

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



November 3, 2010

VIA FIRST CLASS MAIL

Milissa Marona
Southern California Edison
Regulatory Affairs
2244 Walnut Grove Avenue, Quad 3D, GO1
Rosemead, California 91770

Dear Ms. Marona:

Attached please find:

1. The California Public Utility Commission's (CPUC) information request to the Riverside County Habitat Conservation Agency (RCHCA) regarding Southern California Edison's (SCE) application to construct the Alberhill System Project (ASP) on lands set aside for the Stephens' Kangaroo Rat (SKR) in Western Riverside County; and.
2. The RCHCA's response to the CPUC's request for information.

As you know, the CPUC is currently in the process of identifying and analyzing the potential impacts of SCE's proposal to construct the ASP near the City of the Lake Elsinore in Western Riverside County. Because SCE's proposal involves the construction of a segment of the ASP on lands set aside for the SKR, the CPUC arranged and participated in meetings with the RCHCA on two separate occasions. During the meetings, discussions centered primarily on the fact that the Implementation Agreement for the Riverside County Long Term Habitat Conservation Plan appears to limit the construction of new facilities in SKR habitat to "public agencies." Because SCE is not a "public agency" the RCHCA determined that the HCP prohibits the construction of facilities such as the ASP in the SKR reserve.

In order to document the aforementioned findings, the CPUC transmitted a letter to the RCHCA on September 30, 2010 (See Attachment 1). Consistent with the findings of the RCHCA, the RCHCA General Counsel reiterated the agency's determination that the Implementation Agreement and corresponding HCP do not permit the construction of new facilities in the SKR reserve by entities other than "public agencies" (See Attachment 2).

The findings stated by the RCHCA and the General Counsel clearly conflict with SCE's position that the Implementation Agreement and corresponding HCP permit the construction of the ASP in the SKR reserve by investor-owned utilities (IOUs) such as SCE (See SCE's response to CPUC's Data Request, dated 8/31/10).

Because SCE is not a "public agency," and therefore cannot be permitted to construct facilities on lands within the SKR core reserve, the CPUC requests SCE to formulate a feasible project alternative to work around the restrictions of the Implementation Agreement and corresponding HCP.

- SCE is requested to design an alternative to the proposed 500 kilovolt transmission line that completely avoids the lands of SKR core reserve, thereby eliminating the possibility of impacts to the SKR.

Your prompt response to the foregoing questions would be sincerely appreciated. The CPUC would also like to arrange a meeting (within the next two weeks, if possible) with the members of the SCE ASP team to discuss this issue. Please do not hesitate to call me at 415 703-5484 if you have any questions regarding this matter.

Sincerely,



Jensen Uchida
Energy Division
California Public Utilities Commission
505 Van Ness
San Francisco, California 94102

cc Ken Lewis, Program Manager
Mary Jo Borak, Supervisor
Nicholas Sher, Project Attorney
Karen Ladd, Project Manager, Ecology & Environment
Rob Peterson, Deputy Project Manager, Ecology & Environment
Jennifer Siu, Biologist, Ecology & Environment

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102 3208



September 30, 2010

VIA FIRST CLASS MAIL

Gail Barton
Principal Planner
Riverside County Habitat Conservation Agency
4080 Lemon Street, 12th Floor
Riverside, CA 92501

Dear Ms. Barton:

As you know, Southern California Edison (SCE) filed Application 09-09-022, with the California Public Utilities Commission (CPUC) on September 30, 2009, to construct and operate the Alberhill System Project (ASP). As the Lead Agency, the CPUC is currently in the process of identifying and evaluating the possible impacts the project may have on the environment in accordance with the California Environmental Quality Act (CEQA).

The ASP will serve the cities of Lake Elsinore, Canyon Lake, Perris, Menifee, Murrieta, and Temecula, as well as other areas of unincorporated Riverside County. The proposed project includes, but is not limited to, the following components:

- A 1,120 megavolt ampere (MVA) 500/115-kilovolt (kV) substation (Alberhill Substation);
- Two 500-kV transmission lines to connect the substation to the Valley-Serrano transmission line.
- One new, and four modified, 115-kV subtransmission lines to transfer five substations from the Valley South service area to the new Alberhill Substation service area.

SCE plans to build the Alberhill Substation on SCE-owned lands located on the northwest corner of the intersection of Temescal Canyon Road and Concordia Ranch Road in western Riverside County. The two 500-kV transmission lines would each extend approximately 1 mile northeast to the existing Valley-Serrano 500-kV transmission line. The 115-kV subtransmission line modifications would extend from the Alberhill Substation to five substations in the area.

To ensure that lead agencies prepare environmental documents that accurately address the concerns of other regulatory agencies, CEQA requires all lead agencies to consult with and seek the input of all responsible agencies. Since the Riverside County Habitat Conservation Agency (RCHCA) was formed to plan, acquire, and manage the habitat for the Stephen's Kangaroo Rat (SKR), the CPUC project team conducted consultation meetings with representatives of the RCHCA on two occasions.

As noted earlier, the ASP envisions the construction of two 500 kV transmission line tie-ins with the existing Valley-Serrano line. Aside from the potential construction impacts the transmission towers may have on the SKR and its habitat, the discussion with members of the RCHCA also focused on the statutory provision that provides the RCHCA with the discretionary powers to permit the type of construction envisioned by the project in the SKR area. Specifically, the discussion centered on Section 5.c.1.s of the Riverside HCP.

Based on a plain reading of Section 5.c.1.s of the HCP, it seems that the HCP only grants the ability to construct new facilities in SKR habitat to Public Agencies, which SCE is not. Moreover, since ASP involves the construction of new facilities (in SKR habitat) and not the operation and maintenance of existing facilities, it would seem that per Section 5.c.1.t, SCE may be prohibited from constructing the ASP as proposed. Unfortunately, after repeated discussions with SCE and RCHCA personnel, the CPUC team remains unclear regarding the authority that sections 5.c.1.s and 5.c.1.t actually grants to the RCHCA to permit the type of construction envisioned by the ASP. The provisions read as follows:

“Section 5.c.1.s. Public Facility Improvements

In order to carry out their responsibility to ensure the health, safety, and welfare of the general public, public agencies in the HCP area must maintain their ability to construct public facilities identified in General Plans, Transportation Improvement Plans, Capital Improvement Plans, and other adopted documents. Accordingly, under the terms of this HCP public agencies will be permitted to construct public facilities including, but not limited to, the following:

1. Construction of public roadways to their ultimate width as identified in adopted General Plans;
2. Construction of improvements identified in adopted local Transportation Improvement Programs;
3. Construction of cooperative projects undertaken between public agencies in the HCP area and other cities, counties, water districts, Caltrans, the U.S. Army Corps of Engineers, and any other federal and State agencies, and;

4. Construction of other public facilities and projects identified in adopted local General Plans or Capital Improvement Programs.
5. Construction of the above public facilities will be permitted in core reserves provided that the sponsoring agenc(y)(ies) mitigate on a 1:1 basis for all SKR occupied habitat disturbed as a result of the project. Specifically, for each acre of SKR occupied habitat disturbed in a core reserve, the sponsoring agency will acquire and permanently dedicate to SKR conservation a replacement acre of SKR occupied habitat. The location of such replacement acreage will be subject to approval by USFWS and CDFG.

For purposes of this section, public facilities shall include all public improvements, public services, and community amenities.

Section 5.c.1.t. Public Facility Operations and Maintenance Activities

As a final category of public safety and welfare measures, this HCP is intended to allow RCHCA member agencies, MWD and other water agencies, flood control districts, utility companies, and other public entities to conduct those activities necessary to operate and maintain public facilities located throughout the plan area. Such facilities include, but are not limited to: publicly maintained roads and their rights-of-way; flood control facilities; landfills and related operations; public buildings; schools; water storage, treatment, and transmission facilities; sewerage transmission and treatment facilities; reclaimed water storage and transmission facilities; public parks, and; utility pipelines and transmission lines.

This provision includes only public facilities located within the HCP area, and is intended to cover those activities necessary for their operation and maintenance. Such activities include, but are not limited to: grading and paving of public roadway surfaces and road shoulders; regular covering of landfills and appurtenant earth movement; clearance of flood control channels and operation of flood control facilities; regular upkeep of buildings and grounds; monitoring and repair of water storage, treatment, and transmission facilities, sewerage transmission and treatment facilities, reclaimed water storage and transmission facilities, gas and electric distribution lines and operations buildings.

Operation and maintenance of MWD facilities in the Lake Mathews and Lake Skinner core reserves are addressed in detail in the MWD/RCHCA Southwestern Riverside County MSHCP and Lake Mathews MSHCP. Within

MWD lands contained in the core reserves, the terms and conditions of those MSHCP's will not be superseded by this HCP.”

1. Based on the limitations identified in the foregoing sections of the HCP, the CPUC project team requests the RCHCA to explain whether or not, SCE, an investor-owned utility, can construct new towers, etc. within the SKR habitat.
2. If the RCHCA determines that new construction is permissible by SCE (i.e., new towers, etc.) within the SKR habitat, what limitations, if any, are there on new construction?
3. If the RCHCA determines that SCE can construct new towers, etc. within the SKR habitat, will SCE be required to get a determination from the U.S. Fish & Wildlife Service that SCE can construct new facilities within the SKR?
4. Will SCE be required to get a similar determination from the California Department of Fish & Game?
5. If the RCHCA finds that sections 5.c.1.s and 5.c.1.t excludes the construction of projects such as the ASP in the SKR habitat, please explain process, if any, the RCHCA is required to undertake to issue variances to the provisions of the HCP.
6. Additionally, please explain the process, if any, the RCHCA is required to follow to resolve disputes between public agencies. That is, if there are questions as to the interpretation of certain sections in the HCP, how are the questions resolved?

Your prompt response to the foregoing questions would be sincerely appreciated. Please do not hesitate to contact me if you have any questions concerning this matter.

Sincerely,



Jensen Uchida
Energy Division
California Public Utilities Commission
505 Van Ness
San Francisco, California 94102



RCHCA
Board of Directors

October 18, 2010

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Mr. Jensen Uchida
Energy Division
California Public Utilities Commission
505 Van Ness
San Francisco, California 94102

RE: Southern California Edison (SCE) Alberhill System Project (ASP)

Dear Mr. Uchida:

My client, the Riverside County Habitat Conservation Agency (RCHCA) has requested that I provide you with a response to the questions presented in your letter to Ms. Gail Barton dated September 30, 2010 concerning the above-referenced project.

For purposes of our response, we assume your reference to "SKR habitat" in your questions and in the letter generally means the SKR Core Reserve and specifically, those portions of the Lake Mathews SKR Core Reserve either owned in fee by the RCHCA or over which the RCHCA has a conservation easement.

Based on the limitations identified in the foregoing sections of the HCP, the CPUC project team requests the RCHCA to explain whether or not, SCE, an investor-owned utility, can construct new towers, etc. within the SKR habitat.

The Habitat Conservation Plan for the Stephens' kangaroo rat (SKR HCP) and corresponding Implementation Agreement place extensive restrictions on actions resulting in take of the SKR within established core reserves. As referenced in your letter, Sections 5.c.1.s. concerning Public Facility Improvements and 5.c.1.t. concerning Public Facility Operations and Maintenance Activities contained in the SKR HCP allow for take to occur in the core reserves in connection with certain described activities. However, Section 5.c.1.s and Section III.A.1.a.(3) of the Implementation Agreement only allow take in connection with public facility improvements constructed by a public agency. SCE, an investor-owned utility, is not a public agency. Thus, SCE's ASP could not be constructed within the Lake Mathews SKR Core Reserve, if take of SKR would occur.

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Additionally, Section 5.c.1.t. of the SKR HCP and Section III.A.1.a.(4) of the Implementation Agreement only allow take in connection with the operation and maintenance of existing infrastructure improvements including electric and other public utility facilities. Since you have opined in your letter that the ASP involves the construction of new facilities and is not the operation and maintenance of existing facilities, SCE's ASP could not be constructed within the Lake Mathews SKR Core Reserve, if take of SKR would occur.

In the event SCE's ASP can be constructed/configured in such a way that avoidance of SKR take can be achieved, the RCHCA could consider entering into a lease with SCE in order to allow construction of SCE's ASP on RCHCA owned property. Of course, at a minimum, appropriate compensation would be required and the impact of the road bisecting our reserve would need to be addressed.

If the RCHCA determines that new construction is permissible by SCE (i.e., new towers, etc.) within the SKR habitat, what limitations, if any, are there on new construction?

It should be noted that we are unable to make any determination that new construction is permissible by SCE within our reserve. As indicated previously, the RCHCA cannot authorize take of the SKR within the core reserves. Additionally, SCE could be limited by the need for the lease and whether or not such a lease would be acceptable to the RCHCA.

If the RCHCA determines that SCE can construct new towers, etc. within the SKR habitat, will SCE be required to get a determination from the U.S. Fish and Wildlife Service that SCE can construct new facilities within the SKR?

Again, we are unable to make any determination that new construction is permissible by SCE within our reserve. If take of SKR can be avoided and a lease of RCHCA property is something that the RCHCA would be willing to consider, the RCHCA would consult with the U.S. Fish and Wildlife Service about the SCE project and any lease of property within the reserve. SCE would not be required to get a determination from the Service.

Will SCE be required to get a similar determination from the California Department of Fish and Game?

See previous response above.

If the RCHCA finds that sections 5.c.1.s and 5.c.1.t exclude the construction of projects such as the ASP in the SKR habitat, please explain process, if any, the RCHCA is required to undertake to issue variances to the provisions of the HCP.

Mr. Jensen Uchida
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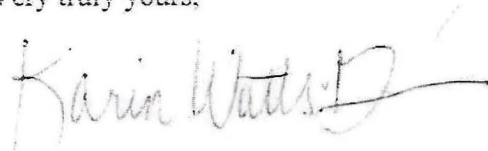
There is no process the RCHCA is required to undertake to issue variances pursuant to the provisions of the SKR HCP nor does a variance procedure exist.

Additionally, please explain the process, if any, the RCHCA is required to follow to resolve disputes between public agencies. That is, if there are questions as to the interpretation of certain sections in the HCP, how are the questions resolved?

There is no process the RCHCA is required to follow to resolve disputes between public agencies.

If you have any further questions concerning this matter, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in cursive script that reads "Karin Watts-Bazan". The signature is written in dark ink and is positioned above the typed name.

Karin Watts-Bazan
General Counsel

KWB:psg