



DEPARTMENT OF CONSERVATION

DIVISION OF LAND RESOURCE PROTECTION

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August 25, 2008

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Ms. Billie C. Blanchard

California Public Utilities Commission

c/o Ms. Susan Lee

Aspen Environmental Group

235 Montgomery Street, #935

San Francisco, CA 94104

Subject: SUNRISE POWERLINK PROJECT – SCH 2006091071
IMPERIAL COUNTY AND SAN DIEGO COUNTY

Dear Ms. Blanchard:

Thank you for requesting comment from the Department of Conservation's (Department) Division of Land Resource Protection (Division). The Division monitors farmland conversion on a statewide basis and administers the California Land Conservation (Williamson) Act and other agricultural land conservation programs.

Project Description

The United States Department of Energy (USDOE) received an Application for Presidential Permit indicating plans for significant changes to a project San Diego Gas & Electric Company (SDG&E) is proposing. The SDG&E seeks to construct a new 91 mile, 500 kilovolt (KV) electric transmission line from Imperial Valley Substations (in Imperial Valley, near the City of El Centro) to a new Central East Substation (in central San Diego County, southwest of the intersection of County Highway S22 and S2) and a new 59-mile 230 KV transmission line that includes both overhead and underground segments from the new Central East Substation to SDG&E's existing Penasquitos Substation (in the city of San Diego) presented by Sempra Generation (Sempra) to the USDOE indicating significant changes resulting in the rerouting of some transmission line routes affecting new landowners.

Agricultural Setting of the Project

The SDG&E should describe the project setting in terms of the actual and potential agricultural productivity of the land. Important Farmland Maps for Imperial and San Diego

Counties are available from the Department and define farmland according to soil attributes and land use, and can be used for this purpose. The Department also recommends that the following information be included:

- Location and extent of Prime Farmland, Farmland of Statewide Importance, Unique Farmland, and other types of farmland in and adjacent to the project area.
- Current and past agricultural use of the project area. Include data on the types of crops grown, and crop yields and farm gate sales values.

To help describe the full agricultural resource value of the soils on the site, the Department recommends that use of economic multipliers to assess the total contribution of the site's potential or actual agricultural production to the local, regional and state economies. Two sources of economic multipliers can be found at the University of California Cooperative Extension Service and the United States Department of Agriculture (USDA).

Projects Impacts on Agricultural Land

- Type, amount, and location of farmland conversion **directly** resulting from the project.
- Type, amount and location of farmland conversion **indirectly** resulting (as growth-inducement) from the project especially since the project is a significant departure from current land use designations for the site.
- Impacts on current and future agricultural operations; including increased traffic and pollution, potential diminished productivity, and threatened food safety, which may increase pressure on neighboring agricultural parcels to convert to non-agricultural uses.
- Incremental project impacts leading to cumulative impacts on agricultural land. This would include impacts from the proposed project as well as impacts from past, current and probable future projects.

Under California Code of Regulations §15064.7, impacts on agricultural resources may also be both quantified and qualified by use of established thresholds of significance. The Department has developed a California version of the United States Department of Agriculture (USDA) Land Evaluation and Site Assessment (LESA) Model. The California LESA model is a semi-quantitative rating system for establishing the environmental significance of project-specific impacts on farmland. The model may be used to rate the relative value of alternative project sites. The LESA Model is available at:

http://www.conserv.ca.gov/DLRP/qh_lesa.htm

Williamson Act Lands

A project is deemed to be of statewide, regional or area-wide significance if it will result in cancellation of a Williamson Act contract for a parcel of 100 or more acres (California Code of Regulations §15206(b)(3)). Since lands under Williamson Act contract may exist within the project area, the Department recommends the following information be included:

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- A map detailing the location of agricultural preserves and contracted land within each preserve. The number of Williamson Act acres should be tabulated according to land type (e.g., prime or nonprime agricultural land), which may be impacted directly or indirectly by the project.
- A discussion of Williamson Act contracts that may be terminated in order to accommodate the project. Potential impacts on nearby Williamson Act-contracted properties resulting from project-specific contract terminations should be evaluated. Termination of a Williamson Act contract would have growth-inducing impacts, creating an incentive to shift to more intensive land uses, such as urban development.

As a general rule, land should be withdrawn from Williamson Act contract through the nine-year nonrenewal process. Immediate termination via cancellation is reserved for “extraordinary circumstances” (See Sierra Club v. City of Hayward (1981) 28 Cal.3d 840, 852-855).

Williamson Act statute requires public agencies to notify the Department whenever land under Williamson Act contract is being **considered** for public acquisition (Government Code §51291). Such notification must occur when it **appears** that land enrolled in a Williamson Act contract may be required for a public use. Notice must be submitted separately from the California Environmental Quality Act (CEQA) process and CEQA documentation as prescribed in the enclosed Williamson Act Notification Provisions. The property must be acquired by eminent domain or in lieu of eminent domain to void the contract pursuant to Government Code §51295.

If the acquisition does not void the contract, the uses of the contracted property will be affected and limited by the terms of the contract, which will remain in effect. The Department does not provide counsel regarding eminent domain law, but encourages the applicant to obtain legal counsel for this purpose.

Thank you for the opportunity to comment on this SDEIR. If you have questions on our comments or require technical assistance or information on agricultural land conservation, please contact Jacquelyn Ramsey, Environmental Planner at (916) 324-0850.

Sincerely,

Brian Leahy
Assistant Director

cc: State Clearinghouse

ACQUISITION NOTIFICATION PROVISIONS OF THE WILLIAMSON ACT

Notification provisions of the Williamson Act (Government Code Section 51291) require an agency to notify the Director of the Department of Conservation of the possible acquisition of Williamson Act contracted land for a public improvement. Such notification must occur when it **appears** that land enrolled in a Williamson Act contract may be required for a public use, being **acquired**, the original public improvement for the acquisition is **changed**, or the land acquired is **not used** for the public improvement. The local governing body responsible for the administration of the agricultural preserve must also be notified.

NOTIFICATION (Government Code Section 51291 (b))

The following information must be included in the notification correspondence.

1. The total number of acres of Williamson Act contracted land to be acquired and whether the land is considered prime agricultural and according to Government Code Section 51201.
2. The purpose for the acquisition and why the parcel was identified for acquisition. If available, include documentation of eminent domain proceedings or a property appraisal and written offer in lieu of eminent domain per GC §§7267.1 and 7267.2 to void the contract per §51295; include a chronology of steps taken or planned to effect acquisition by eminent domain or in lieu of eminent domain.)
3. A description of where the parcel(s) is located.
4. Characteristics of adjacent land (urban development, Williamson Act contracts, noncontract agricultural, etc.)
5. A vicinity map and a location map (may be the same as #8)
6. A copy of the contract(s) covering the land.
7. CEQA documents for the project
8. **The findings required under GC Section 51292 , documentation to support the findings and an explanation of the preliminary consideration of Section 51292** (Include a map of the proposed site and an area of surrounding land identified by characteristics and large enough to help clarify that no other, noncontract land is reasonably feasible for the public improvement).

ACQUISITION (Government Code Section 51291 (c))

The following information must be included in the notification when land within an agricultural preserve has been **acquired**. The notice must be forwarded to the Director within **10 working days** of the acquisition of the land. The notice must also include the following:

1. A general explanation of the decision to acquire the land, and why noncontracted land is not available for the public improvement.
2. Findings made pursuant to Government Code Section 51292, as amended.
3. If the information is different from that provided in the previous notice sent upon consideration of the land, a general description of the land, and a copy of the contract covering the land shall be included in the notice.

SIGNIFICANT CHANGE IN PUBLIC IMPROVEMENT (Government Code Section 51291 (d))

Once notice is given as required, if the public agency proposed any significant change in the public improvement, the Director must be notified of the **changes** before the project is completed.

LAND ACQUIRED IS NOT USED FOR PUBLIC IMPROVEMENT (Government Code Section 51295)

If the acquiring public agency does not use the land for the stated public improvement and plans to return it to private ownership, **before** returning the land to private ownership the Director must be notified of the action. **Additional requirements apply**. The mailing address for the Director is: **Bridgett Luther, Director, Department of Conservation, 801 K Street, MS 18-01, Sacramento, CA 95814; phone (916) 324-0850**