and erosion control (as evidenced by work experience or certifications such as Certified Professional in Erosion and Sediment Control, or Certified Professional in Storm Water Quality). These independent inspectors, whether agency staff or contractors, shall be under supervision of regulatory agency staff, and shall have access to all areas subject to project activity.

COMMENT 8:

Regarding Table D.2-24. Mitigation Monitoring Program general details regarding compensatory mitigation are described in Section D.2., with considerable discussion of measures affecting wetlands and other waters occurring in Table D.2-24. These proposed mitigation measures should be considered a minimum starting point rather than a fixed plan. Because of the complexity of the various combinations of alternatives that may be selected, and the variability of outcomes of any construction process, determination of final mitigation ratios and locations should be subsequent to selection of a final transmission line route and final accounting of post construction project impacts.

A committee of representatives of all agencies that may have regulatory authority to require compensatory mitigation should be identified. This committee should be empowered with negotiation of final mitigation requirements based on all project effects during and after construction.

COMMENT 9:

Regarding Table D.2-24. Mitigation Monitoring Program – Biological Resources, MITIGATION MEASURE B-2a:

Suggested rewording is shown below:

Provide restoration/compensation for impacted jurisdictional areas. Impacts to areas under the jurisdiction of the ACOE, Regional Water Boards, State Water Board, and CDFG shall be avoided to the extent feasible. Where avoidance of jurisdictional areas is not feasible (including for emergency repairs), the applicant shall provide the necessary mitigation required as part of wetland permitting by creation/restoration/preservation of suitable jurisdictional or equivalent habitat along with adequate buffers to protect the function and values of jurisdictional_area mitigation. The location(s) of the mitigation would be determined in consultation with the CPUC, BLM, Wildlife Agencies, State

Parks (for mitigation in ABDSP), U.S. Forest Service (for alternatives with mitigation on National Forest lands), ACOE, RWQCB, State Water Board and CDFG, as part of the wetland permitting process.... It is anticipated that the sites would be in close proximity to the impacts or in the same watershed.

...would require acquisition and preservation of already-existing emergent wetland (or other wetland community acceptable to the permitting agencies — ACOE, Regional Water Boards, State Water Board, and CDFG)....

...Wetland permits shall be obtained from the ACOE, ~~RWQCB~~, State Water Board, and CDFG prior to initiating construction in jurisdictional areas.

COMMENT 10:

Section D.2.6, Jurisdictional Waters and Wetlands, contains a description of Impact B-2:

Construction activities would result in adverse effects to jurisdictional waters and wetlands through vegetation removal, placement of fill, erosion, sedimentation, and degradation of water quality (Class II).

The following rewording is suggested for the narrative text relating to Impact B-2:

Direct and/or indirect impacts to jurisdictional Waters of the U.S. and possibly wetlands (i.e., areas regulated by the ACOE, ~~and State and Regional Water Boards, RWQCB~~ and/or CDFG) would occur from the Proposed Project. Direct and/or indirect impacts to waters of the State and possibly wetlands (i.e., areas regulated by the California Water Boards and/or CDFG) would occur from the proposed project. Impacts to jurisdictional areas and waters of the state can not be clearly defined until a final route is selected that includes project-specific features and final engineering.

COMMENT 11:

In the discussion of Impact B-2.a, it is stated that:

Any impacts associated with unauthorized activity (e.g., exceeding approved construction footprints) shall be mitigated as follows, unless otherwise directed by the ACOE, RWQCB, and CDFG: restoration of the unauthorized impacts shall be credited at a 1:1 ratio; the remaining 4:1 (or 4.5:1 in FTHL MA) shall be acquired off site.

Some clarification of what constitutes an “unauthorized impact” is needed.

COMMENT 12:

Figure D.2-7 provides a Sample Proposed Project Biological Resources/Impacts Map. This sample appears to be proposed as an example of what compliance officers would be provided to monitor project effects on Biological Resources. This map would be marginal for that purpose, especially for site specific features such as small plant populations, springs or small wetlands. Similar maps, but on much larger scale, should be provided to environmental compliance personnel that provide a comprehensive view of project construction plans overlaid

with details of all protected resources. Similar maps should be available to construction managers, but protected resource areas should only be identified as such, and not identified by type.

COMMENT 13:

Many references to "Forest Service Property" or "Forest Service Land" are made throughout the DEIS. These lands are more properly referred to as "National Forest Lands." The U.S. Forest Service is the manager of the National Forests, not the owner. Similarly, lands administered by the Bureau of Land Management are managed by, but not owned by, the BLM.

These distinctions are not merely semantic. The proposed project which is the subject of this DEIS has the potential to affect a great deal of land and resources. Therefore, the DEIS has the responsibility to properly identify affected land owners, land managers and land management agencies, and to properly identify the roles and responsibilities of those stakeholders.

COMMENT 14:

Effects to Vegetation by Community are discussed in Section D.2.5. In this Section, it is noted that:

"Mitigation ratios were developed in consultation with the USFWS, BLM, and State Parks... (p. D.2-85)"

However, it seems that this is the only section in the DEIS that deals with mitigation ratios for wetlands and habitat types associated with waters of the U.S. and waters of the State. Therefore, failure to consult with the ACOE or the State Water Board on this important concern is a significant oversight.

If mitigation for effects to waters of the U.S. and waters of the State is intended to occur simultaneously with mitigation for impacts to habitat types by community, some discussion of that intent should be included in the DEIS. If some other mitigation strategy is intended, it should be included in the final document. As stated in previous comments in this letter, in the event that unavoidable impacts occur, mitigation for the loss of or adverse effect upon those waters, their functions, or their beneficial uses shall be provided.

COMMENT 15:

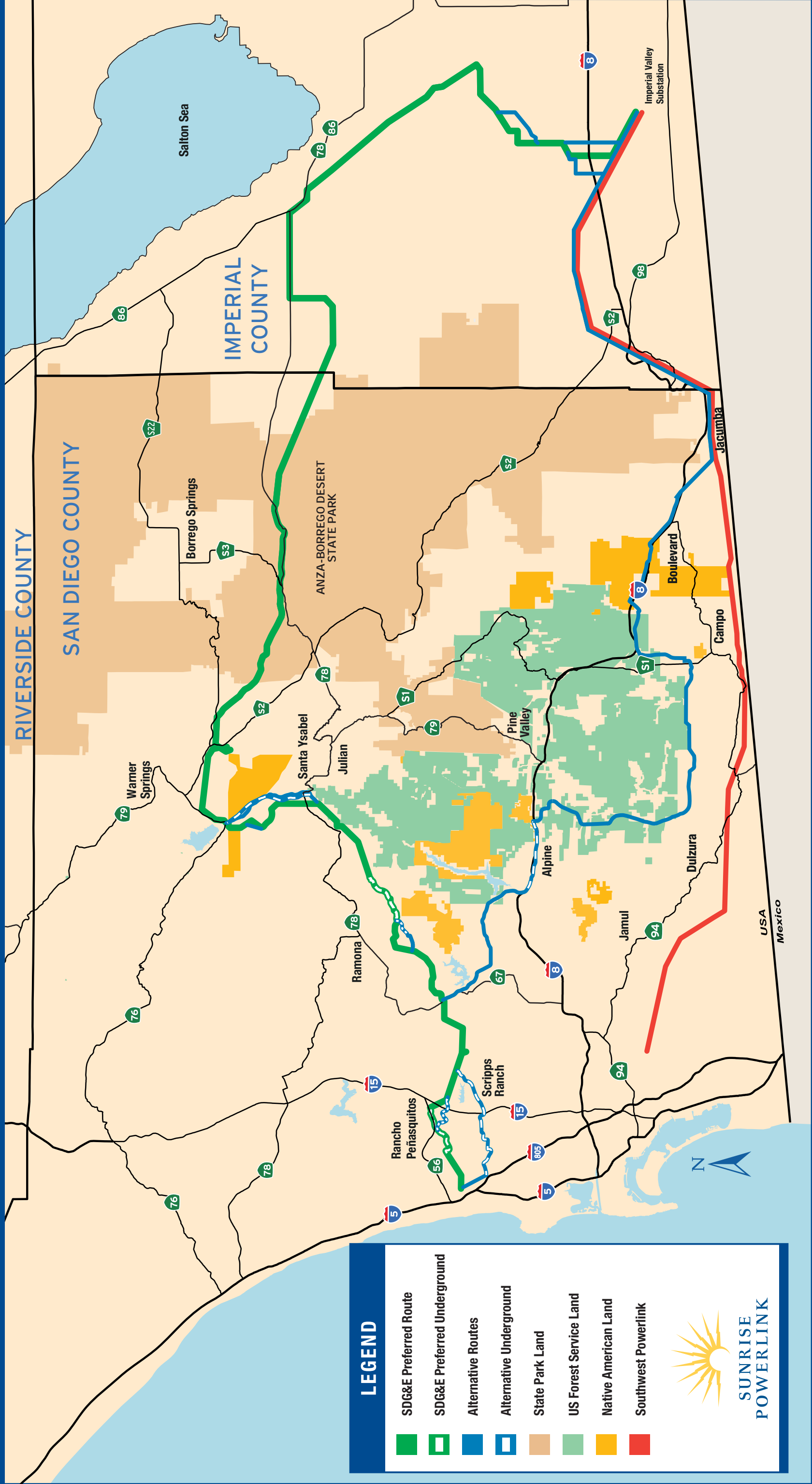
Table D.2-7 (p. D.2-85 and following), in section D.2.5 presents the impacts to vegetation communities from the proposed project, mitigation ratios, and mitigation acreages. The following comments relate to the contents of this table:

1. Non-Native Vegetation, Developed Areas, and Disturbed Habitat: For Non-Native Vegetation, Developed Areas, and Disturbed Habitat: no mitigation is proposed for any sub-type in this category. Provision at least for minimal restoration should be included in proposed project plans, if only to avoid invasive weed establishment. Site specific reasons should be given for any project related site that would not be improved as a result of project activity.

2. Herbaceous Wetlands, Freshwater, and Streams, Riparian Scrubs and Riparian Forests and Woodlands: Recommended mitigation ratios for permanent effects to any of these vegetation types is no less than 3:1. In the case of types dominated by tamarisk or other invasive species, the proposed 1:1 ratio may be accepted if effective invasive plant eradication and vegetation maintenance of those habitats is proposed in site specific plans subject to management agency and landowner approval.



Potential Routes for Sunrise Powerlink



LEGEND

- SDG&E Preferred Route
- SDG&E Preferred Underground
- Alternative Routes
- Alternative Underground
- State Park Land
- US Forest Service Land
- Native American Land
- Southwest Powerlink

