

## 3.2 Comments and Responses to Comments

The following sections present the written and verbal comments received on the Draft EIR during the public review period. Responses are presented immediately following the respective comment document or transcript. Comments are presented in the order received and grouped into the following categories:

- A: Comments from public agencies
- B: Comments from individuals
- C: Verbal comments received at the Draft EIR public meetings held on July 15 and 16, 2009
- D: Comments from the Applicant

### A. Public Agencies

This section provides responses to comments about the Draft EIR received from public agencies and their representatives.

## A1 Comments

WARREN D. WILLIAMS  
General Manager-Chief Engineer



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www.rcflood.org

### RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

June 23, 2009

Valley-Ivyglen Subtransmission Line  
and Fogarty Substation Project  
130 Battery Street, Suite 400  
San Francisco, CA 94111

Ladies and Gentlemen:

Re: Environmental Impact Report for the  
Valley-Ivyglen Subtransmission Line and  
Fogarty Substation Project

This letter is written in response to the Environmental Impact Report (EIR) for the Valley-Ivyglen Subtransmission Line and Fogarty Substation Project proposed by Southern California Edison Company (SCE). The proposed Project primarily consists of the construction, operation, and maintenance of a new 25 mile 115 kV subtransmission line to connect the existing Valley and Ivyglen Substations and the construction of the new Fogarty Substation to provide supplementary electrical services to the city of Lake Elsinore area. The Project is located in southwestern Riverside County. The proposed subtransmission line would traverse the city of Perris, the city of Lake Elsinore, and the Glen Ivy/Corona Lake area. The Valley Substation is located at the southwest corner of State Highway 74 East and Menifee Road, approximately 1.25 miles east of the city of Perris. The Ivyglen Substation is located on the south side of Temescal Canyon Road between Maitri Road and I-15. The proposed Fogarty Substation would be located in the northern portion of the city of Lake Elsinore across from the temporary Dryden Substation.

The Riverside County Flood Control and Water Conservation District has the following comments/concerns:

1. Existing District facilities are located within the proposed project area and may be impacted. Any work that involves District right-of-way, easements or facilities will require an encroachment permit from the District. The construction of facilities within road right-of-way that may impact District storm drains should also be coordinated with us. To obtain further information on encroachment permits or existing facilities, contact Ed Lotz of the District's Encroachment Permit Section at 951.955.1266. A1-1
2. The District is a signatory to the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP). For purposes of procuring an encroachment permit from the District, the permit applicant will need to demonstrate that all construction related activities within the District right-of-way or easement are consistent with the MSHCP. To accomplish this, the CEQA document should include a MSHCP consistency report with all of its supporting documents and provide adequate mitigation in accordance with all applicable MSHCP requirements. The MSHCP consistency report should address, at a minimum, Sections 3.2, 3.2.1, 6.1.2, 6.1.3, 6.1.4, 6.3.2, 7.5.3 and Appendix C of the MSHCP. A1-2

Valley-Ivyglen Subtransmission Line  
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June 23, 2009

3. The proposed project is located within the District's Romoland Master Drainage Plan (MDP) boundary. When fully implemented, these MDP facilities will provide flood protection to relieve those areas within the MDP boundary of the most serious flooding problems and will provide adequate drainage outlets. The EIR should address potential impacts to proposed facilities within the project area. To obtain more information on the MDPs, please contact Dale Anderson of the District's Planning Section at 951.955.1345. A1-3

Thank you for the opportunity to review the EIR. Please forward any subsequent environmental documents regarding the project to my attention at this office. Any questions concerning this letter may be referred to me at 951.955.8581 or Art Diaz at 951.955.4643. A1-4

Very truly yours,

  
KRIS FLANIGAN  
Senior Civil Engineer

c: TLMA  
Attn: Kathleen Browne  
Ed Lotz  
Dale Anderson

AD:mcv  
P8\125560

## Responses to A1 Comments

### Riverside County Flood Control and Water Conservation District

- A1-1** The requirement for an encroachment permit for any work that involves Riverside County Flood Control and Water Conservation District (FCWCD) rights-of-way, easements, or facilities has been noted. Your statement is included in the public record and will be taken into account by decision-makers when they consider the proposed Project. Table D.13-1 in Section D.13.1.1 of the Draft EIR identifies the jurisdictions that would be crossed by Project facilities and the utility and service providers within each jurisdiction. Among the districts listed is the Riverside County FCWCD. Section D.13.1.1 states, “Where necessary, encroachment permits would be obtained for installation in the public right-of-way (ROW).” Additionally, Table B.6-1 of the Draft EIR indicates that among the permit requirements for the Project are, “Permits and easements for crossing County Flood Control District lands.”
- A1-2** The Applicant will become a Participating Special Entity under the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP). As such, the Applicant will follow all applicable provisions of the MSHCP as specified in the impacts assessment provided in Section D.4.3 of the Draft EIR. Additionally, the MSHCP is the local habitat conservation plan in the Project area, and thus, consistency between the Draft EIR and this plan was evaluated to ensure that the Project does not conflict with that plan. The Project area was specifically assessed for MSHCP compliance with regard to sensitive vegetation communities, such as the coastal sage scrub, as well as for special status wildlife and vegetation species including the Stephens’ kangaroo rat, coastal California gnatcatcher, small-flowered morning glory, many-stemmed dudleya, and other special status species. The mitigation measures described in Section D.4, Biological Resources (Chapter 5 of the Final EIR), ensure that impacts to special-status and other species are minimized or avoided, including those species specifically covered by the MSHCP. The Riverside Conservation Authority and Wildlife Agencies will determine whether the Applicant complies with the regulations and policies outlined in the MSHCP.
- A1-3** Although the Riverside County FCWCD Romoland Master Drainage Plan (MDP) was not specifically addressed in the Draft EIR, the MDP was reviewed. Eastern segments of the Project route and the existing Valley Substation do fall within the boundary of the MDP (Riverside County FCWCD 2006). It was determined, however, that the Project would not adversely impact flood-control facilities within the Romoland MDP boundary with the implementation of applicant proposed and mitigation measures, specifically, HYDRO-SCE-1, MM HYD-5a, MM HYD-5b, MM HYD-7a, and MM HYD-7b. Refer to the analysis of Impacts HYD-3, HYD-4, HYD-5, HYD-7, HYD-8, and HYD-9 (Section D.7.3.3) and cumulative impacts (Section D.7.4). The new Fogarty Substation would not be located within the MDP. A Romoland MDP citation (Riverside County FCWCD 2006) was added to the revised references list (Section 4.10). Additionally, under MM HYD-7a, the Applicant will provide documentation to the CPUC at least 60 days prior to construction regarding which structures would be in flow paths and what protective measures, such as design specifications, are proposed.
- A1-4** The address for the Riverside County FCWCD is included on the project mailing list.

## A2 Comments

June 30, 2009

Attn: Ecology and Environmental, Inc.  
130 Battert Street, Suite 400  
San Francisco, CA 94111

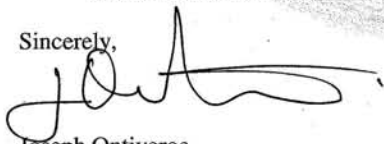
**Re: Valley-Ivyglen Subtransmission Line and Fogarty Substation Project  
(California SCH # 2008011082)**

The Soboba Band of Luiseño Indians appreciates your observance of Tribal Cultural Resources and their preservation in your project. The information provided to us on said project has been assessed through our Cultural Resource Department, where it was concluded that although it is outside the existing reservation, the project area does fall within the bounds of our Tribal Traditional Use Areas. This project location is in close proximity to known village sites and is a shared use area that was used in ongoing trade between the Luiseno and Cahuilla tribes. Therefore it is regarded as highly sensitive to the people of Soboba. A2-1

Soboba Band of Luiseño Indians is requesting the following:

1. To initiate a consultation with the Project Developer and Land owner. A2-2
2. The transfer of information to the Soboba Band of Luiseno Indians regarding the progress of this project should be done as soon as new developments occur. A2-3
3. Soboba Band of Luiseño Indians continues to act as a consulting tribal entity for this project.
4. Working in and around traditional use areas intensifies the possibility of encountering cultural resources during the construction/excavation phase. For this reason the Soboba Band of Luiseño Indians requests that Native American Monitor(s) from the Soboba Band of Luiseño Indians Cultural Resource Department to be present during any ground disturbing proceedings. Including surveys and archaeological testing. A2-4
5. Request that proper procedures be taken and requests of the tribe be honored (Please see the attachment)

Sincerely,



Joseph Ontiveros  
Soboba Cultural Resource Department  
P.O. Box 487  
San Jacinto, CA 92581  
Phone (951) 654-5544 ext. 4137  
Cell (951) 663-5279  
[jontiveros@soboba-nsn.gov](mailto:jontiveros@soboba-nsn.gov)

**Cultural Items (Artifacts).** Ceremonial items and items of cultural patrimony reflect traditional religious beliefs and practices of the Soboba Band. The Developer should agree to return all Native American ceremonial items and items of cultural patrimony that may be found on the project site to the Soboba Band for appropriate treatment. In addition, the Soboba Band requests the return of all other cultural items (artifacts) that are recovered during the course of archaeological investigations. Where appropriate and agreed upon in advance, Developer's archeologist may conduct analyses of certain artifact classes if required by CEQA, Section 106 of NHPA, the mitigation measures or conditions of approval for the Project. This may include but is not limited or restricted to include shell, bone, ceramic, stone or other artifacts.

A2-5

A2-6

The Developer should waive any and all claims to ownership of Native American ceremonial and cultural artifacts that may be found on the Project site. Upon completion of authorized and mandatory archeological analysis, the Developer should return said artifacts to the Soboba Band within a reasonable time period agreed to by the Parties and not to exceed (30) days from the initial recovery of the items.

**Treatment and Disposition of Remains.** Given that Native American human remains have been found during development of the Project and the Soboba Band has been designated the MLD, the following provisions shall apply to the Parties:

A. The Soboba Band shall be allowed, under California Public Resources Code § 5097.98 (a), to (1) inspect the site of the discovery and (2) make determinations as to how the human remains and grave goods shall be treated and disposed of with appropriate dignity.

A2-7

B. The Soboba Band, as MLD, shall complete its inspection within twenty-four (24) hours of receiving notification from either the Developer or the NAHC, as required by California Public Resources Code § 5097.98 (a). The Parties agree to discuss in good faith what constitutes "appropriate dignity" as that term is used in the applicable statutes.

C. Reburial of human remains shall be accomplished in compliance with the California Public Resources Code § 5097.98 (a) and (b). The Soboba Band, as the MLD in consultation with the Developer, shall make the final discretionary determination regarding the appropriate disposition and treatment of human remains.

A2-8

D. All parties are aware that the Soboba Band may wish to rebury the human remains and associated ceremonial and cultural items (artifacts) on or near, the site of their discovery, in an area that shall not be subject to future subsurface

disturbances. The Developer should accommodate on-site reburial in a location mutually agreed upon by the Parties.

A2-8  
Cont.

E. The term "human remains" encompasses more than human bones because the Soboba Band's traditions periodically necessitated the ceremonial burning of human remains. Grave goods are those artifacts associated with any human remains. These items, and other funerary remnants and their ashes are to be treated in the same manner as human bone fragments or bones that remain intact

**Coordination with County Coroner's Office.** The Lead Agencies and the Developer should immediately contact both the Coroner and the Soboba Band in the event that any human remains are discovered during implementation of the Project. If the Coroner recognizes the human remains to be those of a Native American, or has reason to believe that they are those of a Native American, the Coroner shall ensure that notification is provided to the NAHC within twenty-four (24) hours of the determination, as required by California Health and Safety Code § 7050.5 (c).

**Non-Disclosure of Location Reburials.** It is understood by all parties that unless otherwise required by law, the site of any reburial of Native American human remains or cultural artifacts shall not be disclosed and shall not be governed by public disclosure requirements of the California Public Records Act. The Coroner, parties, and Lead Agencies, will be asked to withhold public disclosure information related to such reburial, pursuant to the specific exemption set forth in California Government Code § 6254 (r).

Ceremonial items and items of cultural patrimony reflect traditional religious beliefs and practices of the Soboba Band. The Developer agrees to return all Native American ceremonial items and items of cultural patrimony that may be found on the project site to the Soboba Band for appropriate treatment. In addition, the Soboba Band requests the return of all other cultural items (artifacts) that are recovered during the course of archaeological investigations. Where appropriate and agreed upon in advance, Developer's archeologist may conduct analyses of certain artifact classes if required by CEQA, Section 106 of NHPA, the mitigation measures or conditions of approval for the Project. This may include but is not limited or restricted to include shell, bone, ceramic, stone or other artifacts.

A2-9

A2-10

## Responses to A2 Comments

### Soboba Band of Luiseño Indians

- A2-1** Your statement is included in the public record and will be taken into account by decision-makers when they consider the proposed Project. The CPUC notes that the project area crosses Tribal Traditional Use Areas of the Soboba Band of Luiseño Indians. It should also be noted that Ecology and Environment and the CPUC are not the project proponents. The proponent (or Applicant) is Southern California Edison.
- A2-2** The Soboba Band of Luiseño Indians may contact the Applicant for further information about the Project or to request further involvement with the Project. Additionally, refer to the revisions made to MM CUL-1b on page D.5-16 of the Draft EIR (Section 4.5 of the Final EIR).
- A2-3** The Soboba Band's address is included on the project mailing list. The Draft EIR and other documentation, key dates, and project status information are available on the Internet at <http://www.cpuc.ca.gov/Environment/info/ene/ivyglen/ivyglen.html>. Your statement is included in the public record and will be taken into account by decision-makers when they consider the proposed Project. Additionally, refer to the response to comment A2-2.
- A2-4** Please refer to the response to comment A2-2.
- A2-5** The treatment of artifacts and ceremonial items will be detailed in the Cultural Resources Treatment Plan (MM CUL-1b). The Soboba Band of Luiseño Indians and others will be consulted with regard to the appropriate curation or other treatment of such artifacts.
- A2-6** The analysis of artifacts will be completed as quickly as possible. Due to the varying scope of testing and mitigation that will be required, however, the analysis may take longer than 30 days.
- A2-7** Please refer to Section D.5.2 (Applicable Regulations, Plans, and Standards) and the steps outlined in MM CUL-1d. All appropriate laws and legally-mandated procedures will be adhered to in the event that human remains are uncovered during construction of the Project. In addition, refer to the revisions made to MM CUL-1d on page D.5-17 of the Draft EIR (Section 4.5 of the Final EIR).
- A2-8** Please refer to the response to comment A2-7.
- A2-9** Please refer to the response to comment A2-5.
- A2-10** Please refer to the revisions made to MM CUL-1b on page D.5-16 of the Draft EIR (Section 4.5 of the Final EIR). Additionally, refer to the response to comment A2-6.



## A3 Comments



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**PECHANGA CULTURAL RESOURCES**  
*Temecula Band of Luiseño Mission Indians*

Post Office, Box 2183 • Temecula, CA 92593  
Telephone (951) 308-9295 • Fax (951) 506-9491

July 27, 2009

Chairperson:  
Germaine Arenas

Vice Chairperson:  
Mary Bear Magee

Committee Members:  
Evie Gerber  
Darlene Miranda  
Bridgett Barcello Maxwell  
Aurelia Marruffo  
Richard B. Scarce, III

Director:  
Gary DuBois

Coordinator:  
Paul Macarro

Cultural Analyst:  
Anna Hoover

Monitor Supervisor:  
Jim McPherson

**VIA FAX and USPS**

Mr. Jensen Uchida  
EIR Project Manager  
California Public Utilities Commission (CPUC)  
Valley-Ivyglen Subtransmission Line and Fogarty Substation Project  
130 Battery Street, Ste 400  
San Francisco, CA 94111

**Re: Pechanga Tribe Comments on the Draft Environmental Impact Report for the Valley-Ivyglen Subtransmission Line and Fogarty Substation Project as Proposed by Southern California Edison Company, SCH#2008011082**

Dear Mr. Uchida:

Thank you for inviting us to submit comments on the above named Project. This comment letter is written on behalf of the Pechanga Band of Luiseño Indians (hereinafter, "the Tribe"), a federally recognized Indian tribe and sovereign government. The Tribe is formally requesting, pursuant to Public Resources Code §21092.2, to be notified and involved in the entire CEQA environmental review process for the duration of the above referenced project (the "Project"). The Tribe further requests to be directly notified of all public hearings and scheduled approvals concerning this Project. The Tribe also requests that these comments be incorporated into the record of approval for this Project as well.

The Tribe is submitting these comments concerning the Project's potential impacts to cultural resources in conjunction with the environmental review of the Project. The Tribe reserves the right to fully participate in the environmental review process, as well as to provide further comment on the Project's impacts to cultural resources and potential mitigation for such impacts. Further, the Tribe reserves the right to participate in the regulatory process and provide comment on issues pertaining to the regulatory process and Project approval.

**THE CALIFORNIA PUBLIC UTILITIES COMMISSION (CPUC) MUST INCLUDE INVOLVEMENT OF AND CONSULTATION WITH THE PECHANGA TRIBE IN ITS ENVIRONMENTAL REVIEW PROCESS**

It has been the intent of the Federal Government<sup>1</sup> and the State of California<sup>2</sup> that Indian

<sup>1</sup> See Executive Memorandum of April 29, 1994 on Government-to-Government Relations with Native American Tribal Governments and Executive Order of November 6, 2000 on Consultation and Coordination with Indian Tribal Governments.

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tribes be consulted with regard to issues which impact cultural and spiritual resources, as well as other governmental concerns. The responsibility to consult with Indian tribes stems from the unique government-to-government relationship between the United States and Indian tribes. This arises when tribal interests are affected by the actions of governmental agencies and departments. In this case, it is undisputed that the project lies within the Pechanga Tribe's traditional territory. Therefore, in order to comply with CEQA and other applicable Federal and California law, it is imperative that the CPUC consult with the Tribe in order to guarantee an adequate basis of knowledge for an appropriate evaluation of the Project effects, as well as generating adequate mitigation measures.

A3-1  
Cont.

#### PECHANGA CULTURAL AFFILIATION TO PROJECT AREA

The Pechanga Tribe asserts that the Project area is part of Luiseño, and therefore the Tribe's, aboriginal territory as evidenced by the existence of Luiseño place names, *tóota yixélval* (rock art, pictographs, petroglyphs), and an extensive Luiseño artifact record in the vicinity of the Project. The Tribe further asserts that this culturally sensitive area is affiliated with the Pechanga Band of Luiseño Indians because of the Tribe's cultural ties to this area as well as extensive history with both this Project and other projects within the area.

A3-2

The Pechanga Tribe's knowledge of our ancestral boundaries is based on reliable information passed down to us from our elders; published academic works in the areas of anthropology, history and ethno-history; and through recorded ethnographic and linguistic accounts. Many anthropologists and historians who have presented boundaries of the Luiseño traditional territory have included all or portions of the Project area in their descriptions (Drucker 1937; Heiser and Whipple 1957; Kroeber 1925; Oxendine 1983; Smith and Freers 1994), and such territory descriptions correspond almost identically with what was communicated to the Pechanga people by our elders.

Luiseño history originates with the creation of all things at *'éxva Teméeku*, known today as the City of Temecula. The first people or *Káamalam* (KAH-mah-lam) were born at this location and dispersed to all corners of creation (what is today known as Luiseño territory). The last of the *Káamalam* born was *Wuyóot* (We-YAUGHT). He was innately gifted with *ayéllkwish* (ah-YELL-kwish) or knowledge, and he learned how to make the first food, *tóovish* (TOH-vish, white clay), to feed the *Káamalam*. It is said *Wuyóot* gave the people ceremonial songs when he lived at *'éxva Teméeku*.<sup>3</sup> It was at Temecula that the Luiseño deity *Wuyóot* lived and taught the people, and here that he became sick, finally expiring at Lake Elsinore. Many of our songs relate the tale of the people taking the dying *Wuyóot* to the many hot springs at Elsinore, where he died

<sup>2</sup> See California Public Resource Code §5097.9 et seq.; California Government Code §§65351,65352,65352.3 and 65352.4

<sup>3</sup> Constance DuBois 1908. The Religion of the Luiseño Indians of Southern California. *University of California Publications in American Archaeology and Ethnology* 8(3):69-186.

*Pechanga Cultural Resources • Temecula Band of Luiseño Mission Indians  
Post Office Box 2183 • Temecula, CA 92592*

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(DuBois 1908). He was cremated at 'éxva Teméeku. It is the Luiseño creation account that connects Elsinore to Temecula, and thus to the Temecula people who were evicted and moved to the Pechanga Reservation, and now known as the Pechanga Band of Luiseño Mission Indians (the Pechanga Tribe). From Elsinore, the people spread out, establishing villages and marking their territories. The first people also became the mountains, plants, animals and heavenly bodies.

A3-2  
Cont.

Many traditions and stories are passed from generation to generation by songs. One of the Luiseño songs recounts the travels of the people to Elsinore after a great flood (DuBois 1908). From here, they again spread out to the north, south, east and west. Three songs, called *Moníivol*, are songs of the places and landmarks that were destinations of the Luiseño ancestors, several of which are located near the Project area. They describe the exact route of the Temecula (Pechanga) people and the landmarks made by each to claim title to places in their migrations (DuBois 1908:110). Further, the story of *Táakwish* and *Tukupar* includes place names for events from the Idyllwild area to the Glen Ivy/Corona area (Kroeber 1906). In addition, Pechanga elders state that the Temecula/Pechanga people had usage/gathering rights to an area extending from Rawson Canyon on the east, over to Lake Mathews on the northwest, down Temescal Canyon to Temecula, eastward to Aguanga, and then along the crest of the Cahuilla range back to Rawson Canyon. The Project area is located within a portion of this culturally affiliated territory. The Native American Heritage Commission (NAHC) Most Likely Descendent (MLD) files substantiate this habitation and migration record from oral tradition. These examples illustrate a direct correlation between the oral tradition and the physical place; proving the importance of songs and stories as a valid source of information outside of the published anthropological data.

*Tóota yixélval* (rock art) is also an important element in the determination of Luiseño territorial boundaries. *Tóota yixélval* can consist of petroglyphs (incised) elements, or pictographs (painted) elements. The science of archaeology tells us that places can be described through these elements. Riverside and Northern San Diego Counties are home to red-pigmented pictograph panels. Archaeologists have adopted the name for these pictograph-versions, as defined by Ken Hedges of the Museum of Man, as the San Luis Rey style. Gerald Smith and Steve Freers book "Fading Images" describes this style of *tóota yixélval* as being, "Generally associated with late prehistoric and historic Luiseño populations, with extensions into neighboring territories. The San Luis Rey style incorporates elements which include chevrons, zig-zags, dot patterns, sunbursts, handprints, net/chain, anthropomorphic (human-like) and zoomorphic (animal-like) designs. Tribal historians and photographs inform us that some design elements are reminiscent of Luiseño ground paintings. A few of these design elements, particularly the flower motifs, the net/chain and zig-zags, were sometimes depicted in Luiseño basket designs and can be observed in remaining baskets and textiles today.

A3-3

An additional type of *tóota yixélval*, identified by archaeologists also as rock art or petroglyphs, is known as cupules. Throughout Luiseño territory, there are certain types of large boulders, taking the shape of mushrooms or waves, which contain numerous small pecked and

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ground indentations, or cupules. Many of these cupule boulders have been identified within a few miles of the Project. Additionally, according to historian Constance DuBois: A3-3  
Cont.

When the people scattered from Ekvo Temeko, Temecula, they were very powerful. When they got to a place, they would sing a song to make water come there, and would call that place theirs; or they would scoop out a hollow in a rock with their hands to have that for their mark as a claim upon the land. The different parties of people had their own marks. For instance, Albañas's ancestors had theirs, and Lucario's people had theirs, and their own songs of Munival to tell how they traveled from Temecula, of the spots where they stopped and about the different places they claimed (1908:158).

Two areas of the proposed Project are of particular concern to the Tribe. The western portion of the Project segment designated as E-1 will pass through a portion of a known Luiseño Village Complex. The tribe believes that the archaeological site CA-RIV-714 is possibly the northern extension to a larger complex located to the west, southwest and south of this site. At this time we call this the Meadowbrook Complex and a portion of it is now owned by the Pechanga Tribe and is in federal trust status, meaning it is part of the Tribe's federally protected lands. It is a sacred area containing all aspects of Luiseño ancestral life and in fact, at this time, the Tribe also has a full-time caretaker on the trust property. A3-4

The Warm Springs Area is also of concern to the Pechanga Tribe as the City of Lake Elsinore has special ties to our Tribe. As stated above, it figures prominently into our oral traditions and ceremonial songs and is associated with our early ancestors, the *Káamalam*. The Pechanga Tribe has specialized and important knowledge/experience with the Project area and the surrounding region. Further, according to the archaeological studies, the Project is undisputedly within Luiseño, and therefore Pechanga, territory. A3-5

In addition, the Pechanga Tribe has a long modern day history of involvement with projects in the areas through and surrounding the proposed Project. Not only has the Pechanga Tribe been involved, but it has been given the designation of the consulting tribe or affiliated tribe on projects located in the City of Lake Elsinore and its sphere of influence, such as Cottonwood Hills, Liberty Serenity, North Peak, Temescal Canyon, Lakeview Villas, County Sheriff's Station, Spy Glass Ranch, Meadowbrook, Oak Springs, Canyon Hills, Wasson West, Greenwald Property, Lake Street Marketplace and Glen Ivy. In addition, Pechanga was the consulting tribe on the projects which have been developed within the overarching East Lake/Liberty Specific Plan such as the Laing/Summerly, Waterbury and the Marina District Specific Plan. Moreover, the Pechanga Tribe has been the only tribe that we know of to assume the role of MLD in the Lake Elsinore area. NAHC records confirm that no other tribe has been named MLD in the Lake Elsinore area. A3-6

Thus, our songs and stories, our indigenous place names, as well as academic works, demonstrate that the Luiseño people who occupied what we know today as Canyon Lake, A3-7

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Corona, Lake Elsinore, Perris, Murrieta, Temecula, and the areas in between are ancestors of the present-day Luiseño people, and as such, Pechanga is culturally affiliated to this geographic area. A3-7 Cont.

The Tribe would welcome to opportunity to meet with the CPUC and SCE to further explain and provide documentation concerning our specific cultural affiliation to lands within the geographical region.

**COMMENTS ON ETHNOGRAPHIC BACKGROUND OF THE DEIR**

Within the "Ethnohistoric Background" section (D.5-4), the theory is discussed that the Luiseño and surrounding tribes migrated into southern California in what is known as the "Shoshonean Wedge" approximately 1,200 years ago. "The Luiseño are presumed to be descendants of the late prehistoric peoples who occupied the area and represent one linguistic group of the Takic (Shoshonean) speakers who are postulated to have entered the area from the Great Basin at least 1,200 years ago..."They [Luiseño]were also related by culture, exchange, and linguistic affinity to the Gabrielino, Serrano, Cahuilla, and Cupeno who together form the historically recognized divisions of the "Shoshonean wedge" thought to have migrated from the deserts into Southern California"(p.114). The Tribe would like to point out that the "Shoshonean Wedge" theory is outdated and cannot be supported by current linguistic or archaeological research. A3-8

It is believed the Proto-Uto-Aztecan (PUA) homeland was somewhere in northern Mexico, western Arizona and eastern southern California<sup>4</sup>. PUA has generally been further divided into four subgroups: Hopic, Tubatulabalic, Takic and Numic. Luiseño, Gabrielino and Cahuilla are all language groups under the Takic umbrella. Current linguistic and DNA evidence shows the break up of the Proto-Uto-Aztecan groups into these subgroups to be between 5,000 and 3,500 years before present (B.P.). Takic languages are estimated to be at least 2,500 years old. This suggests the Takic speakers moved into their present homelands 1,000 years before the Numic speakers were in the Great Basin. Archaeologists use the "Shoshonean Wedge" theory to describe the southern descending movement of the Takic speakers (incorrectly identifying them as Shoshoneans) into southern California; however, linguistic evidence does not support this hypothesis. Furthermore, evidence based upon linguistic and DNA data indicate the Takic speakers were forced to move out of the southern San Joaquin Valley area by a wave of Yokustan (Penutians) prior to 3,500 years B.P. Forced to move south, these Takic speakers began replacing, and intermarried with, non-Takic speakers within the Los Angeles basin, and by extension those peoples farther south, prior to 3,500 years B.P. (Sutton 2009).<sup>5</sup> This new evidence contradicts the old theory of a "Shoshonean Wedge" and places the Takic speakers in California 1,000 years before the Numic speakers spread across the Great Basin.

<sup>4</sup> Campbell, Lyle, 1997, *American Indian Languages: The Historical Linguistics of Native America*. Oxford University Press, New York.

Hill, Jane, 2001, Proto-Uto-Aztecan: A Community of Cultivators in Central Mexico? *American Anthropologist* 103(4):913-934.

<sup>5</sup> Sutton, Mark, 2009, *A Reevaluation of Early Northern Uto-Aztecan Prehistory in California*. Presented at the 2009 annual Society of California Archaeology conference in Modesto, CA.

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**PROJECT IMPACTS TO CULTURAL RESOURCES**

The Tribe is in receipt of the Draft Environmental Impact Report (DEIR) and the Archaeological Survey Reports<sup>6</sup>. The Proposed Project and the Alternatives are located in a highly sensitive region of Luiseño territory that is connected through oral tradition to the Luiseño creation story and the Tribe believes that the possibility for impacting known as well as recovering subsurface resources during ground-disturbing activities is high. The Tribe has over thirty-five (35) years of experience in working with various types of construction projects throughout its territory. The combination of this knowledge and experience, along with the knowledge of the culturally-sensitive areas and oral tradition, is what the Tribe relies on to make fairly accurate predictions regarding the likelihood of subsurface resources in a particular location.

Pursuant to the DEIR, there are thirty-three (33) recorded archaeological sites (does not include isolated resources) within the proposed Project and Alternatives. The document indicates that of these, three (3) sites are considered pre-historic however; two (2) additional sites are discussed in the specific route segment sections. Therefore, the Tribe believes that there are five (5) prehistoric sites that may be impacted directly by the Project (CA-RIV-714, RIV-1078, RIV-8102, RIV-8103, RIV-8104). The DEIR also indicate that only one (1) of these sites is considered eligible by the CEQA criteria (RIV-714). Further, within the archaeological studies, it appears that an additional site will be impacted by the Preferred Alternative (RIV-6032) and five (5) sites by the other Alternate routes (RIV-657, -8128, -8129, -8130, -8131) that will require ESA's. The Tribe requests to work with the CPUC and SCE in placement of the ESA's and the appropriate mitigation for these sensitive areas. Additionally, it is understood that for various reasons, seven (7) sites were not relocated during the surveys (RIV-642, -658, -1089, -1423, -1655, -4110, -6032). A3-9

Site RIV-714, previously recorded as a multi-component habitation site, is known to contain both sacred/ceremonial features as well as evidence of everyday activities. As stated above, we believe it is a portion of the Meadowbrook Complex, of which a Luiseño place name has yet to be assigned. The Tribe agrees that this site is significant, both archaeologically and culturally, and does not recommend any disturbance, at a minimum, to the recorded site boundaries. However, the tribe believes that this area is much larger than just the arbitrary boundaries assigned by archaeologists and the probability of impacting resources outside these boundaries is high. Therefore, the Tribe requests to consult with the CPUC, SCE and the Project Archaeologist to avoid all cultural resources associated with this Complex as well as participating in the determination of the most appropriate placement for any proposed poles and/or equipment, if any, in this area. The Tribe further believes that the determination of "not A3-10

<sup>6</sup> *Cultural Resources Assessment of the Valley-Ivyglen Transmission Line Project, Riverside County, California*, Lerch and Gray, 2006. and *Addendum: Cultural Resources Assessment of the Valley-Ivyglen Transmission Line Project, Alternatives C-9A through C-9E, Riverside County, California*, Craft and Cooley 2008

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significant” for the remaining sites is inaccurate. All cultural resources are important and “significant” to the Tribe as they are the last remaining vestiges of our ancestors. A3-10  
Cont.

Given the sensitivity of the area, inadvertent discoveries are foreseeable impacts and thus need to be appropriately mitigated for within the confines of the Project. The identification of surface resources during an archaeological survey should not be the sole determining factor in deciding whether mitigation measures for inadvertent discoveries are required. The cultural significance of the area should play a large part in determining whether specifications concerning unanticipated discoveries should be included. Additionally, the Tribe believes that the potential for inadvertent discoveries increases because of the known resources in the area, including village complexes. A3-11  
A3-12

#### **REQUESTED TRIBAL INVOLVEMENT AND MITIGATION**

The proposed Project is on land that is within Luiseño traditional territory, and therefore of the Pechanga Band. The Pechanga Band is not opposed to this Project. The Tribe’s primary concerns stem from the Project’s proposed impacts on Native American cultural resources including village complexes and unknown subsurface resources. The Tribe is concerned about both the protection of unique and irreplaceable cultural resources, such as Luiseño village sites, sacred sites and archaeological items which would be displaced by ground disturbing work on the Project, and on the proper and lawful treatment of cultural items, Native American human remains and sacred items likely to be discovered in the course of the work. A3-13  
A3-14

The Tribe requests that it continue to be allowed to be involved and to participate with the CPUC in assuring that an adequate environmental assessment is completed and in developing all monitoring and mitigation plans and measures for the duration of the Project. In addition, given the sensitivity of the Project area, it is the position of the Pechanga Tribe that Pechanga tribal monitors be required to be present during all ground-disturbing activities conducted in connection with the Project, including any additional archeological excavations performed. A3-15  
A3-16

The CEQA Guidelines state that lead agencies should make provisions for inadvertent discoveries of cultural resources (CEQA Guidelines §15064.5). As such, it is the position of the Pechanga Tribe that an agreement specifying appropriate treatment of inadvertent discoveries of cultural resources be executed between the Project Application/Developer and the Pechanga Tribe. A3-17

The Tribe believes that adequate cultural resources assessments and management must always include a component which addresses inadvertent discoveries. Every major State and Federal law dealing with cultural resources includes provisions addressing inadvertent discoveries (See e.g.: CEQA (Cal. Pub. Resources Code §21083.2(i); 14 CCR §1506a.5(f)); Section 106 (36 CFR §800.13); NAGPRA (43 CFR §10.4). Moreover, most state and federal agencies have guidelines or provisions for addressing inadvertent discoveries (See e.g.: FHWA, Section 4(f) Regulations - 771.135(g); CALTRANS, Standard Environmental Reference - 5-

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10.2 and 5-10.3). Because of the extensive presence of the Tribe's ancestors within the Project area, it is not unreasonable to expect to find vestiges of that presence. Such cultural resources and artifacts are significant to the Tribe as they are reminders of their ancestors. Moreover, the Tribe is expected to protect and assure that all cultural sites of its ancestors are appropriately treated in a respectful manner. Therefore, as noted previously, it is crucial to adequately address the potential for inadvertent discoveries. A3-17 Cont.

Further, the Pechanga Tribe believes that if human remains are discovered, State law would apply and the mitigation measures for the permit must account for this. According to the California Public Resources Code, § 5097.98, if Native American human remains are discovered, the Native American Heritage Commission must name a "most likely descendant," who shall be consulted as to the appropriate disposition of the remains. Given the Project's location in Pechanga territory, the Pechanga Tribe intends to assert its right pursuant to California law with regard to any remains or items discovered in the course of this Project. A3-18

#### PROJECT MITIGATION MEASURES

The Tribe appreciates that the general intent for the Project is to avoid sites through Project design and requests that the CPUC and SCE specifically commit to working with the Tribe on avoidance of Site CA-RIV-714 and in placement of ESA's for additional site avoidance. In addition, the Tribe is requesting the following revisions and additions to the proposed mitigation measures: A3-19

**MM CUL-1a (Avoid Environmentally Sensitive Areas):** Known historic resources located within the project area shall be designated as Environmentally Sensitive Areas, and will include a buffer of 100 feet beyond historic site boundaries. Appropriate site boundaries will be delineated in a Cultural Resources Monitoring and Treatment Plan (CRTP) developed in consultation with the Pechanga Tribe. All personnel involved in construction activities shall be instructed on how to avoid an Environmentally Sensitive Area prior to construction operations. Avoidance of Environmentally Sensitive Areas shall be achieved by shifting the proposed subtransmission line route, by spanning the site, by not placing any new utility poles or access roads, or redesigning the footprint of a facility. Design of access roads and pole locations shall result in complete avoidance of historic resources. A qualified archaeologist and/or architectural historian, as well as a Native American Representative from the Pechanga Tribe, shall be on site to monitor all ground-disturbing work within 1000 feet of an Environmentally Sensitive Area. A3-20

**MM CUL-1b (Cultural Resources Treatment Plan):** There are resources within the project area whose eligibility for the CRHR is undetermined due to lack of evidence. These resources may be found to be considered significant archaeological or cultural resources pending further investigation. If avoidance of these resources is *not* feasible, each site identified in the sections above as having an undetermined eligibility status must be tested and evaluated. The applicant and project archaeologist shall consult with the Pechanga Tribe regarding any testing plans, and the Pechanga Tribe shall be allowed to participate in the testing and evaluation of resources. A3-21

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Testing and evaluation may consist of surface collection and mapping, limited subsurface excavations, and the appropriate analyses and research necessary to characterize the artifacts and deposit from which they originated, archival research, and photo-documentation. Upon completion of the test level investigations for sites determined to be unique archaeological sites or historical resources as set forth in CEQA Guidelines Section 15064.5 the archaeologist, in consultation with the Pechanga Tribe, shall submit its recommendations to the CPUC in a "Cultural Resources Treatment Plan" (CRTP) on the measures that shall be implemented to protect the sites. Appropriate measures for unique archaeological resources or historical resources could include preservation in place through planning construction to avoid the resources, capping cultural resources deposits with a layer of chemically stable soil, or incorporation of sites in to parks, greenspace, or other open space. After consultation with the CPUC, the Project Archaeologist and the Pechanga Tribal Representative, in the event that the preservation of the resources is not feasible the CRTP should detail an appropriate data recovery plan which makes provisions for adequately recovering the scientifically and culturally consequential information from and about the resource in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitation, Restoring, and Reconstructing Historic Buildings (1995). Such studies shall be deposited with the California Historical Resources Regional Information Center. Any excavations of archaeological resources shall be monitored by a Native American Pechanga Tribal Representative. A report detailing the results of all evaluation and data recovery activities shall be completed and submitted to the CPUC as well as the Eastern Information Center, the Pechanga Tribe, and other agencies, as appropriate. Any artifacts recovered as a result of mitigation shall be donated to a qualified scientific institution or approved curation facility where they would be afforded long term preservation to allow future scientific study.<sup>7</sup>

A3-21  
Cont.

The CRTP shall address procedures for working in Environmentally Sensitive Areas or other areas deemed sensitive for encountering cultural resources. The CRTP shall include detailed procedures for encountering cultural resource sites or isolates; encountering human remains; requirements for contacting personnel qualified to assess a discovery and its treatment; collections ~~and curation~~<sup>6</sup> requirements; and compliance with applicable laws and regulations. Avoidance of known cultural resources is central to the current project objectives; however, the CRTP shall define protocol ~~to reduce impacts to~~ that will address undiscovered cultural resources that may be encountered during construction ~~to a Class II impact.~~

**MM CUL-1c (Construction Monitoring):** Prior to any ground disturbing activities taking place in conjunction with the project the applicant shall provide evidence that an archaeologist

A3-22

<sup>7</sup> Commentary: The Tribe objects to curation of cultural resources that will be found on this project with an institution other than the Tribe itself. Pechanga has an established practice with all agencies in its traditional territory to repatriate resources affiliated with the Tribe. We recall no landowner that has objected to this practice. Pechanga has curatorial facilities that meet industry standards. Moreover, the CPUC has no legal obligation to curate these resources in a "professionally acceptable repository," a repository that meets federal standards or any established repository.

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has been retained by the landowner or subsequent project applicant and that the consultant(s) will be present during all grading and other significant ground disturbing activities. These archaeological consultants shall be selected from the roll of qualified archaeologists maintained by the County of Riverside. The project applicant shall also provide evidence of an agreement with the Pechanga Tribe pursuant to MM CUL-1e. Should any cultural resources be discovered, the monitors is are authorized to stop all grading in the immediate area of the discovery, and shall make recommendations to the CPUC on the measures that shall be implemented to protect the discovered resources, including but not limited to excavation and evaluation of the finds in accordance with Section 15064.5 of the CEQA Guidelines. If the resources are determined to be "historic resources" as defined in Section 15064.5, mitigation measures shall be identified by the ~~monitor~~ project archaeologist in consultation with the Pechanga Tribe and recommended to the CPUC. Appropriate treatment for such previously undiscovered resources should be in accordance with the CRTP implemented in MM CUL-1b. No further grading shall occur in the area of the discovery until the CPUC approves the measures to protect these resources. ~~Any archaeological artifacts recovered as a result of monitoring and mitigation shall be submitted to an approved curation facility for storage.~~<sup>6</sup>

A3-22  
Cont.

All construction activities in Environmentally Sensitive Areas, or any other area of the project deemed sensitive for containing cultural resources shall be monitored by a qualified archaeologist and Pechanga Tribal Representative. Since significant portions of the project site contain sedimentary deposits that are sensitive to having buried cultural resources, ~~then~~ full time cultural resources monitoring should be implemented during all phases of ground disturbing work in these areas (Figure D.5-1). A cultural resource monitor must meet the Secretary of the Interior Standards Qualifications as a professional archaeologist, and must be on the County of Riverside Cultural Resources Consultants list. The archaeological monitor(s) must also be familiar with the project area and therefore capable of anticipating the types of cultural resources that may be encountered.

**MM CUL-1d (Human Remains):** In the event of the accidental discovery or recognition of human remains during project construction, the following steps shall be taken: There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until the Riverside County Coroner is contacted to determine if the remains are prehistoric and that no investigation of the cause of death is required. ~~If the coroner determines the remains to be Native American, then the coroner shall contact the Native American Heritage Commission within 24 hours, and the Native American Heritage Commission shall identify the person or persons it believes to be the MLD from the deceased. The MLD may make recommendations to the landowner or the person responsible for the excavation work for means of treating or disposing of, with appropriate dignity, the human remains and associated grave goods as provided in PRC Section 5097.98. Further, pursuant to California Public Resources Code Section 5097.98(b) remains shall be left in place and free from disturbance until a final decision as to the treatment and disposition has been made. If the Riverside County Coroner determines the remains to be Native American, the Native American Heritage Commission shall be contacted within a reasonable timeframe. Subsequently, the Native~~

A3-23

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American Heritage Commission shall identify the "most likely descendant." The most likely descendant shall then make recommendations, and engage in consultations concerning the treatment of the remains as provided in Public Resources Code 5097.98.<sup>8</sup> | A3-23  
Cont.

**MM CUL-1e (Cultural Resources Treatment and Monitoring Agreement):** At least 30 days prior to beginning project construction, the project applicant shall contact the Pechanga Tribe to notify the Tribe of grading, excavation and the monitoring program, and to coordinate with the CPUC and the Tribe 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 Pechanga Tribal monitors during grading, excavation and ground disturbing activities; project grading and development scheduling; terms of compensation; and treatment and final disposition of any cultural resources, sacred sites, and human remains discovered on the site. | A3-24

**MM CUL-1f (Relinquishment of Items):** The landowner shall 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. | A3-25

**MM CUL-1g (Inadvertent Discoveries):** If inadvertent discoveries of subsurface archaeological resources are discovered during grading, the project applicant, the Project Archaeologist, and the Pechanga Tribe shall assess the significance of such resources and shall meet and confer regarding the mitigation for such resources. If the project applicant and the Tribe cannot agree on the significance or the mitigation for such resources, these issues will be presented to the CPUC for decision. The CPUC shall make the determination based on the provisions of the California Environmental Quality Act with respect to archaeological resources and shall take into account the religious beliefs, customs, and practices of the Tribe. | A3-26

The Pechanga Tribe looks forward to working together with the CPUC and SCE in protecting the invaluable Pechanga cultural resources found in the Project area. Please contact me at 951-308-9295 X8104 once you have had a chance to review these comments so that we might address the issues concerning the mitigation language. Thank you.

Sincerely,



Anna Hoover  
Cultural Analyst

Cc Pechanga Office of the General Counsel  
Brenda Tomaras, Tomaras & Ogas, LLP

<sup>8</sup> Commentary: The suggested language for addressing human remains does not reflect the existing code. The law was recently updated and our suggested revisions bring this MM up to date with the current law.

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## Responses to A3 Comments Pechanga Band of Luiseño Indians

- A3-1** Your statement is included in the public record and will be taken into account by decision-makers when they consider the proposed Project. The mailing address for the Pechanga Band of Luiseño Indians (the Tribe) is included on to the Project mailing list. The Draft EIR and other documentation, key dates, and project status information are available on the Internet at <http://www.cpuc.ca.gov/Environment/info/ene/ivyglen/ivyglen.html>. In addition, refer to the revisions made to MM CUL-1b on page D.5-16 of the Draft EIR (Section 4.5 of the Final EIR).
- A3-2** The CPUC acknowledges that the project area crosses culturally sensitive territory of the Pechanga Band of Luiseño Indians.
- A3-3** The CPUC notes that Luiseño rock art may be found in the project area.
- A3-4** Site CA-RIV-714 is discussed on page D.5-11, D.5-17, and D.5-22 of the Draft EIR. In addition, refer to the response to comment A3-2.
- A3-5** Please refer to the response to comment A3-2.
- A3-6** Your statement is included in the public record and will be taken into account by decision-makers when they consider the proposed Project.
- A3-7** The Pechanga Band of Luiseño Indians may contact the Applicant for further information about the Project or to request further involvement with the Project.
- A3-8** The counter theory to the Shoshonean Wedge theory has not been vetted in academic literature. The summary presented in D.5.1.2 is a summary of the current accepted literature. Your statement is included in the public record and will be taken into account by decision-makers when they consider the proposed Project.
- A3-9** Please refer to the responses to comments A3-2 and A3-4. In addition, mitigation for sites RIV-8103 and RIV-8104 is discussed in on page D.5-18 of the Draft EIR.
- A3-10** Please refer to the response to comment A3-4.
- A3-11** MM CUL-1c stipulates that a cultural resources monitor be present for all earth-moving activities during the Project. This was established as a mitigation measure due to the sensitivity of the project area with regard to cultural resources and the potential for subsurface cultural deposits. MM CUL-1b stipulates that the Cultural Resources Treatment Plan outline procedures to be followed when unanticipated discoveries are made.
- A3-12** Please refer to the response to comment A3-11.
- A3-13** Your statement is included in the public record and will be taken into account by decision-makers when they consider the proposed Project.
- A3-14** The avoidance of cultural resources during construction of the Project is the preferred action; however, unavoidable impacts will be treated in accordance with all applicable laws. Your

statement is included in the public record and will be taken into account by decision-makers when they consider the proposed Project.

**A3-15** Please refer to the responses to comments A3-1 and A3-7.

**A3-16** Please refer to the response to comment A3-7.

**A3-17** Please refer to the responses to comments A3-7 and A3-11. Additionally, see MM CUL-1b and MM CUL-1c.

**A3-18** MM CUL-1d outlines the steps required by California law when human remains are discovered. Please refer to the revisions made to MM CUL-1d on page D.5-17 of the Draft EIR (Section 4.5 of the Final EIR).

**A3-19** Please refer to the responses to comments A3-4 and A3-21.

**A3-20** Your statement is included in the public record and will be taken into account by decision-makers when they consider the proposed Project.

**A3-21** Please refer to the revisions made to MM CUL-1b on page D.5-16 of the Draft EIR (Section 4.5 of the Final EIR).

**A3-22** Please refer to the response to comment A3-20.

**A3-23** Please refer to the revisions made to MM CUL-1d on page D.5-17 of the Draft EIR (Section 4.5 of the Final EIR).

**A3-24** Please refer to MM CUL-1b and MM CUL-1c and the responses to comments A3-1 and A3-20.

**A3-25** Please refer to the responses to comments A3-7 and A3-20. Additionally, see MM CUL-1b.

**A3-26** Please refer to MM CUL-1b and MM CUL-1c and the responses to comments A3-11 and A3-20.

## A4 Comments

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY

ARNOLD SCHWARZENEGGER, Governor

### DEPARTMENT OF TRANSPORTATION

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PLANNING  
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August 17, 2009

Mr. Jensen Uchida  
State of California  
Public Utilities Commission  
555 Van Ness Avenue  
San Francisco, CA 94102

Valley-Ivyglen Subtransmission Line and Fogarty Substation Project; Draft Environmental Impact Report SCH No. 2008011082; RIV-15-PM 23.850\31.899; RIV-74-PM 17.821\28.914; RIV-215-PM 22.760

Dear Mr. Uchida:

We have completed our review of the Valley-Ivyglen Subtransmission Line and Fogarty Substation Project Draft Environmental Impact Report (DEIR). The project proposes a 25-mile subtransmission line which spans through the City of Perris, the City of Lake Elsinore, and the Glen Ivy/Corona Lake area, and transverses Interstate 15 (I-15), State Route 74 (SR-74), and Interstate 215 (I-215). The project also includes the Valley Substation located at the southwest corner of State Highway 74 East and Menifee Road, the Ivyglen Substation located on the south side of Temescal Canyon Road between Maitri Road and the I-15, and the proposed Fogarty Substation which would be located in the northern portion of the City of Lake Elsinore across from the temporary Dryden Substation.

The DEIR illustrates that the proposed project will not cause a cumulative increase in traffic or partake in activities that significantly impact State facilities. Activities during the construction phase of the project may cause temporary traffic impacts on I-15, I-215, and SR-74. All potential transportation impacts are identified and sufficiently addressed in DEIR Section D12.3 Project Impacts and Mitigation, Section D12.3.2 Applicant Proposed Measures, and Section D12.3.3 Impacts Analysis. No additional mitigation measures will be required at this time.

A4-1

Although portions of the proposed project are within the applicants owned right-of-way (ROW), policies and regulations that govern the State Highway System (SHS) take precedence and are applicable to all activities that impact the SHS. Public utility facilities will be granted permission to cross State highways; however the placement of longitudinal utilities within freeway and expressway ROW is prohibited under Department policy.

A4-2

Issuance of a Caltrans Encroachment Permit will be required prior to any construction within the ROW and shall be in compliance to all current design standards, applicable policies, and

A4-3

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Mr. Jensen Uchida  
August 17, 2009  
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construction practices. Please reference the Encroachment Permits Manual ([http://www.dot.ca.gov/hq/traffops/developserv/permits/encroachment\\_permits\\_manual/index.html](http://www.dot.ca.gov/hq/traffops/developserv/permits/encroachment_permits_manual/index.html)) Chapter 600 Utility Permits for applicable requirements. In addition to the requirements set forth in the Encroachment Permits Manual, we also recommend referencing the Right of Way Manual (<http://www.dot.ca.gov/hq/row/rowman/manual/>) Chapter 13 and the Project Development Procedures Manual (<http://www.dot.ca.gov/hq/oppd/pdpm/pdpmn.htm>) Chapter 17.

A4-3  
Cont.

A4-4

Thank you for providing us this opportunity to review the Valley-Ivyglen Subtransmission Line and Fogarty Substation Project DEIR and for your consideration of these and future comments. These recommendations are preliminary and summarize our review of materials provided for our evaluation. If you have questions concerning these comments, or would like to meet to discuss our concerns, please contact me at (909) 383-4557 for assistance.

Sincerely,



DANIEL KOPULSKY  
Office Chief  
Community Planning, IGR/CEQA Review

c: Richard Goh, Encroachment Permits D8

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## **Responses to A4 Comments**

### **California Department of Transportation**

- A4-1** Your statement is included in the public record and will be taken into account by decision-makers when they consider the proposed Project.
- A4-2** It is acknowledged that the Applicant would be granted permission to cross state highways but that the placement of longitudinal utilities within freeway and expressway rights-of-way is prohibited under California Department of Transportation policy. The applicant will comply with all Department permitting requirements and policies for construction and operation of the Project. Your statement is included in the public record and will be taken into account by decision-makers when they consider the proposed Project.
- A4-3** Refer to the revisions to pages D.12-7 and I.13 of the Draft EIR (Final EIR Sections 4.5 and 4.10). In addition, the required encroachment permit is noted in Table B.6-1 of the Draft EIR.
- A4-4** Refer to the response to comment A4-3.



A5 Comments

08/25/2009 16:55 FAX 7609180638

US FISH AND WILDLIFE

001/008



United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Ecological Services  
Carlsbad Fish and Wildlife Office  
6010 Hidden Valley Road, Suite 101  
Carlsbad, California 92011-4213



FACSIMILE TRANSMITTAL FORM

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<b>TO:</b>	<b>FAX NUMBER:</b>		
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<b>FOR:</b>	Karen Goebel and Kathleen Pollett (ext. 357)		
<b>SUBJECT:</b>	Valley-Ivyglen Subtransmission Line and Fogarty Substation Project Draft EIR SCH No. 2008011082, Riverside County		
<b>COMMENTS:</b>			

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In Reply Refer To:  
FWS/CDFG-WRIV-09B0400-09TA1055

AUG 25 2009

Mr. Jensen Uchida  
California Public Utilities Commission  
555 Van Ness Avenue  
San Francisco, California 94102-3298

Subject: Valley-Ivyglen Subtransmission Line and Fogarty Substation Project Draft  
Environmental Impact Report – SCH No. 2008011082, Riverside County, California

Dear Mr. Uchida:

The California Department of Fish and Game (Department) and the U.S. Fish and Wildlife Service (USFWS), collectively referred to as the Wildlife Agencies, have reviewed the Valley-Ivyglen Subtransmission Line and Fogarty Substation Project Draft Environmental Impact Report (DEIR), which the USFWS received July 6, 2009. We requested an extension of the public comment period and appreciate your willingness to extend the deadline for our comments until August 25, 2009. As we understand, the California Environmental Quality Act (CEQA) Lead Agency is the California Public Utilities Commission (CPUC) and Southern California Edison (SCE) is the project applicant for the proposed project, which is located in western Riverside County and would traverse the City of Perris, City of Lake Elsinore, and the Glen Ivy/Corona Lake area.

The USFWS has legal responsibility for the welfare of migratory birds, anadromous fish, and endangered animals and plants occurring in the United States. The USFWS is responsible for administering the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*). The Department is a trustee and responsible agency under CEQA and is responsible for ensuring appropriate conservation of fish and wildlife resources including rare, threatened, and endangered plant and animal species, pursuant to the California Endangered Species Act, and administers the Natural Community Conservation Planning Program (NCCP) pursuant to the NCCP Act (California Fish and Game Code 2800 *et seq.*). The Department is also a responsible agency regarding any discretionary actions (CEQA Guidelines section 15381), such as a Streambed Alteration Agreement or a California Endangered Species Incidental Take Permit (Fish and Game Code Sections 2080 and 2080.1). The Wildlife Agencies offer the following comments and recommendations regarding project-associated biological impacts based on our review of the DEIR.

The central purpose of CEQA is as an informational document (Section 15002). The Lead Agency is required under CEQA Statute to identify potential, significant environmental impacts, inform the public and agencies of these impacts [Section 15002(a)], and avoid or mitigate any significant impacts [Section 15370 and 15021(a)]. CEQA also requires that the "significance" of



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environmental effects be based upon scientific and factual data. Section 15088.5 requires that an Environmental Impact Report (EIR) be recirculated when significant new information is added to the EIR after public notice is given of the availability of the DEIR.

The proposed project occurs within the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) Area. The USFWS issued a section 10(a)(1)(B) permit on June 22, 2004 for the MSHCP. The Department also issued Natural Community Conservation Plan Approval and Take Authorization for the MSHCP as per Section 2800, *et seq.*, of the California Fish and Game Code. The MSHCP establishes a multiple species conservation program to minimize and mitigate habitat loss and the incidental take of covered species in association with activities covered under the permit. Compliance with approved habitat plans, such as the MSHCP, is discussed in CEQA. Section 15125(d) of the Guidelines for the Implementation of the California Environmental Quality Act requires that an EIR discuss any inconsistencies between a proposed project and applicable general plans and regional plans, including habitat conservation plans and natural community conservation plans.

The proposed project includes the construction of a new substation (Fogarty) in the northern portion of the City of Lake Elsinore, upgrades to existing Ivyglen and Valley Substations, creation of approximately 25 miles of electrical subtransmission and telecommunication lines between Valley and Ivyglen Substations (portions of this line currently exist), and creation of two telecommunication lines between Ivyglen, the existing Elsinore Substation and the proposed Fogarty Substation. The Valley Substation is located east of Interstate 215 and State Highway 74 near the City of Perris. The Ivyglen Substation is located on the south side of Temescal Canyon Road between Maitri Road and Interstate 15.

To construct the proposed subtransmission/telecommunication lines from Ivyglen to the Valley Substation, installation of approximately 620 light-duty steel poles and 45 tubular steel poles with concrete footings will be necessary. The majority of the telecommunication lines will integrate with the subtransmission line poles and will not require underground routes. Approximately 3,000 feet of underground line would be installed including 300-foot segments leading to the Ivyglen and the Valley Substation sites and 2,400 feet at the proposed Fogarty site. The upgrades to the Ivyglen and Valley Substations would take place within the footprint of the existing structures. Staging areas would be located at the existing Valley Substation, Ivyglen Substation, San Jacinto Valley Service Center, and the Rialto facility. Access and spur roads would be required for construction and maintenance of the subtransmission lines.

The DEIR includes an analysis of the proposed route and five other alternatives, including a No Project Alternative (Alternative 1). The subtransmission routes were divided into western (W), central (C), and eastern (E) sections for comparison. The proposed route exits the Valley Substation and runs west crossing Interstate 215 until it reaches Highway 74 (Section E-1), it then turns south and runs adjacent to Highway 74 until Conrad street (C-1), where it follows Rostrata Avenue, Mermack Avenue, Stonehouse Road, and El Toro Road (C-3, C-4) until it reaches Nichols road. It parallels Nichols road and crosses Interstate 15 (I-15) to the south (C-6). It generally traverses northwest through Pacific Clay mining site and follows I-15 (W-1, W-4), then

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crosses to the north of I-15 and parallels the interstate extending northwest until it crosses I-15 to the south again to reach the Ivyglen Substation. In general Alternative 2 would be north of the proposed alternative in the eastern and western section, and would bypass the City of Lake Elsinore and traverse more mountainous terrain in the central section. Alternative 3 is similar to the proposed route but traverses less populated areas in the City of Lake Elsinore, and Alternative 4 would construct the Fogarty Substation in an alternate site. Alternative 5 is similar to the proposed route in the eastern section; however, in the central portion of the route it crosses I-15 at Dexter Avenue instead of Nichols road, and the western section would be located in the Castle and Cooke trail and utility corridor on the south side of I-15. The western portion of Alternative 5 would be located adjacent with existing lines and not traverse through undeveloped land, unlike the proposed route. Alternative 5 is identified as the Environmentally Superior Alternative, but was not selected as the proposed route due primarily to visual impacts to I-15.

Based on our review, the subject DEIR is inadequate in describing project related impacts, particularly in regards to: 1) State and federally listed and sensitive species; 2) sensitive vegetation communities such as riparian and coastal sage scrub; 3) the MSHCP; 4) State jurisdictional streambed resources; and 5) identifying appropriate mitigation for purposes of CEQA (CEQA, Section 15125 (d)).

Project specific impacts to biological resources were not adequately identified in the DEIR but rather states that the biological impact analysis will be assessed when there is a final project design. The DEIR outlines measures to avoid, minimize, and mitigate for impacts but design features and the feasibility of avoidance are not addressed. The mitigation measures in the DEIR include avoiding impacts to bird nests, scheduling construction outside of the avian breeding season, flagging and protecting existing sensitive plants in the project survey area, pre-construction surveys for terrestrial special status species, having a wildlife biologist on-site during construction, avoidance and minimization of impacts to jurisdictional waters, an analysis of impacts to jurisdictional waters, erosion control measures, use of Best Management Practices and demonstrating consistency with the MSHCP. However, without knowledge of the impacts, it is not possible to assess if the proposed mitigation measures are adequate. We recommend that a thorough analysis of project related impacts to biological resource be conducted and appropriate mitigation measures be identified in a revised and re-circulated DEIR.

State and Federal Listed and Sensitive Species

Surveys for the federally listed coastal California gnatcatcher (*Poliopitila californica californica*; gnatcatcher) have not been conducted; however, suitable habitat is present and surveys will need to be conducted. The DEIR lacks a discussion of the suitability of the project area to support federally listed Riverside (*Streptocephalus woottoni*) and vernal pool fairy shrimp (*Branchinecta lynchi*). Habitat suitable for fairy shrimp needs to be assessed and if suitable habitat is present, appropriate protocol surveys conducted to determine if fairy shrimp are present.

A5-1  
A5-2

Surveys for burrowing owls (*Athene cunicularia hypugaea*) were conducted in 2007 with negative results. Surveys conducted in 2007 for the State and federally listed least Bell's vireo

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(*Vireo bellii pusillus*, "LBV") and southwestern willow flycatcher (*Empidonax traillii extimus*) found LBV throughout the survey period near the San Jacinto River (route E-1) and near Temescal Creek (routes W-1B, W-3B). Several willow flycatchers were observed near the same areas but were detected in early May and were determined by the biological consultant to not be the listed species. Information regarding the presence or absence of Federal, State, and sensitive species need to be included in a revised and re-circulated DEIR. The revised DEIR should provide the survey results and include actual survey reports as part of the appendices. Please note that surveys conducted more than a year old with negative results may not be valid as species may have subsequently moved into the project area; therefore, surveys should be updated to verify previous results. The updated survey information should be included in the revised DEIR.

A5-3

A5-4

A5-5

Surveys for sensitive plants were conducted by AMEC Earth and Environmental Inc. (AMEC) in 2006 and 2007 and by Entrix Inc. in 2006. Surveys from AMEC were submitted with the DEIR but the Entrix Inc. surveys were not provided. To adequately assess impacts to sensitive species, we request the Entrix Inc. surveys be included in the re-circulated DEIR. In addition, it does not appear the Fogarty substation footprint was assessed for sensitive plant species. The DEIR identifies potential permanent impacts to a population of long-spined spineflower (*Chorizanthe polygonoides*) on the Fogarty site, but the sensitive plant surveys do not address this. We recommend that the revised DEIR include information addressing potential impacts and appropriate mitigation measures for the long-spined spineflower as well as a habitat assessment/surveys for sensitive plants on the Fogarty Subtransmission site.

A5-6

A5-7

Two populations of the federally endangered and State threatened Munz's onion (*Allium munzii*) and a population of small-flowered morning glory (*Convolvulus simulans*) were identified in close proximity of each other within the proposed subtransmission line's route W-4 (AMEC 2006). These species are commonly associated with clay soil and the soils surrounding the area are Altamont clay. The federally endangered San Diego ambrosia (*Ambrosia pumila*) was located near Ivyglen in route W-10 but a map of the location was not included (Entrix Inc. 2006). Please submit a map of this location and any other information pertaining to the population (i.e. number of individuals found, time of year surveyed, etc.) In route W-1 at the edge of route C-6, adjacent to Nichols road, San Diego ambrosia and smooth tarplant (*Hemizonia pungens*) were found (Entrix 2006). This area is a historically and currently known population of San Diego ambrosia and has been identified as a priority for conservation in the Species Specific Objective 2 of the MSHCP.

A5-8

A5-9

The DEIR states that direct and indirect impacts to sensitive species will be avoided, if feasible. Munz's onion is a bulb species and in any given year, some individuals may bloom while others can remain dormant in the ground. San Diego ambrosia spreads vegetatively by means of underground root-like rhizomes. Impacts to these species would be considered significant and we recommend avoiding direct impacts to individuals and areas of suitable soils surrounding the locations. To avoid indirect impacts, the drainage area and potential introduction of invasive species should be assessed. Measure to address potential indirect effects should be identified in the revised DEIR. In addition, a description, including maps with topography and soils, of

A5-10

A5-11

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sensitive plant areas to be avoided by the proposed project needs to be provided in the re-circulated DEIR.

A5-11  
Cont.

The DEIR states that if impacts to the sensitive plant species are unavoidable, a certified botanist will be consulted to determine the best method for preservation of the affected population. After project construction is complete, the affected species will be reintroduced to its original location. If the original location is made unsuitable by project construction, the populations will be relocated to the most proximate feasible location. SCE will submit a post construction monitoring report to demonstrate that there is at least a 1:1 ratio of original preconstruction and post-construction populations 2 years after project completion. The Wildlife Agencies are concerned that salvage of sensitive plant species is often unsuccessful in providing for long term conservation and at this time no specific salvage plan has been developed. All measures to avoid impacts to sensitive plant species should be thoroughly evaluated before salvage is considered. In the event that salvage of sensitive plant species is proposed for unavoidable impacts, salvage is not considered mitigation. Therefore, once project impacts are identified mitigation for the impacts should be described. The issue of salvage and appropriate mitigation measures needs to be addressed in a revised DEIR. Any salvage efforts of federally or State listed plant species should be coordinated with the Wildlife Agencies.

A5-12

A5-13

For federally listed species that avoidance of direct and indirect impacts is not feasible, the project will require either a section 7 consultation or an individual section 10(a)(1)(B) permit pursuant to the Act. A CESA Permit must be obtained if the project has the potential to result in take of species of plants or animals listed under CESA, either during construction or over the life of the project.

A5-14

**Sensitive Vegetation Communities**

The dominant vegetation communities in the study area of the proposed project are coastal sage scrub, grasslands, agriculture, Riversidean alluvial fan sage scrub (RAFSS), riparian scrub/woodland/forest, vernal pools, open water, and developed/disturbed land. Although the DEIR states that impacts to sensitive vegetation communities will be avoided, if feasible, other portions of the DEIR state that sensitive communities may be impacted. For example, section D of the DEIR states that the construction of the project and the 16 miles of new unpaved roads could impact up to 18.80 acres of previously undisturbed coastal sage scrub. In order to adequately assess project related impacts to sensitive vegetation communities, impacts need to be quantified by vegetation community and specific mitigation measures identified that will address the impacts.

A5-15

**MSHCP**

The proposed project occurs within proposed conservation areas of the MSHCP, specifically in Proposed Core 1, Proposed Extension of Existing Core 2, and Proposed Linkage 7. Proposed Core 1 is located in the Alberhill area and exists on the east and west of I-15. Key populations identified within this area include coastal California gnatcatcher, Munz's onion, and many-stemmed dudleya (*Dudleya multicaulis*). Proposed Extension of Existing Core 2 is located in the

A5-16



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Lake Mathews/Estelle Mountains and is connected to Proposed Linkage 1 and Proposed Constrained Linkages 3, 4, and 5 (Horsethief Canyon, Temescal Wash). The extension provides habitat for several sensitive species including coastal California gnatcatcher. Proposed Linkage 7 provides for movement of species along the San Jacinto River. MSHCP planning species in this linkage include coastal California gnatcatcher, and LBV. Proposed Linkage 7 also contains the Traver-Willow-Domino soils series, which is capable of supporting several narrow endemic plant species such as San Jacinto Valley crownscale (*Atriplex coronata* var. *notatior*), and spreading navarretia (*Navarretia fossalis*). Maintenance of water quality and existing functions and values of wetland habitats associated with the San Jacinto River are important for Proposed Linkage 7.

A5-16  
Cont.

The DEIR states that it will satisfy acquisition obligations through the Habitat Evaluation and Acquisition Negotiation Strategy (HANS). However, no further information is provided. Impacts from the proposed project to Proposed Core 1, Proposed Extension of Existing Core 2, and Proposed Linkage 7, and the MSHCP species-specific objectives were not adequately addressed in the DEIR. An impact assessment of the impacts to the MSHCP is necessary to address CEQA requirements.

A5-17

Language within the DEIR states that SCE is a Participating Special Entity (PSE) to the MSHCP. Although SCE has received certificates of inclusion for previous projects, we are not aware of any submittals for this project to the Western Riverside County Regional Conservation Authority (RCA). We encourage the project applicants to participate in the MSHCP and receive a certificate of inclusion to address impacts to State and Federal listed species as well as other sensitive species that are covered by the plan. In order to receive a certificate of inclusion for this specific project, the project proponents will need to apply to the RCA as a Participating Special Entity and provide documentation that the proposed project is consistent with MSHCP policies and procedures. At this time, the information in the DEIR is insufficient to demonstrate consistency with the plan. However, we recommend that the project proponents meet with the RCA and Wildlife Agencies to discuss this matter further.

A5-18

A5-19

MSHCP policies and procedures that would apply, if SCE seeks a certificate of inclusion for the proposed project through the PSE process, include the Protection of the Narrow Endemic Plant Species (MSHCP section 6.1.3), Protection of Species Associated with Riparian/Riverine areas and Vernal Pools (MSHCP section 6.1.2), Additional Survey Needs and Procedures (MSHCP section 6.3.2) for the burrowing owl and Criteria Area Species, and the Guidelines Pertaining to the Urban/Wildland Interface (MSHCP section 6.1.4).

State Jurisdictional Waters

The proposed project runs parallel to the San Jacinto River riparian corridor for approximately 2,000 feet (~600 meters) and crosses several other drainages. Although no impacts are specifically identified in the DEIR, it states on page D.4-37 that the project may permanently and temporarily damage wetlands and riparian habitats. The DEIR also states that wetland delineation will be necessary in order to determine the extent of jurisdiction. The re-circulated DEIR should address

A5-20

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the jurisdictional impacts and any mitigation proposed for wetland and riparian resources. If CEQA documents do not fully identify potential impacts to lakes, streams, and associated resources and provide adequate avoidance, mitigation, monitoring, and funding sources, additional CEQA documentation is required prior to execution (signing) of a Streambed Alteration Agreement. Streambed Alteration Agreement negotiations conducted after and outside of the CEQA process deprive the public of its rights to know what project impacts are and how they are being mitigated in violation of CEQA Section 15002.

A5-20  
Cont.

Alternatives Analysis


The alternative selection process for the project is described in the DEIR and biological resources were not considered in the comparison of alternatives because impacts to biological resources were deemed to be less than significant with mitigation (see section E-2). However, as stated in the DEIR: "CEQA significance entails any impact to plant and wildlife species listed by Federal or State agencies as threatened or endangered, or of regional or local significance. A significant impact to listed or sensitive species could be direct or indirect, with impacts to rare or sensitive habitats also considered significant". Given the potential impacts to listed species described in the DEIR, we recommend the DEIR be re-circulated with an alternatives analysis that incorporates biological impacts as part of the evaluation process. Specifically, we request an alternative that includes E-2 combined with the central and western section of Alternative 5 be thoroughly examined.


A5-21

In summary, we request that the DEIR be revised and re-circulation in order to adequately: 1) identify impacts to biological resources including impacts to vegetation communities, streambed resources, and State and federally listed species; 2) identify mitigation measures to address direct and indirect impacts to biological resources; 3) discuss the proposed project and inconsistencies with the MSHCP; and 4) evaluate other project alternatives that give consideration to biological resource impacts as part of the analysis.

We appreciate the opportunity to comment on the subject DEIR. If you should have any questions pertaining to these comments, please contact Kathleen Pollett (USFWS) at (760) 431-9440 ext. 357 or Robin Maloney-Rames (Department) at 909-980-3818.

Sincerely,

  
Karen A. Goebel  
Assistant Field Supervisor  
U.S. Fish and Wildlife Service

  
Leslie MacNair  
Senior Environmental Scientist  
California Department of Fish and Game

cc:

Charles Landry, Western Riverside County Regional Conservation Authority, Riverside, CA



## Responses to A5 Comments

### United States Fish and Wildlife Service and California Department of Fish and Game

- A5-1** The Applicant has stated that they will become a Participating Special Entity (PSE) in the Western Riverside Multiple Species Habitat Conservation Plan (WRMSHCP), and therefore, surveys for Coastal California gnatcatcher will not be required. Compensation fees will be required as negotiated with the Riverside Conservation Agency (RCA). Please refer to the revisions to MM BIO-1a, 1d, 1e, and 1h, which were made to Section D.4.3.3 of the revised Biological Resources section (Chapter 5 of the Final EIR).
- A5-2** Vernal pools, which may offer suitable habitat for fairy shrimp, were located in field surveys conducted by the Applicant (AMEC 2006a, AMEC 2010, Entrix 2006). In 2009 and 2010, the pools were assessed for habitat suitability and protocol-level surveys for the listed Riverside and vernal pool fairy shrimp were conducted. A final report of those field surveys has not yet been made available by the Applicant, but GIS data and the first year survey report were available (AMEC 2010, Appendix G of Final EIR). The pools are located on both the proposed route and alternative segments. Per the Applicants' project description, these areas, as well as others that may offer suitable habitat for vernal pool invertebrates (e.g., stock ponds, seasonal depressional ponds), would be avoided by spanning. This means that suitable habitat areas would not be disturbed by construction, including pole installation, and installed lines would span the habitat areas. Additionally, the Applicant will become a PSE in the WRMSHCP, and according to Section 6.1.2 of that plan, focused surveys for these species are not required if habitat is avoided. Please refer to the text revisions and revisions to MM BIO-2a, which were made to Section D.4.3.3 of the revised Biological Resources section (Chapter 5 of the Final EIR).
- A5-3** Least Bell's vireo locations are recorded in the Applicant's biological reports. The presence of southwestern willow flycatcher at these locations will now be assumed because of the inconclusiveness of the 2007 and 2009 survey results. Impacts would be based on the acreage of riparian habitat impacted. Impacts to riparian vegetation would be mitigated at a minimum of a 1:1 ratio and high-quality riparian areas, such as in the San Jacinto River area, would be mitigated at a 2:1 ratio, as discussed and approved by the RCA and the Wildlife Agencies. Mitigation will include replanting impacted areas and/or supporting restoration at another site. Additionally, compensation to the MSHCP may be required for impacts to both riparian habitat and the species it may support. Please refer to text revisions, which were made to Section D.4.3.3 of the revised Biological Resources section (Chapter 5 of the Final EIR).
- A5-4** A draft version of the Applicant's biological report was prepared by Entrix in 2006, and a revised version of the final biological report was prepared by AMEC in 2006. These documents were not included in the Draft EIR but have been added as appendices to the Final EIR. Additional species-specific survey reports conducted by AMEC in 2007 and 2009 (Burrowing Owl, Least Bell's Vireo, Southwestern Willow Flycatcher, Yellow-billed Cuckoo, Listed Fairy Shrimp Species, and Narrow Endemic and Criteria Area Plant Species) are also included as appendices. Surveys conducted on the Fogarty Substation for plants and wildlife were not included in the Draft EIR; the survey report (AMEC 2006b) has been added as an appendix to the Final EIR.
- A5-5** Additional species presence may be discovered in a new survey. However, the document assumes there would be impacts to the species surveyed (e.g., Burrowing Owl, Least Bell's Vireo, Southwestern Willow Flycatcher, Yellow-Billed Cuckoo, and Narrow Endemic and Criteria Area Plant Species), and it is unlikely that new or additional wildlife or plant species sightings or occurrences would result in different significance determinations. Information lacking for the

Draft EIR on vernal pools and habitat suitability for vernal pool invertebrates was obtained by the Applicant in 2009 and 2010. Although final reports from these surveys are not currently available, we have incorporated results from the first surveys into the document. Additionally, MM BIO-1d, 1e, and 1f call for preconstruction clearance surveys to be conducted by a qualified biologist in suitable habitat for special status species. Please refer to Section D.4.1.6 and new Figures D.4-4 through D.4-8 in the revised Biological Resources section (Chapter 5 of the Final EIR). The revised section and figures include the results from the latest survey data available.

- A5-6** Refer to the response to comment A5-4.
- A5-7** Sensitive plants surveys were performed at the proposed Fogarty Substation site (AMEC 2006b). Protocol-level surveys identified long-spined spineflower on the site. Surveys also identified drainage habitat on the eastern portion of the site. Refer to Section D.4.1.6 and MM BIO-1b in the revised Biological Resources section (Chapter 5 of the Final EIR). In addition, refer to the response to comment A5-4.
- A5-8** The listing of this occurrence was a mistake in the text of the Draft EIR. Please refer to the changes made to Section D.4.1.6 of the revised Biological Resources section (Chapter 5 of the Final EIR).
- A5-9** Avoidance of direct impacts to special status plants, including Munz's onion, San Diego Ambrosia, and smooth tarplant, and associated suitable soils would be accomplished with the implementation of several measures. Preconstruction clearance surveys will be conducted to reconfirm the presence or absence of special status plants. Blooming for some species may be sporadic, and thus, the applicant will not rely on survey results alone to ensure full avoidance. Revisions to MM BIO-1b have been added to incorporate on-the-ground soil mapping during the preconstruction surveys, and a 100-foot buffer zone around sensitive plant populations. This will accurately define and flag the boundaries of sensitive soils (as defined by the MSHCP), surrounding known locations of special status plants and protecting the seedbank of unexpressed special status plants that may be present in these soils. For instance, the location where San Diego ambrosia and smooth tarplant were found on route W-1 is situated on MSHCP-identified sensitive soils (i.e., Altamont cobbly clay). These plant populations will be spanned by the Project. Please refer to Section D.4.3.3 of the revised Biological Resources section (Chapter 5 of the Final EIR).
- A5-10** Indirect impacts to special status plants from construction can occur through the alteration of drainage patterns, increased dust generation, and increased potential for invasive plant species. Avoidance of these indirect impacts to special status plants including Munz's onion, San Diego Ambrosia, and smooth tarplant will be addressed by mitigation measures. Please refer to the new MM BIO-1c and revised MM BIO-2b in Section D.4.3.3 of the revised Biological Resources section (Chapter 5 of the Final EIR).
- A5-11** Information is presented in the revised Biological Resources section (Chapter 5 of the Final EIR) about specific areas that would be avoided (e.g., areas with sensitive plants and associated sensitive soils along the proposed and alternative routes). Maps are presented that indicate the location of topography, soils, and sensitive areas. Refer to the revisions to Section D.4.3.3 and new Figures D.4-9 through D.4-13 in the revised Biological Resources section (Chapter 5 of the Final EIR).
- A5-12** Refer to the revisions to MM BIO-1b in the revised Biological Resources section (Chapter 5 of the Final EIR). The discussion about and proposal to salvage plants has been removed.

- A5-13** Refer to the response to comment A5-12.
- A5-14** The Applicant will apply to become a PSE in the WRMSHCP for the Project to obtain take authorization for impacts to special status plant or animal species. Both federal and state take authorizations are covered under the MSHCP. Please refer to the revisions made to Section D.4.3.3 of the revised Biological Resources section (Chapter 5 of the Final EIR).
- A5-15** Estimated Impacts from construction of the Project are quantified by vegetation community in Table D.4-1 in the revised Biological Resources section (Chapter 5 of the Final EIR). Mitigation measures to address impacts to sensitive vegetation communities such as riparian habitat and coastal sage scrub are also provided. Please refer to the revisions to MM BIO-1a, 2a, and 2b in the revised Biological Resources section (Chapter 5 of the Final EIR).
- A5-16** Upon becoming a PSE in the MSHCP, the Applicant will need to discuss with the RCA whether there are any acquisition obligations in the conservation areas to be impacted. However, PSEs are not required to go through the Habitat Evaluation and Acquisition Negotiation Strategy (HANS) process. Text referring to the HANS process was removed from the Draft EIR.
- A5-17** Impact assessment for conservation areas within the MSHCP is discussed under Impact BIO-5 in the revised Biological Resources section (Chapter 5 of the Final EIR).
- A5-18** At the time of publication of the Draft EIR, the Applicant was not a PSE in the MSHCP. Since publication of the Draft EIR, the Applicant has informed the CPUC that they will apply to the RCA for PSE status. Language in the text has been clarified to reflect this change. Please refer to the revisions to Section D.4.2.3 in the revised Biological Resources section (Chapter 5 of the Final EIR).
- A5-19** The Applicant and the CPUC met with the RCA and Wildlife Agencies on February 18, 2010, to discuss procedures, timing, and compliance requirements for becoming a PSE. In order for the Applicant to demonstrate consistency with the MSHCP in their PSE application, they must comply with Sections 6.1.2, 6.1.3, 6.1.4, and 6.3.2 of the MSHCP. With the current revisions to the Biological Resources section (Chapter 5 of the Final EIR), the Applicant has demonstrated compliance with these sections, and thus analysis under CEQA is satisfied. However, the final consistency determination for the Applicant to become a PSE for this project will be made by the RCA.
- A5-20** Although no formal jurisdictional wetland delineation was conducted for the Project, initial habitat assessments did identify wetlands, riparian resources, and vernal pools within the Project vicinity. Please refer to the responses to A5-2, A5-3, and A5-7 for revisions made to clarify survey methodology, locations, and results in the revised Biological Resources section (Chapter 5 of the Final EIR). Impacts to jurisdictional waters may occur from the Project, and thus, language has been added discussing those impacts and mitigation measures. Revisions to the text include calculations of acreage impacted at numerous locations along the proposed route where the transmission line would cross riparian habitat. For the impact assessment, it is assumed that impacts to riparian vegetation and bed and bank may occur within major rivers and drainages, thus, the worst case scenario has been used for the impact analysis. Please refer to the revisions to MM BIO-2a in the revised Biological Resources section (Chapter 5 of the Final EIR).

**A5-21** Biological impacts are discussed within Chapter E, Comparison of Alternatives, for Alternative 5, the environmentally superior alternative. A new alternative, Alternative 6, was added to Chapter 4 of the Final EIR that incorporates an assessment of Alternative Route Segment E-2 in conjunction with the central and western portions of Alternative 5 (Figure E-1 in Section 4.11 of the Final EIR). An analysis of the biological impacts associated with Alternative 6 is provided here. The analysis of biological resources for Alternative 5 and Alternative 6 resulted in the same conclusions with the exception of Segment E-2. Under Alternative 6, Segment E-2 would replace Segment E-1. Biological resources that may be impacted along Segment E-2 are described below.

Segment E-2 is 9.3 miles long, approximately 1.8 miles longer than Segment E-1. Only one mile of E-2 lies within an existing utility corridor where overhead poles and lines already exist. The construction of Alternative 6 would require the placement of Project infrastructure along approximately 8.3 miles where no utility lines are currently located. Existing habitat within Segment E-2 is primarily non-native grassland, developed/disturbed land, and agricultural fields (Figures D.4-1 through D.4-3 in the revised Biological Resources section (Chapter 5 of the Final EIR). There are patches of disturbed coastal sage scrub throughout the length of the segment. Approximately 0.25 miles of Segment E-2 would cross the San Jacinto River, where previously disturbed riparian scrub and southern willow scrub are located. Sensitive soils, as defined by the MSHCP, are located along the central portions of Segment E-2 in proximity to and just east of the San Jacinto River (Figures D.4-9 and D.4-10). These areas may provide habitat for special status plants, as previously discussed Section D.4.3.3 of the revised Biological Resources section (Chapter 5 of the Final EIR). Seasonal wetlands (approximately 0.21 acres) were identified in Segment E-2, primarily at the far eastern portion of the segment.

Field surveys were conducted along the length of Segment E-2 for habitat and to determine the potential for special status species presence (AMEC 2006, Entrix 2006). Wetlands were identified but not characterized or assessed for the presence of listed vernal pool invertebrates. Surveys conducted by the Applicant from 2008 to 2010 to satisfy the MSHCP were not performed for Segment E-2. Likewise, surveys for riparian birds were not conducted along Segment E-2. Several special status plants and wildlife have previously occurred within close proximity (i.e., within 0.25 miles) to Segment E-2 including thread-leaved brodiaea, spreading navarretia, burrowing owl, and Stephen's kangaroo rat (CNDDDB 2010). Segment E-2 provides habitat for the special status species listed in Tables D.4-2 and D.4-3 for the proposed route, although no special status species were found during field surveys.

Impacts from the Project on habitat for and individuals of special status species would occur with the construction of Segment E-2. Approximately 0.25 miles and 0.25 acres of riparian habitat would be disturbed by Alternative 6. Approximately 0.21 acres of wetlands would be disturbed. Riparian-dependent birds could occur within the riparian habitat present along Segment E-2. Without species-specific protocol level surveys, the presence of least Bell's vireo, southwestern willow flycatcher, and other special status riparian birds is assumed. Seasonal restrictions and restrictions on working within potentially occupied riparian habitat (MM BIO-1a, 1e, 1g, and 1h) would be applied to construction activities to avoid noise and other disturbance-related impacts to potential nesting and foraging riparian birds. Wetlands and special status species (i.e., fairy shrimp, western spadefoot toad, and foraging birds) would be impacted by the Project. Resources would be spanned by the Applicant, and thus directly avoided. Indirect impacts to these systems could still occur. MM BIO-2a and 2b would mitigate for indirect impacts on these systems as well as for direct impacts should Project modifications require fill or disturbance to wetlands.

Impacts to rare and narrow endemic plants would occur with the construction of Alternative 6. MSHCP sensitive soils that are known to support narrow endemic and listed species are found in large swaths of central Segment E-2. Although no special status plants were found during year one surveys, it is likely that these plant species occur in the area because of the soils and CNDDDB occurrences. The plant species have sporadic blooming patterns that are dependent on precipitation and other factors and could occur in suitable soils along Segment E-2; thus, presence is assumed along Segment E-2. Direct and indirect impacts to rare and endemic plants would be avoided and minimized by various measures (MM BIO-1a, 1b, and 1c). Impacts to trees would be mitigated by MM BIO-4a to less than significant.

Burrowing owl and Stephen's kangaroo rat have had recent occurrences within the Segment E-2 area and could be impacted by construction of the Project. Impacts to these species and any other special status wildlife, such as nesting raptors, MBTA birds, other mammals, reptiles, amphibians and invertebrates, will be avoided and reduced by MM BIO-1a, 1d, 1e, 1f, 1h, and 1i.

In summary, impacts to biological resources with the construction of Alternative 6 would be less than significant after implementation of mitigation measures. In terms of biological resource impacts, Alternative 6 is similar to Alternative 5. However, in terms of air quality, land use, and visual resources, Alternative 6 is worse than Alternative 5. Refer to the analysis of air quality, land use, mineral, and visual resources for Alternative 6 in Section 4.6 of the Final EIR. Alternative 6, as compared to the proposed Project, would not reduce any impacts on biological resources.