

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

In the Matter of the Application of San  
Diego Gas & Electric Company (U-902-E)  
for a Certificate of Public Convenience and  
Necessity for the Sunrise Powerlink  
Transmission Project

Application No. 05-12-014

**SUPPLEMENTAL PROTEST OF THE  
CENTER FOR BIOLOGICAL DIVERSITY AND SAN DIEGO CHAPTER OF THE SIERRA  
CLUB**

David Hogan  
Urban Wildlands Program Director  
Center for Biological Diversity  
P.O. Box 7745  
San Diego CA 92167

Telephone: 619-574-6800  
dhogan@biologicaldiversity.org

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Paul Blackburn  
San Diego Chapter, Sierra Club  
Sierra Club  
San Diego Chapter  
3820 Ray Street  
San Diego, CA 92104  
619-299-1741  
SDEnergy@sierraclubsandiego.org

## Introduction

Pursuant to Article 12 of the Commission's Rules of Practice and Procedure, the Center for Biological Diversity and San Diego Chapter of the Sierra Club ("Conservation Groups") hereby submit their Supplemental Protest to San Diego Gas & Electric Company's ("SDG&E") Application for a Certificate of Public Convenience and Necessity ("CPCN") for the "Sunrise Powerlink" Transmission Line Project (also "Project" or "Powerlink"). This filing is intended to supplement the Conservation Groups' Preliminary Protest filed on January 30, 2006 in order to provide the Commission with knowledge of Conservation Groups' issues prior to the prehearing conference held January 31, 2006. SDG&E submitted its Application for Certificate of Public Convenience and Necessity for the Sunrise Powerlink Transmission Project ("Application") on December 14, 2005, which the California Public Utilities Commission ("Commission" or "CPUC") docketed on December 19, 2005. By letter dated January 10, 2006, the Commission extended the protest and pleadings period to February 17, 2006, and therefore this Protest is timely.

In its application, SDG&E proposes (1) to postpone certain Certificate of Public Convenience and Necessity requirements for the above application, and (2) to set an expedited and bifurcated schedule for processing the Application.

The Conservation Groups oppose SDG&E's attempts to defer certain application filing requirements and oppose SDG&E's proposed expedited and bifurcated schedule because these actions will limit meaningful review of the impacts of the Powerlink on people and the natural environment and because they will limit public participation. The groups have previously expressed this opposition on procedural grounds with a Motion for Determination of Applicability of the California Environmental Quality Act filed on January 20, 2006 ("CEQA

Motion”) and a Response in Opposition (“Response”) filed on January 27, 2006. The Conservation Groups also expressed this opposition during testimony at the Prehearing Conference on January 31, 2006. Issues raised and details presented in the CEQA Motion, Response, and prehearing testimony are highly relevant to this Protest and are hereby incorporated by reference.

Aside from the many fatal legal and procedural flaws in SDG&E’s Application identified previously, the Conservation Groups oppose SDG&E’s Application for many additional substantive reasons described in greater detail below.

The Conservation Groups have not spent considerable time and resources raising legal and procedural concerns with SDG&E’s Commission filings out of any singular desire for due process. The Conservation Groups are likewise extremely concerned with the likely potential of significant environmental impacts of the Powerlink on people and nature and have striven to highlight the importance of upholding Commission procedures and state law to ensure full consideration of these concerns. Issues described below form the fundamental substantive basis for the Conservation Groups’ concerns with and opposition to the Powerlink.

Many of the substantive concerns raised below may be addressed during a possible future review of the Sunrise Powerlink under the California Environmental Quality Act (“CEQA”). However, the timing of CEQA review for the Project in relation to SDG&E’s application and proposed schedule remains highly uncertain. As such the Conservation Groups are compelled to raise these issues now in the event that the Commission elects to approve SDG&E’s incomplete CPCN application and/or proposed schedule – a decision that could establish a binding final decision on the need for the Powerlink prior to a full and meaningful CEQA review process.

The Conservation Groups also raise these issues now in the hope that this may serve to highlight important issues to the Commission and SDG&E for consideration when CEQA review does occur.

Substantive concerns are also raised here to illustrate how a normal Commission decision making process is essential to provide full and meaningful consideration of all reasonable alternatives (including a “no project” alternative) prior to any Commission decision on just the purpose and need for the Powerlink. The Powerlink is likely to result in very significant harm to people and the natural environment and this highlights the importance of careful consideration of less harmful alternatives. Meaningful consideration of alternatives has as yet been effectively precluded because, in the words of the Commission’s Division of Ratepayer Advocates, “...the Applicant fails to explain in their application why this transmission project is the best alternative over all other transmission, generation, and demand-side alternatives available to satisfy the CAISO’s reliability standards....” (Protest of the Division of Ratepayer Advocates, January 18, 2006).

The following discussion summarizes several of the Conservation Groups’ major concerns over likely significant impacts of the Powerlink on people and the natural environment. Issues are not raised here in any particular order of importance and this is not necessarily exhaustive of all Conservation Group concerns.

I. The Sunrise Powerlink appears unnecessary and does not appear to support stated goals

Technical experts have determined that the Sunrise Powerlink is unnecessary and does not support stated project goals for a number of reasons. According to a letter sent to the California Energy Commission by the Utility Consumer Action Network and Border Power

Plants Working Group in October 2005, SDG&E's congestion cost argument is unfounded. SDG&E fails to consider other reasonable, lower cost, and existing planned alternatives (e.g. the Imperial Irrigation District's "Green Path" and Path 45), and SDG&E makes flawed assumptions about the urgency of a new transmission line. Moreover, SDG&E overstates the importance of the Powerlink for transmission of renewable energy and neglects to note that the true role of the Powerlink is to move power from Sempra facilities in Mexicali and Palo Verde into the California market; that geothermal renewable energy resources are unlikely to ever become available to SDG&E or within SDG&E's suggested timeframe; and that the Powerlink is located far from existing and the most likely possible future San Diego County solar and wind energy development areas. UCAN and the Border Power Plant Working Group's letter is available at <http://ucan.org/Electric/Sunrise/Sunrisepage.html> and is hereby incorporated by reference.

Conservation Groups also protest the Application for the following reasons:

- The Project costs are excessive but an adequate evaluation of this matter is not possible given the incomplete Application filed by SDG&E.
- The Project is not needed to comply with the reliability requirements of the CAISO, but the purported reliability benefits are not comparable to alternative means of providing reliability given the incomplete application filed by SDG&E.
- The Project will inadequately support the development of renewable energy facilities, but the incomplete Application filed by SDG&E will make adequate evaluation of this matter impossible.
- The Project's economic, community and environmental impacts outweigh the Project's alleged benefits, but the incomplete Application filed by SDG&E will make adequate evaluation of this matter impossible.

- Alternatives to the Project offer improved benefits to costs, but the incomplete Application filed by SDG&E will make adequate evaluation of this matter impossible.

The Conservation Groups also oppose SDG&E's Motion for Authority to Submit and Maintain Confidential, Commercially Sensitive, Proprietary Information Under Seal and for Protective Order filed December 14, 2005, particularly with regard to information related to the certainty of SDG&E's commitments to renewable energy facility development.

## II. The Powerlink will result in significant harm to the natural environment

The Sunrise Powerlink will significantly harm native ecosystems, natural lands, wildlife, and plants in many ways.

Many raptors such as hawks, owls, eagles, and other birds are regularly killed by electrocution when they land on high voltage wires or conductors. Others are killed or injured when they collide with wires or transmission towers. Collisions are a particular problem during periods of low visibility when migratory birds are attracted to flashing safety lights on towers. Many killed birds are legally protected by the Migratory Bird Protection Act and other laws.

The spread of exotic invasive plant and animal species and resulting harm to native wildlife and plants is a crisis in southern California ecosystems. The spread of exotic invasive species into natural landscapes is primarily facilitated by the disturbance of soils, vegetation, and normal wildlife distribution. The Powerlink will greatly exacerbate this problem by causing significant disturbance of natural lands during construction, improvement and maintenance of roads, tower pads, and other activities, and by providing a very long linear access route for exotic species into many relatively pristine natural areas.

Expanded and maintained transmission line access roads will likely result in increased off-highway vehicle activity and other vehicle traffic resulting in vegetation and soil damage and disturbance to wildlife from noise, especially around springs. Unauthorized dispersal of vehicles from transmission line easement roads into previously undisturbed areas (and private property) is likely to become a major problem.

Likely routes of the Powerlink will pass through world-class natural landscapes supporting critically important populations of wildlife and plants. Anza-Borrego Desert State Park is the largest state park in California and protects a relatively intact assemblage of native desert ecosystems, wildlife and plants. The Cleveland National Forest supports similarly important ecosystems and concentration of species. Many of these natural elements would be seriously degraded by a new transmission line through their midst, essentially converting some of the last best natural Colorado desert habitat and Peninsular ranges chaparral and sage scrub into an industrial facility.

SDG&E's preferred route for the Powerlink as it nears the coast will also pass through an extremely important natural area that is part of the San Diego Multiple Species Conservation plan preserve near the communities of Rancho Penasquitos, Del Mar Mesa, and Carmel Valley. This area represents a relatively small yet still functional remnant of natural coastal ecosystems and supports a myriad of imperiled plant communities and species including vernal pools, coastal sage scrub, southern maritime chaparral, California gnatcatchers, San Diego mesa mint, San Diego button-celery, Spreading navarretia, San Diego fairy shrimp, and many others.

Construction and maintenance of the Powerlink through this area will likely irreparably harm a host of threatened and endangered plant and animal species, radically fragment an area

already beset by surrounding human communities, and facilitate the spread of exotic invasive plants and animals among many other problems.

The Powerlink will also impact threatened and endangered species in many other parts of the preferred routes. Transmission line access roads and regular maintenance will likely destroy habitat and disrupt normal behavior of Peninsular bighorn sheep, Flat-tailed horned lizards, Arroyo toads, Least Bell's vireos, Southwestern willow flycatchers, Hermes copper butterflies, and many others.

### III. The Powerlink will harm the San Diego Multiple Species Conservation Plan

The San Diego Multiple Species Conservation Plan ("San Diego MSCP") is a somewhat flawed but yet still crucial multi-agency plan to preserve imperiled wildlife and natural lands in southwestern San Diego while streamlining review of new development projects. The San Diego MSCP exists in a precarious balance; existing preserve areas have been established in the last best core natural areas as mitigation for development of less sensitive land elsewhere.

The Powerlink could upset this balance in the anticipated event of SDG&E's selection of a route through existing San Diego MSCP preserve areas. For example, the City of San Diego, the County of San Diego, the U.S. Fish and Wildlife Service, and the California Department of Fish and Game have all labored for years to build the San Diego MSCP Carmel Mountain / Del Mar Mesa Preserve. Now a likely route of the Powerlink north of Los Penasquitos Canyon along an undeveloped SDG&E easement would bisect the area and significantly threaten the ecological integrity of the preserve and the continued existence of several threatened or endangered species. The Sunrise Powerlink could thereby carve through the heart of important protected land, and



mitigation for any impacts will likely be totally insufficient given that there simply is no other landscape like it left.

SDG&E has also thus far failed to articulate the relationship between state and federal endangered species permitting for the Project and SDG&E's existing San Diego County regional habitat conservation plan. If the Project were to proceed, will SDG&E unreasonably claim that impacts to biological resources in general and imperiled species in particular have already been minimized and mitigated under the existing habitat conservation plan?

IV. The Powerlink may encourage inappropriate siting of future energy generation facilities in environmentally sensitive lands

Several large-scale renewable energy facilities have been planned for land in proximity to various Powerlink routes, including one thermal solar energy facility and several wind facilities. SDG&E appears eager to support these potential large scale industrial facilities over more reasonable energy conservation and efficiency measures and dispersed smaller-scale solar and wind energy generation alternatives.

Several of the proposed facilities are located in or immediately adjacent to extremely sensitive natural lands, parks and public lands. The Powerlink might unjustifiably encourage their construction by providing a convenient nearby transmission facility and impacts from these facilities on sensitive lands, wildlife, and plants should be considered a significant indirect effect of the Powerlink.

V. The Powerlink will increase the potential for significant harm from wildfire to people and the natural environment

The Powerlink will increase the already significant risk of wildfire in San Diego County. The Project will also significantly increase the difficulty of fighting wildfire. This increased

threat of wildfire is not limited to just sparsely populated rural areas; the enormous 2003 Cedar Fire began in an extremely remote area of the County but ultimately burned communities miles away inside metropolitan San Diego.

Communities of people and natural places through which the Powerlink will pass have already suffered significant harm from recent wildfires. The Cedar, Paradise, and Pines fires of 2002 and 2003 were three of the largest fires in the history of California and burned the same landscape that will likely be crossed by the Powerlink. These fires killed people, destroyed property, and decimated wildlife and plants.<sup>1</sup>

The role of new large transmission lines in the risk of wildfire was illustrated when a low-flying National Guard helicopter clipped a power line near the community of Julian and started the large Pines Fire of 2002. This was a very small and low power line, and it is likely that there will be a higher risk of aircraft collisions and resulting wildfire with the much larger Powerlink.

The presence of transmission lines also renders much more difficult any nearby fire fighting efforts.<sup>2</sup> Fire fighting aircraft are precluded from routine low approaches and fire fighters must use great care in their application of water around potentially live wires. This level of meticulous care is not a luxury available to fire fighters rushing to protect lives, property and the natural environment, so a new large transmission line could render fire fighting ineffective in the vicinity of the Powerlink.

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<sup>1</sup> Fire is a natural element of southern California ecosystems. However, overly frequent fire caused by people such as the Cedar and Paradise fires have significantly harmed wildlife and plants.

<sup>2</sup> Access roads to the Sunrise Powerlink will not improve fire fighting access because the majority of these already exist.

VI. The Powerlink will likely result in significant harm to archeological, historical, and cultural sites

Numerous archeological, historic, and cultural sites are located along the various possible routes of the Sunrise Powerlink and these are likely to be harmed by construction and maintenance of the transmission line. Bulldozing for new pads may directly destroy important sites. Survey markers already appear to have been placed on top of important archeological and cultural sites.

Even more likely and difficult to control will be impacts to sites when vehicle access is improved along easements roads and transmission tower pads. Delicate layers of soil will likely be disturbed at archeological sites, artifacts will be collected illegally, cultural rock features will be spray-painted or used for target practice, historical structures and cultural features will likely be vandalized, among many other impacts. Large and ugly new transmission towers will also significantly reduce the ability of people today to experience the views and features experienced long ago by indigenous people, early explorers, and settlers thereby reducing our ability to understand the historical cultural landscapes.

VII. The Powerlink will likely result in significant harm to people

The Conservation Groups are just as concerned with possible impacts from the Powerlink on people as they are with impacts to the natural environment. The Powerlink is a very expensive endeavor for which costs are likely to be passed on to San Diego County and other electricity consumers. The Conservation Groups have also already discussed above how the Powerlink will likely increase the risk of harm to people from wildfire. The following discussion addresses other likely harmful effects of the Project on people.

The Powerlink will likely increase the risk of aircraft collisions. New tall poles and wires will pass through several existing low elevation military jet and helicopter flight paths as well as those utilized by small civilian craft thereby increasing the risk of collisions and resulting loss of life and property. Grapevine Canyon near Ranchita is just one flight path where military jets routinely conduct training flights at extremely low elevations, often at or below the anticipated height of Powerlink transmission towers. An increased risk of aircraft collisions will also obviously increase the risk of resulting wildfire.

The Powerlink may result in increased risks to human health from electromagnetic fields. The best available scientific evidence shows that electromagnetic fields may pose a risk to human health. Because of this the Powerlink should not be permitted in close proximity to communities, residences and workplaces, as proposed by SDG&E, especially when there are other reasonable and potentially less harmful alternatives.

The Powerlink will significantly degrade views and recreational experiences especially in Anza-Borrego Desert State Park and the Cleveland National Forest, other remote natural areas, and on private property. The Project will likewise significantly degrade views from the designated Highway 78 State Scenic Highway.

The Powerlink may also result in significant economic harm. Borrego Springs and Julian are two rural towns that depend on income from visitors who come to enjoy the nature, views, and recreational opportunities of Anza-Borrego Desert State Park and the Cleveland National Forest. Industrialization of these and other rural backcountry areas with the Powerlink will likely reduce the number of tourists seeking these fundamental natural values and thereby harm the fragile economies of these rural communities.

Private property owners will also be hit in their pocketbooks when SDG&E seeks condemnation of their land to widen existing easements or establish new easements along the selected Powerlink route. Some property owners may face loss of their homes or access to their property. Property owners also face potentially significant reductions in property values with the installation of large ugly transmission towers and substations in and near their scenic rural and other urban properties and due to evidence of human health risks from electromagnetic fields. Rural real estate agents have already reported difficulties in selling property in communities near anticipated Powerlink routes.

San Diego ratepayers and people who live along likely Powerlink routes have not been provided with adequate opportunities to learn about its potential impacts and alternatives.<sup>3</sup> SDG&E conducted several open houses for the Project, but these were poorly advertised and were attended by few people likely to be directly impacted by the Project. SDG&E also delivered misinformation regarding the Powerlink at these meetings. For example, SDG&E has misled the public that there is more than one potential route for the Project because two of the three identified alternate routes through Anza-Borrego Desert State Park would be prohibited due to irreconcilable conflicts with designated State Wilderness areas.

Low public participation in SDG&E's meetings is by no means indicative of low public interest. In contrast to the poorly advertised (and therefore poorly attended) SDG&E meetings, other Powerlink meetings organized by community activists and organizations and the Commission were well attended by hundreds of concerned citizens. SDG&E has yet to provide adequate notice to ratepayers and other affected people regarding Powerlink plans including presentation of honest information on potential harm from the Project and a description of the

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<sup>3</sup> The inadequacy of SDG&E's "public involvement" campaign is more fully described in the Protest of the Ramona Alliance Against Sunrise Powerlink, which is incorporated by reference herein.

public's right to participate in the Commission's decision on the Application. This may be SDG&E's single greatest failure—to ensure public notification and involvement in the important decision of whether the alleged benefits of the Powerlink truly outweigh the likely very significant harm to people and the natural environment that may result from the Project.

Respectfully submitted February 17, 2006,

The San Diego Chapter of the Sierra Club  
and the Center for Biological Diversity

By: /s/ Justin Augustine  
Justin Augustine

By: /s/ Paul Blackburn  
Paul Blackburn

Center for Biological Diversity  
San Francisco Bay Area Office  
1095 Market St., Suite 511  
San Francisco, CA 94103  
Telephone: 415-436-9682 ext. 302  
Facsimile: 415-436-9683  
E-Mail: [jaugustine@biologicaldiversity.org](mailto:jaugustine@biologicaldiversity.org)  
Attorney for the Center for Biological Diversity

Sierra Club  
San Diego Chapter  
3820 Ray Street  
San Diego, CA 92104  
619-299-1741  
619-299-1742  
[SDEnergy@sierraclubsandiego.org](mailto:SDEnergy@sierraclubsandiego.org)

**CERTIFICATE OF SERVICE**

I hereby certify that, pursuant to the California Public Utilities Commission's Rules of Practice and Procedure, I have served a true copy of "SUPPLEMENTAL PROTEST OF THE CENTER FOR BIOLOGICAL DIVERSITY AND SAN DIEGO CHAPTER OF THE SIERRA CLUB" to the following parties:

All parties on the service list for A. 05-12-014

Service was completed by email where available or by placing true copies, enclosed in a sealed envelope with first-class postage prepaid, to be deposited in the United States mail, or by hand delivery.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 17th day of February, 2006, at San Francisco, California.

          /s/ Justin Augustine            
Justin Augustine