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Via email only

30 September 2020

John Forsythe (CPUC Project Manager)
California Public Utilities Commission
c/o Aspen Environmental Group
235 Montgomery Street, Suite 640
San Francisco, CA 94104-2920
Ivanpah-Control@aspeneg.com

RE: Notice of Preparation for an Environmental Impact Report (EIR) for the Ivanpah-Control Project Proposed by Southern California Edison Application No. 19-07-015

Dear Mr. Forsythe,

The Desert Tortoise Council (Council) is a non-profit organization comprised of hundreds of professionals and laypersons who share a common concern for wild desert tortoises and a commitment to advancing the public's understanding of desert tortoise species. Established in 1975 to promote conservation of tortoises in the deserts of the southwestern United States and Mexico, the Council routinely provides information and other forms of assistance to individuals, organizations, and regulatory agencies on matters potentially affecting desert tortoises within their geographic ranges.

We appreciate this opportunity to provide comments on the above-referenced project. Given the location of the proposed project in habitats likely occupied by Mojave desert tortoise (*Gopherus agassizii*) (synonymous with "Agassiz's desert tortoise"), our comments pertain to enhancing protection of this species during activities authorized by the California Public Utilities Commission (CPUC). Please accept, carefully review, and include in the relevant project file the Council's following scoping comments and attachments for the proposed project. Additionally, we ask that you respond in an email that you have received this comment letter so we can be sure our concerns have been registered with the appropriate personnel and office for this project.

On September 1, 2020, the Council received the Notice of Preparation (NOP) directly from the Ivanpah-Control Project EIR Team, which we sincerely appreciate. All references to page numbers in this letter pertain to the NOP, which is dated "September 2020." Page 1 indicates Southern California Edison Company (SCE) has filed an application for a Permit to Construct (PTC) with the CPUC for its proposed Ivanpah-Control Project (Project), which is a 115 kilovolt (kV) transmission line rebuild project. Since SCE's application and the Proponent's Environmental Assessment (PEA) were not deemed complete by CPUC (page 1), there are no formal environmental documents to review; rather, scoping comments are being solicited by the NOP.

As given on page 2, the Bureau of Land Management (BLM) will be the lead agency under the National Environmental Policy Act (NEPA), and will prepare an Environmental Impact Statement (EIS). The BLM will observe the CPUC's scoping meetings and will hold its own public scoping meetings in the future, after issuing a Notice of Intent (NOI) to prepare an EIS in the Federal Register. At the appropriate time, these same scoping comments, with pertinent revisions pending additional project information that may become available, will also be provided to the BLM.

The Council is very interested in this project, as it passes through desert tortoise critical habitat (U.S. Fish and Wildlife Service 1994) in several places. As such, we attended the virtual public scoping meeting held via Zoom on September 10, 2020. As per page 2, "SCE is proposing to rebuild components of its existing 115 kilovolt (kV) transmission lines that extend over 358 miles between the existing SCE Control and Haiwee Substations in Inyo County, the Inyokern Substation in Kern County, and the Kramer, Tortilla, Coolwater, and Ivanpah Substations in San Bernardino County, CA. The Proposed Project is located on private land, Department of Defense land, and on federal lands administered by the BLM. The Project includes re-tensioning powerlines to reduce the sag between towers; [and] installing taller poles to increase the clearance between powerlines and ground, replacing individual poles, and derating a line segment."

With regards to the following statement on page 3, "The CPUC will review SCE's conductor selection as it relates to structure height requirements and *structure spacing (span lengths)* because these factors *may have associated* visual impacts or *construction disturbance*," [*emphasis added*] we interpret this statement to mean that SCE may choose to construct new pad sites if existing spans are determined to be inadequate. We ask that in choosing such sites, insofar as engineering allows, that barren areas and other degraded habitats, as determine with input from knowledgeable biologist(s), be selected to minimize impacts to tortoises and other rare desert plants and animals.

The NOP fails to reveal if replacement, removal, and installation of new and old structures are restricted to aboveground facilities, like conductors, or if they will involve transmission poles and towers that will result in ground disturbance. For example, if the "905 new structures" identified on page 3 and in the next paragraph for Segment 1 pertain to towers, there may be considerable habitat disturbance. We expect that the estimated acreages of both temporary and permanent impacts to desert tortoise habitats, both of which are long-term impacts, will be documented in the EIR, and ask that the results also be reported in terms of their locations inside and outside tortoise critical habitat areas.

We note on page 3 for Segment 1: Control Substation (Bishop) to Inyokern, that "SCE would install approximately 905 new structures and new ACCC conductor[s] in a new right-of-way adjacent to the existing line, then remove all (approximately 1,161) existing subtransmission structures." Be advised that desert tortoises occur between Rose Valley, in the vicinity of Coso Junction south of Olancha, south to Inyokern. Throughout this area, we advise that previously disturbed areas be identified for new structures, particularly if "new structures" include new transmission towers, which is not clear from the description. It is also not clear from the description that "adjacent" will require that the new line would be on the same side of Highway 395 as the old line. In any case, we advocate the completion of U.S. Fish and Wildlife (USFWS 2019) protocol surveys for desert tortoises to help inform SCE of the best places to place new structures that would result in ground disturbance and avoid tortoises and tortoise habitats.

Similarly, all areas south of Olancha including Segments 1, 2, and the western portions of Segments 3S and 3N (west of Barstow) are in habitats that may be occupied by Mohave ground squirrels (*Xerospermophilus mohavensis*; herein "MGS"), which is listed as Threatened by the California Fish and Game Commission. We recommend that protocol trapping surveys for MGS [California Department of Fish and Game (2003; revised 2010)] be performed in all areas where ground disturbance would result in the loss of suitable habitats. Be advised that there are seasonal restrictions for these surveys, which must occur between March and mid-July of a given year; and, that results of these surveys are viable for only one year following completion of trapping surveys (e.g., if the project is not completed by July of the next year after trapping, a new trapping effort will likely be required). Alternatively, SCE may assume presence of MGS and secure a Section 2081 incidental take permit from the California Department of Fish and Wildlife (CDFW) prior to ground disturbance.

We note that work on Segments 1 and 2 would entail installation of new fiber optic cables, but there is no indication if these cables would replace existing lines. If these new cables are not replacing existing cables, we strongly recommend that they either be placed within existing roads or immediately adjacent so that as little new habitat as possible is impacted or lost to this Project. Even if SCE is replacing existing lines, we expect that knowledgeable biologist(s) will perform measurements both before and after the project to determine how many acres of tortoise and MGS habitats are temporarily and permanently lost. These data will allow SCE and the regulatory agencies to determine the levels of habitat compensation that are likely to be required by CDFW and BLM for damage to suitable habitats for these covered species.

Please be sure that acreages associated with Staging Yards and Work Areas identified on page 4 are calculated and reported in the EIR. For an accurate appraisal of these acreages, we feel it is important that each pole site, which will generate a Work Area between ¼ and ¾ acres, must be evaluated in terms of existing disturbances so that new disturbances can be calculated. Unlike pole sites that are fixed locations, there is more flexibility in determining locations of Staging Yards. We expect that all Staging Yards can occur in areas of existing disturbances (preferably barren areas), and ask that SCE commit to locating all yards in disturbed areas, with input from knowledgeable biologist(s) to determine those locations.

We note also that SCE plans to use 426 linear miles of existing roads and spur roads, and that "During road rehabilitation and preparation of staging areas, vegetation would be trimmed or removed, as needed." As given above, we expect that the EIR will identify measures that will require before and after measurements of the widths of roads that are to be improved. The difference between these measurements will allow SCE to determine how many acres of suitable tortoise and MGS habitats are lost, which can then be used by the agencies to determine appropriate habitat compensation. In the same paragraph, we appreciate that, "Tree removal would be minimized," and ask that a similar requirement be identified in the EIR that will be applied to the loss of all intact habitats, which should similarly be minimized.

As stated on page 5, we appreciate that CPUC "…will also include analysis of additional issues identified in the scoping process…" in the EIR. Certainly, one of these additional issues is the potential creation of new nesting substrates for common ravens (*Corvus corax*), which is a known predator of desert tortoises and MGS. As such, we ask that the EIR provide a summary of recent and ongoing efforts by SCE to curtail subsidizing common raven nesting on its structures. Replacing old towers with new and different towers would afford an excellent opportunity to install towers that reduce perching opportunities for ravens. We suggest exploring designs that achieve this goal.

Other questions that should be addressed in the EIR include: Is SCE contributing to the National Fish and Wildlife Foundation's Raven Management Fund for regional and cumulative impacts? Is there an existing raven management plan or a new one to be drafted for this project that meets USFWS (2010) standards as they affect construction, operation, maintenance, and decommissioning (including restoration) with monitoring and adaptive management during each project phase? For those poles that are being replaced, will new poles have design features that minimize raven nesting potential?

In this same paragraph on page 5, CPUC indicates that the EIR "…will evaluate the project's cumulative impacts (project impacts combined with other present and planned projects in the area)." In that regard, we recommend that the cumulative impacts analysis in the EIR also follow the Council on Environmental Quality (CEQ) (1997) guidance on how to analyze cumulative environmental consequences, which contains the eight principles listed below:

1. Cumulative effects are caused by the aggregate of past, present, and reasonable future actions.
The effects of a proposed action on a given resource, ecosystem, and human community, include the present and future effects added to the effects that have taken place in the past. Such cumulative effects must also be added to the effects (past, present, and future) caused by all other actions that affect the same resource.

2. Cumulative effects are the total effect, including both direct and indirect effects, on a given resource, ecosystem, and human community of all actions taken, no matter who (federal, non-federal, or private) has taken the actions.
Individual effects from disparate activities may add up or interact to cause additional effects not apparent when looking at the individual effect at one time. The additional effects contributed by actions unrelated to the proposed action must be included in the analysis of cumulative effects.

3. Cumulative effects need to be analyzed in terms of the specific resource, ecosystem, and human community being affected.
Environmental effects are often evaluated from the perspective of the proposed action. Analyzing cumulative effects requires focusing on the resources, ecosystem, and human community that may be affected and developing an adequate understanding of how the resources are susceptible to effects.

4. It is not practical to analyze the cumulative effects of an action on the universe; the list of environmental effects must focus on those that are truly meaningful.
For cumulative effects analysis to help the decision maker and inform interested parties, it must be limited through scoping to effects that can be evaluated meaningfully. The boundaries for evaluating cumulative effects should be expanded to the point at which the resource is no longer affected significantly or the effects are no longer of interest to the affected parties.

5. Cumulative effects on a given resource, ecosystem, and human community are rarely aligned with political or administrative boundaries.
Resources are typically demarcated according to agency responsibilities, county lines, grazing allotments, or other administrative boundaries. Because natural and sociocultural resources are not usually so aligned, each political entity actually manages only a piece of the affected resource or ecosystem. Cumulative effects analysis on natural systems must use natural ecological boundaries and analysis of human communities must use actual sociocultural boundaries to ensure including all effects.

6. Cumulative effects may result from the accumulation of similar effects or the synergistic interaction of different effects.
Repeated actions may cause effects to build up through simple addition (more and more of the same type of effect), and the same or different actions may produce effects that interact to produce cumulative effects greater than the sum of the effects.

7. Cumulative effects may last for many years beyond the life of the action that caused the effects.
Some actions cause damage lasting far longer than the life of the action itself (e.g., acid mine damage, radioactive waste contamination, species extinctions). Cumulative effects analysis need to apply the best science and forecasting techniques to assess potential catastrophic consequences in the future.

8. Each affected resource, ecosystem, and human community must be analyzed in terms of its capacity to accommodate additional effects, based on its own time and space parameters.
Analysts tend to think in terms of how the resource, ecosystem, and human community will be modified given the action's development needs. The most effective cumulative effects analysis focuses on what is needed to ensure long-term productivity or sustainability of the resource.

It is unfortunate that the 30 applicant-proposed mitigation measures referenced on page 5 are not included in the NOP. When they are presented in the EIR, we ask that CPUC indicates how, if any, existing measures have been modified for this particular project, and document their effectiveness for similar projects (e.g., how effective has SCE's raven management program been in curtailing raven nesting in its transmission structures?)

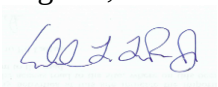
There should also be a review of recent Stipulations for right-of-way grants issued by the BLM and Terms and Conditions in biological opinions issued by the USFWS to ensure that the latest protective measures are being implemented. We expect that CPUC will commit to the latest standards identified in the USFWS' (2009) Desert Tortoise (Mojave Population) Field Manual with regards to surveys, fencing, and other applicable activities. Also, we provide proposed Best Management Practices for tortoise protection during construction projects (Desert Tortoise Council 2017) for your consideration and use to supplement the 30 applicant-proposed mitigation measures, as needed.

Even if conscientiously implemented, there is the likelihood that desert tortoises and/or MGS will be adversely affected by the proposed project. In fact, Section C of the NOP on page 5 states that "The Proposed Project may result in potentially significant impacts," which we assume includes listed species. We therefore ask that the EIR document existing state and federal incidental take permits, likely issued to SCE, that will authorize foreseeable harm or mortality of listed species, including desert tortoise and MGS. Absent such programmatic permits, we expect that CPUC and/or SCE will acquire necessary state and federal take permits from CDFW and USFWS, respectively, prior to ground disturbance, and that the EIR will document the statuses of such permits.

We expect that SCE will need to rehabilitate habitats that are temporarily used resulting in long-term damage by the use of Staging Yards and Work Areas identified on page 4. As such, we submit the attached restoration guidelines (Abella and Berry 2016) for use by SCE and CPUC for this and future projects where habitats would be restored to pre-project conditions.

We appreciate this opportunity to provide input and trust that our comments will help protect tortoises during any authorized project activities. Herein, we ask that the Desert Tortoise Council be identified as an Affected Interest for this and all other CPUC projects that may affect species of desert tortoises, and that any subsequent environmental documentation for this particular project is provided to us at the contact information listed above. We also ask that you acknowledge receipt of this letter as soon as possible so we can be sure our concerns have been received by the appropriate parties.

Regards,



Edward L. LaRue, Jr., M.S.
Desert Tortoise Council, Ecosystems Advisory Committee, Chairperson

cc: California State Clearinghouse, state.clearinghouse@opr.ca.gov

Literature Cited

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Attachments

Abella S.R. and K.H. Berry. 2016. Enhancing and restoring habitat for the desert tortoise (*Gopherus agassizii*). Journal of Fish and Wildlife Management 7(1):xx–xx; e1944-687X. doi: 10.3996/052015-JFWM-046.

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