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ORANGE COUNTY

November 27, 2017

FEDERAL ENERGY REGULATORY COMMISSION
REGULATORY COMMISSION
Federal Certified Mail Return Receipt Requested
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Federal Energy Regulatory Commission
888 First Street, NE
Washington, D.C. 20426

LOS ANGELES

Attention: Kimberley D. Bose, Secretary

**RE: Sycamore Creek Community Association
Lake Elsinore Advanced Pumped Storage Project | Project No. 14227
Additional Study Request**

RIVERSIDE COUNTY

Dear Secretary Bose:

SAN DIEGO

Our office is general counsel for the Sycamore Creek Community Association ("Association"). In that capacity, the Board of Directors ("Board") for the Association requested that we prepare this correspondence regarding the Nevada Hydro Company's ("Company") proposed construction of the Lake Elsinore Advanced Pumped Storage ("LEAPS") Project Number 14227 ("LEAPS Project").

SAN FRANCISCO BAY AREA

More specifically we understand that the Federal Energy Regulatory Commission ("Commission") has waived the Integrated Licensing Process ("ILP") and the Company has filed its final application ("Application") on October 2, 2017.

In the Commission's September 29, 2017 correspondence to the Company, it stated: "while Nevada Hydro's proposal and the existing environment may have changed in various ways from that which Commission staff previously evaluated under Project No. 11858, staff believes that the additional issues and project effects that may be identified in the current proceeding can be addressed through the Commission's post-filing process." In light of the foregoing, we implore the Commission to strongly consider the detrimental impact the LEAPS Project will have on its surrounding environment as further set forth herein, and demand that further studies be conducted.

The Association is located within the County of Riverside, more particularly within the region commonly known as the Temescal Valley. The Company's Application to construct the LEAPS Project, if approved, would cause the Company to construct an advanced pump storage facility on Lake Elsinore and install five-hundred kilovolt (500 kV) power transmission lines that would run through and adjacent to, Association Property, as well as, the neighboring properties of the other business and residential communities within the Temescal Valley. The installation of the LEAPS Project, will have a severe detrimental impact on the residents, businesses, and property values, of all who reside and/or do business in the Temescal Valley.

The Commission should not approve the LEAPS Project due to the detrimental impact the LEAPS Project will have upon the ecological environment of Temescal Valley, and the residences, businesses, and property values located therein. We recognize that the Commission may be inclined to approve the Application, community objections

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notwithstanding. Therefore, we implore the Commission to require further studies of the detrimental impact the LEAPS Project may have on the Association and the Temescal Valley community.

FURTHER STUDIES REQUIRED

A plethora of research conducted from various sources have raised concerns that exposure to high voltage power transmission lines, such as the 500 kV power transmission lines, may greatly increase the risks for the development of leukemia in children. (See, *Wertheimer N, Leeper E. Electrical Wiring Configurations and Childhood Cancer*. Am J Epidemiol 1979; 109:273-284). The projected 500 kV power transmission lines corridor will be adjacent to homes with small children residing therein. Studies using magnetic field strength as an exposure measure have found that exposures greater than the range of 0.3 to 0.4 μ T lead to a doubling risk of leukemia. Due to the close proximity of the Association's residents to the proposed 500 kV power transmission lines corridor an in-depth analysis of this health risk should be required prior to the approval of the Application.

Moreover, during the last five years, law enforcement officials have utilized the Deleo Regional Sports Park in Sycamore Creek as a staging area to transport law enforcement agents into the Cleveland National Forest via static lines under a helicopter to search out, apprehend, and remove marijuana cultivation fields in the Cleveland National Forest. Approval of the LEAPS Project will cause access roads to be constructed along the proposed 500 kV power transmission lines corridor. These roads are likely to be commandeered by individuals engaged in the illegal marijuana cultivation in the Cleveland National Forest, to the detriment of law enforcement operations. A study must be conducted to determine mitigation measures needed to eliminate individuals involved in illegal marijuana cultivation from accessing the Cleveland National Forest via these new pathways. Additionally, mitigation measures and the development of standard operating procedures for law enforcement helicopter operations around the 500 kV power transmission lines needs to be studied.

In addition to the potential detrimental health impact the 500 kV power transmission lines, the homes located adjacent to the proposed power transmission lines corridor will lose much of their aesthetic value. The resulting decrease in property values will reduce the property taxes derived from those homes, which will reduce the property tax values derived from the County of Riverside. An economic study is needed to evaluate the economic impact to the County of Riverside and the residences within the Association adjacent to the 500 kV power transmission lines.

The Association is located within a high fire area, as well as, an area with high seismic activity. In the event of an earthquake or wild fire, the 500 kV power transmission lines may break and collapse, endangering the lives and property located within and adjacent to the Association. The potential for catastrophic injury and property damage also makes the 500 kV power transmission lines potential terrorist targets. A study is needed to determine whether the 500 kV power transmission lines can withstand seismic activity and wild fires; and, the impact the 500 kV power lines will have on emergency rescue and law enforcement activities. The study should consider alternative routes for the 500 kV power transmission lines corridor and whether the same may be constructed underground.

Significant residential development has occurred in the Association and through the Temescal Valley since the time of the Federal Energy Regulatory Commission and United States Department of Agriculture, United States Forest Service, Trabuco Ranger District, Final Environmental Impact Statement for Hydropower License – Lake Elsinore Advanced Pumped Storage Project, FERC Project No. 11858, FERC/EIS-0191F, January 2007 (“2007 EIS”).

The Association is in the final stages of its residential build out with the current construction of one-hundred and ninety-two (192) houses which will bring the total homes within the Association to one-

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thousand and seven-hundred and thirty-four (1,734). The houses built within the Association in the last two years now extend up to the LEAPS Project 500 kV power transmission lines. Since the 500 kV power transmission lines present a fire, health, and seismic activity safety hazard, a study should be conducted to identify alternate transmission line corridor sitings. Constructing the 500 kV power transmission lines to the south of the Association and closer to the Southern California Edison proposed Alberhill substation would: 1) reduce the length of the transmission lines; 2) reduce the cost of 500 kV power transmission line construction; and, 3) reduce the impact the 500 kV power transmission lines will have on existing Association members.

The State of California has been ravaged by wildfires. Recently, residences in areas adjacent to the Cleveland National Forest were destroyed by wildfires. Communities and cities throughout the State of California are now evaluating the placement of existing power lines underground, due to their tendency to exacerbate the damage caused by natural disasters. The City of Laguna Beach, located in Orange County California, is actively taking steps to place the city's power lines underground due to the devastation of wildfires. An economic study is needed to evaluate the cost of placing the 500 kV power transmission lines underground relative to the economic impact of replacing the 500 kV power transmission lines, structures, equipment, and residential line connections destroyed by wildfire. The cost of placing the 500 kV power transmission lines underground may be safer and more cost effective than above ground placement.

DETRIMENTAL IMPACT TO THE COMMUNITY

The LEAPS Project will be a massive endeavor, the 500 kV power transmission lines alone will be approximately 32 miles in length. Due to the scale of the LEAPS Project, precision in its development is paramount, and yet, the Company has exercised wanton disregard for care in its planning of the LEAPS Project. In Southern California Edison Company ("SCE") letter to the Commission dated September 22, 2017, it articulates in greater detail the myriad of inaccurate statements contained within the NOI. Such inaccuracies within the NOI foreshadow the risks presented by the LEAPS Project should the Application be approved. Enclosed herein, is a copy of the SCE letter to the Commission dated September 22, 2017.

Installation of the LEAPS Project 500 kV power transmission lines on and/or adjacent to Association property will cause a decrease in the property values of the homes within the Association and its neighboring residential communities located throughout the Temescal Valley. The decrease in the residential real property values within the Association will have a cascading negative impact on not only the Association, but on the economy of Riverside County. The decrease of real property values will result in a decrease in the property tax revenues derived from those homes. The decrease in tax revenues will result in a decrease in Riverside County's ability to fund public programs for the betterment of the community. The quality of public services offered by Riverside County will decline and ultimately result in a decrease in the quality of life of the Association's members and all who reside within Temescal Valley.

The currently established businesses operating in the Temescal Valley will suffer a decrease in revenue due to the increased traffic, noise, and pollution caused by the construction of the LEAPS Project, and due to the undesirable aesthetics of being located near the LEAPS Project 500 kV transmission power lines. The loss of business revenues will also result in a decrease in the tax revenues derived from those businesses which will have the same detrimental impact on the Temescal Valley as previously mentioned.

Construction of the LEAPS Project will have a negative impact on future business development within the Temescal Valley. As current businesses suffer a decrease in revenues, or are driven out of business, Riverside County will be hard pressed to attract new businesses to open within its borders. The

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decrease of residential property values and business revenues, will deter new businesses from choosing to establish facilities within the Temescal Valley. The inability to attract new businesses will result in the degradation of the quality of life enjoyed by all who reside and do business within Riverside County.

We are informed that an Environmental Impact Statement is required to be prepared as a prerequisite to the Commission's consideration of the LEAPS Project application.¹ We understand that the purpose of the EIS is to objectively determine the probable detrimental effects of the LEAPS Project on the Temescal Valley environment and all those who reside and conduct business within the Temescal Valley.²

However, no EIS report has been prepared that accurately accounts for the exponential residential and business development that has occurred in the Temescal Valley within the past decade. Instead, the Company wishes to rely upon the 2007 EIS, which is severely outdated and does not reflect the probable detrimental impact upon the environment of Temescal Valley, as would be evidenced after the preparation of a new EIS. The Company has failed to provide the Commission with a fresh view of the Temescal Valley development activities, public safety concerns, and community information that would be sufficient to warrant the Commission's acceleration of the licensing for the LEAPS Project.

The 2007 EIS does not account for the plethora of residential and business development that has occurred in the near decade after its completion.³ It fails to adequately consider the detrimental health and safety risks associated with residing within close proximity to the LEAPS Project 500 kV power transmission lines.⁴ The Commission should not rely upon the findings contained within the 2007 EIS; a new environmental study should be required prior to the approval of the Application. In doing so, the Commission and the Temescal Valley community will be able to accurately consider the widespread impact the LEAPS Project will have on the community.

Furthermore, the above-ground construction of the 500 kV power transmission lines create a substantial impediment to coordinated disaster relief efforts in the area. In the event of an earthquake or fire, the 500 kV Power Transmission Lines are likely to collapse, creating dangerous road blocks on local evacuation routes and impeding the rescue efforts of the responding firefighters.

The LEAPS Project 500 kV power transmission lines would be located on or in close proximity to the high fire areas of Temescal Valley. In case of fire, the above ground power transmission lines would impede the effective firefighting activities of fixed wing aircraft and helicopters. Thus, it would take longer to extinguish fires and result in the surrounding communities, businesses, and property

¹ 42 U.S.C. § 4332; see *Confederated Tribes & Bands of Yakima Indian Nation v. Federal Energy Regulatory Com.* (9th Cir. 1984) 746 F.2d 466 (agency acted unreasonably in failing to prepare an environmental impact statement if substantial questions are raised concerning whether the project may significantly affect quality of human environment).

² The purpose of requiring the filing of an environmental impact statement is to ensure that all agencies consider environmental impact of their action in decision-making, and to assure that such consideration during development of proposal or during formulation of position on proposal submitted by private parties. See *Kleppe v. Sierra Club* (1976) 427 U.S. 390.

³ A supplemental impact statement is required when a new development renders an original statement inadequate. See *Monarch Chemical Works, Inc. v. Exon* (1978, D.C. Neb.) 452 F. Supp. 493.

⁴ When new information comes to light, an agency must make a reasoned determination whether it is of such significance as to require implementation of formal supplemental filing procedures; this includes factors such as environmental significance of new information, probable accuracy of information, degree of care with which the agency considered information and evaluated its impact, and degree to which the agency supported its decision not to supplement with statement of explanation or additional data. See *Warm Springs Dam Task Force v. Gribble* (9th Cir. 1980) 621 F.2d 1017.

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structures being damaged or destroyed until the fire is brought under control. Moreover, construction of the LEAPS Project presents a substantial burden on the emergency safety and rescue operations of emergency personnel within the Temescal Valley which increases the chance of death or great bodily injury to the residents of Temescal Valley in the event of a natural disaster.

THE ENVIRONMENTAL IMPACT OF THE LEAPS PROJECT

The LEAPS Project has the potential to devastate the local environment and wildlife within the Temescal Valley. As a result, the Company is required to consult with and obtain permits from the State of California Department of Fish and Wildlife (“Department”). In the Department’s July 19, 2017, letter to the Commission (“Department Letter”) the Department’s comments to the NOI recommends that the LEAPS Project not be approved. The NOI states that the Company is distributing the NOI to the government agencies most likely to be interested in the LEAPS Project; however, the Department Letter provides that it never received a copy of the NOI. Enclosed is a copy of the Department Letter for your convenience.

The Department has jurisdiction over the conservation, protection and management of wildlife, native plants, and habitat necessary to maintain biologically sustainable populations. The Department is the responsible agency when a lead agency’s decision will result in a project that requires the issuance of a Department permit, such as a California Endangered Species Act Incidental Take Permit or a Lake or Streambed Alteration Agreement, which at a minimum the LEAPS Project will require.

The Company eventually provided the Department with a copy of the NOI, however in the Department’s September 21, 2017, correspondence to the Commission, the Department did not alter its position with respect to construction of the LEAPS Project. The biological resources information included in the NOI is outdated as the studies included in the NOI were completed between 2001 and 2006. The LEAPS Project has the potential to impact conserved mitigation lands and significant real estate development has occurred within the vicinity of the LEAPS Project which will be negatively impacted by the LEAPS Project. Enclosed is a copy of the Department’s September 21, 2017 correspondence.

In its letter to the Commission dated August 7, 2017, the Center for Biological Diversity, San Bernardino Valley Audubon Society, and Endangered Habitats League (collectively, “Audubon”) (hereinafter, “Audubon Letter”) reiterates the severity the LEAPS Project may have on the Temescal Valley if the NOI is approved without the Company first conducting an updated EIS. Enclosed is a copy of the Audubon Letter.

The Audubon vehemently articulates that the 2007 EIS which the Company intends to rely upon is outdated and does not reflect the current environmental, socioeconomic, legal, and jurisdictional circumstances affecting the Temescal Valley. The Company has not been able to meet the legal standards under the California Environmental Quality Act and obtain a water quality permit from the State Water Resources Control Board.

The State of California Water Resources Control Board (“Control Board”) in its correspondence filed with the Commission on August 14, 2017, (“Control Board Letter”) further highlights the derelict manner in which the Company is conducting its business with respect to the LEAPS Project, before construction has even begun. Enclosed herein is a copy of the Control Board Letter.

Within the Control Board Letter, the Control Board emphasizes that the Company failed to distribute the NOI to the Control Board as required by Code of Federal Regulations, Title 18, Section

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5.5(c). Again, the Control Board emphasizes that because the 2007 EIS is not recent and may not accurately reflect the potential impact the LEAPS Project will have on the Temescal Valley environment.

As the Commission has already approved the NOI and waived the ILP, it should strongly consider the objections from the leading government and private environmental agencies. Prior to approving the Application, the Commission should require an updated EIS be performed to ensure the ecological impact of the LEAPS Project does not substantially damage the fragile ecology of the Temescal Valley.

COMMUNITY OPPOSITION TO THE LEAPS PROJECT

The Company has not acted with any transparency to the communities which will be severely impacted by the LEAPS Project. The Company did not publish its NOI, nor did it send a copy of its NOI to any Temescal Valley community agency. The Company just conducted two public outreach meetings, one on October 11, 2017 at the Temescal Valley Municipal Advisory Council meeting and the second on November 15, 2017 at the Lakeland Village Community Advisory Council. Further community outreach by the Company should be required prior to the Commission rendering a decision on the Application.

The Commission dismissed the Company's previous application on or about July 12, 2011. Since then, the Temescal Valley has had a significant increase in residential and commercial development in the area identified for placement of the 500 kV power transmission lines. Therefore, it is essential that the resurrected LEAPS Project, at the very least, undergo a new environmental review process.

The LEAPS Project would impede the development of the Temescal Valley since many of the businesses and residential developers would avoid placing a development in close proximity to 500 kV power transmission lines. This would have significant negative economic impact on the Temescal Valley and the County of Riverside. For example, the area surrounding the Lee (Corona) Lake which has been identified as the proposed site for the Lake Switchyard is undergoing residential development. It is the expected site of approximately 369 residential units.

Moreover, placement of the 500 kV power transmission lines would negatively impact the aesthetics, property values, health and quality of life for the residential communities of Sycamore Creek, Sycamore Hills, Serrano Ridge, Glen Eden, and Terramor. In the case of an earthquake, fire, or weather event in which the above ground 500 kV power transmission lines fall to the ground, the residents of the Temescal Valley would be blocked from evacuating their communities via the Temescal Canyon Road, De Palma Road, and/or the Interstate 15 Freeway.

Local community opposition to the LEAPS Project has been uniform to such a degree that it moved Congressman Ken Calvert to prepare correspondence to the Commission dated September 6, 2017, imploring the Commission not to waive the Integrated Licensing Process for the LEAPS Project. Enclosed herein is a copy of Congressman Calvert's September 6, 2017, correspondence.

The County of Riverside, the very county within which the LEAPS Project is to be constructed is opposed to its construction. Kevin Jeffries of Riverside County's 1st District, prepared correspondence filed with the Commission on October 2, 2017 informing the Commission of the Board of Supervisors August 29, 2017, motion declaring the opposition of Riverside County to the LEAPS Project. Enclosed herein is a copy of Kevin Jeffries' October 2, 2017, correspondence.

In conclusion, the Company's Application should be denied because: (1) the LEAPS Project will have a detrimental impact on the community; (2) the 2007 EIS does not accurately represent the



Robert Kang
Senior Attorney
Law Department
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September 22, 2017

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Re: Southern California Edison Company's ("SCE") Comments to the Nevada Hydro Company's ("Nevada Hydro") Notice of Intent to File Application ("NOI"), and on the Nevada Hydro's July 31, 2017 Letter, regarding Line Configuration – P-14227-000 The Nevada Hydro Company, Inc. Application for Preliminary Permit

Dear Secretary Bose:

Southern California Edison Company ("SCE") respectfully submits the following comments to (1) the Nevada Hydro's Notice of Intent to File Application ("NOI"). SCE also takes this opportunity to comment on (2) the subsequent letter submitted by The Nevada Hydro Company ("Nevada Hydro") on July 31, 2017, regarding the proposed configuration of the lines portion of Nevada Hydro's proposed Lake Elsinore Advanced Pump Storage project ("LEAPS"), and to (3) a letter submitted by Nevada Hydro dated April 29, 2016, in this proceeding.¹

COMMENTS

1. Nevada Hydro Should Update its Application To List the Agreed-To Point-of-Interconnection For the LEAPS Northern Primary Line

Exhibit A to Nevada Hydro's NOI (updated version filed on July 31, 2017) and the July 31 Letter both list an incorrect point-of-interconnection for the LEAPS northern primary line to SCE's Serrano-Valley 500 kV transmission line. Both documents describe the point-of

¹ The documents are, respectively:

(1) *Notice of Intent to File License Application for the lake Elsinore Advanced Pumped Storage Project*, Proceeding No. P.14227 (*fld.* May 31, 2017) ("NOI");

(2) *Response of The Nevada Hydro Company under P-14227 to July 24, 2017 Letter from Director Yearick*, Proceeding No. P.14227 (*fld.* July 31, 2017) ("July 31 Letter");

(3) Copy of Letter from The Nevada Hydro Company to Southern California Edison describing certain issues under the Interconnection Agreement for the lake Elsinore Advanced Pumped Storage facility under P-14227, et al., Proceeding No. P.14227 (*fld.* April 29, 2016) ("April 29 Letter").

interconnection as "Lake Switchyard" or "Lake Substation" (which appears to be a different name for Lake Switchyard).²

Per the parties' Large Generator Interconnection Agreement ("LGIA"), the correct point-of-interconnection will be SCE's future Alberhill Substation, not Lake Switchyard.³ Nevada Hydro should update its application and environmental documents to reflect the correct point-of-interconnection.

2. Nevada Hydro Should Explain How It Intends To Obtain the Water Resources Needed to Operate a Hydroelectric Project

As noted in the comments to the NOI submitted by the City of Lake Elsinore ("City") filed on July 14, 2017, "the Applicant [Nevada Hydro] no longer possesses any contractual or recognized water right to use the Lake for the LEAPS project."⁴

Expedited review of Nevada Hydro's NOI does not appear warranted. Nevada Hydro should explain how it intends to obtain the water and real property resources it requires to operate LEAPS.

3. The Records in Other Proceedings That Nevada Hydro Relies Upon For Expedited Review Do Not Support Such Review

To justify expedited review of the LEAPS project, Nevada Hydro asks the Commission to incorporate records assembled in other proceedings.⁵ For example, Nevada Hydro relies upon a record developed over five years ago in a licensing proceeding that Nevada Hydro initiated before the California Public Utilities Commission ("CPUC") to construct its proposed Talega-Escondido/Valley-Serrano 500 kV Interconnect Project.⁶

² E.g., July 31 Letter, at 2. NOI, Exhibit A (updated Exhibit A filed on July 31, 2017), at pp. A-7 & A-9.

³ Large Generator Interconnection Agreement ("LGIA") Between The Nevada Hydro Company, Southern California Edison Company and California Independent System Operator Corporation, Project: LEAPS TOT132 (Q#72), *at passim* (describing interconnection at "Alberhill Substation"). The current version of the LGIA has been submitted for Commission approval in Proceeding No. ER17-1863. The LGIA is available at <https://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14618021>.

Regarding Alberhill Substation: SCE is seeking a license to construct Alberhill Substation in Proceeding A.09-09-022 before the California Public Utilities Commission. *In the Matter of the Application of Southern California Edison Company (U 338-E) for a Permit to Construct Electrical Facilities With Voltages Between 50 kV and 200 kV or New or Upgraded Substations With High Side Voltages Exceeding 50 kV: Alberhill System Project*, A.09-09-022 (*fld.* Sept. 30, 2009).

⁴ *City of Lake Elsinore Comments to the Nevada Hydro Company's May 31, 2017 Notification of Intent to File License Application*, Proceeding No. P-14227, at p.1 (*fld.* July 14, 2017).

⁵ NOI, at pp.8-9 (describing CPUC proceeding).

⁶ *Id.* That proceeding is: *In the Matter of the Application of The Nevada Hydro Company for a Certificate of Public Convenience and Necessity for the Talega-Escondido/Valley-Serrano 500 kV Interconnect Project*, Proceeding No. A.10.07.001 (Cal. Pub. Util. Comm'n. *fld.* July 6, 2010).

However, in 2012, the CPUC dismissed Nevada Hydro's application before performing environmental reviews, stating:

[W]e conclude that [Nevada Hydro's] application is procedurally deficient and should be dismissed. At this late date [18 months after Nevada Hydro filed its application], we decline to stay this proceeding while Nevada Hydro seeks expert witnesses to prepare testimony that is critical to the consideration of whether this project is viable, feasible, economic and whether there is a need for the project. The Commission cannot afford to squander its resources on applications that, despite over 18 months of work, remain vague and speculative as to the financing plan and indeed the project description itself. . . . In sum, despite months of work and resources expended by this Commission, the parties, and the project proponent itself, Nevada Hydro has not yet provided the Commission with a full and complete application that would allow us to assess the economics and need of the proposed project.⁷

Since Nevada Hydro's request for expedited review relies upon a record developed for a CPUC permitting application that the CPUC found to be incomplete and, on that basis dismissed before substantive review, the record in that proceeding does not support expedited review in P-14227.

4. Nevada Hydro Is Responsible for Obtaining Required Permits for the LEAPS Project

SCE takes this opportunity to respond to a letter that Nevada Hydro filed in this proceeding on April 29, 2016, involving environmental permitting.⁸ In that letter, Nevada Hydro appears to argue that the interconnection of LEAPS to SCE's future Alberhill Substation is part of the Alberhill System Project itself. That is not correct. The two projects are distinct and the LEAPS project is not within scope of the Alberhill System Project. Nevada Hydro is responsible for obtaining required permits for its own LEAPS Project.

A recent filing made by Nevada Hydro before the CPUC, and the CPUC's response, is instructive. As noted earlier, the point-of-interconnection for LEAPS' northern primary line is SCE's future Alberhill Substation. As noted earlier, SCE is seeking a Certificate of Public Convenience and Necessity before the CPUC to construct Alberhill.⁹

One week after filing the April 29 letter in Proceeding P-14227, Nevada Hydro submitted comments on the Draft Environmental Impact Report (DEIR) for SCE's Alberhill System Project

⁷ *Decision Dismissing Application and Denying Petition to Modify Decision 11-07-036*, Decision D.12-05-022, Proceeding No. A.10.07.001, at p.9 (Cal. Pub. Util. Comm'n. May 24, 2012); available at http://docs.cpuc.ca.gov/PublishedDocs/WORD_PDF/FINAL_DECISION/167564.PDF

⁸ April 29 Letter, *supra* note 1.

⁹ Fn. 3, *supra*.

to the CPUC pursuant to the California Environmental Quality Act (CEQA).¹⁰ Nevada Hydro's comments to the CPUC, like its letter filed in P-14227, wrongly inferred that the interconnection of LEAPS to the Alberhill Substation is part of SCE's Alberhill System Project and should thus be included in the Alberhill DEIR. However, as the CPUC correctly explained in its response to those comments:

...the LEAPS interconnection is not a 'reasonably foreseeable consequence' of the Alberhill System Project. Rather, the interconnection of the LEAPS project to the SCE grid is a reasonably foreseeable consequence of LEAPS.... Furthermore, providing an interconnection for the LEAPS project is independent from the purpose of the Alberhill Substation and Alberhill System Project, and is not part of the [Alberhill] proposed project....Therefore, the LEAPS project was correctly omitted from the Draft EIR's project description and from the environmental analysis of the proposed Alberhill System Project....¹¹

As such, SCE reasserts that Nevada Hydro's LEAPS project and SCE's Alberhill System Project are distinct. Nevada Hydro is responsible for obtaining required permits for the LEAPS Project.

Should you have any questions or concerns, please do not hesitate to contact me at Robert.Kang@sce.com, or (626) 302-6012.

Sincerely,

/s/Robert Kang
Robert Kang
Senior Attorney, Law Department
Southern California Edison Company

¹⁰ Letter from David Kates, The Nevada Hydro Company, to Nicholas Sher & Jensen Uchida, California Public Utilities Commission, re. Comments on the Draft Environmental Impact Report for SCE's Alberhill Substation Project (dated May 4, 2016). Attached as Exhibit 1 to these comments.

¹¹ ValleyIvyglen Subtransmission Line and Alberhill System Project Environmental Impact Report, Appendix L (Responses to Comment)(*issued* April 2017), Proceeding No. A.10.07.001, at p.52. The CPUC's response to Nevada Hydro's letter is attached as Exhibit 2 to these comments (excerpts). The full document is available online at: <http://www.cpuc.ca.gov/Environment/info/ene/alberhill/Docs/Appendix%20L%20-%20Comment%20Response.pdf>

Exhibit 1

Excerpts

Midbust, Jessica

From: David Kates <dkates@sonic.net>
Sent: Wednesday, May 04, 2016 9:27 AM
To: 'Uchida, Jensen'; 'Nicholas Sher'; VIG/ASP
Cc: 'Rex Wait'
Subject: Comments on Alberhill System Project DEIR
Attachments: NHC Comments Attachment 2 - Letter to SCE.PDF; NHC Comments on Alberhill DEIR A0909022.pdf; NHC Comments Attachment 1 - LGIA.PDF

Follow Up Flag: Follow up
Flag Status: Completed

Please find attached the comments of Nevada Hydro on the draft EIR for Alberhill.
We would be happy to discuss any aspect of our comments.
Thanks for the consideration.

4-1

[Redacted]

David Kates
The Nevada Hydro Company
1500 West Sahara Blvd, Suite 100
Santa Fe, NM 87505
505.762.3366



THE HYDRO COMPANY, INC.

DBA THE NEVADA HYDRO COMPANY, INC.

May 4, 2016

Mr. Nicholas Sher,
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

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

VIG.ASP@ene.com
California Public Utilities Commission
RE: VIG/ASP
c/o **Ecology and Environment, Inc.**
505 Sansome Street, Suite #300
San Francisco, CA 94111

RE: Comments on the Draft Environmental Impact Report for SCE's Alberhill Substation Project

Dear PUC CEQA Team

On April 14, 2016, the Public Utilities Commission of the State of California ("Commission") published its draft environmental impact report ("DEIR") for Southern California Edison's ("SCE") Alberhill project.¹ The Nevada Hydro Company, Inc. ("Nevada Hydro") is a party to the Commission's proceeding. Although the Commission and its staff consistently meet and usually exceed the mandates of California Environmental Quality Act ("CEQA"), as described herein, Nevada Hydro was frankly flabbergasted to see that in this case the DEIR does not meet the requirements of CEQA because it fails to include facilities SCE is obligated to construct at Alberhill and fails to analyze other facilities connected to and dependent upon the existence of Alberhill. While SCE apparently did not describe the contractual obligations it has assumed to the Commission in its application², in its amendment to its application,³ in its original and amended Proponent's Environmental Assessment ("PEA") submitted as

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4-4

¹ / *Valley-Ivyglen 115-kV Subtransmission Line and Alberhill System Projects, Draft Environmental Impact Report, State of California Public Utilities Commission, A.07-01-031, A.09-09-022, SCH NOS. 2008011082, 2010041031, April 2016.*

² / *Application of Southern California Edison Company Ill 338-E) for a Permit to Construct Electrical Facilities With Voltages Between 50 kV and 200 kV or New or Upgraded Substations with High Side Voltages Exceeding 50 kV: Alberhill System Project, September 30, 2009.*

³ / *Amendment to the Application of Southern California Edison Company (U 338-E) for a Certificate of Public Convenience and Necessity: Alberhill System Project, March 12, 2010.*

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May 4, 2016

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part of the applications,⁴ nor as the Commission progressed through its analysis, the Commission's consultant, Ecology and Environment, Inc. ("E&E") also failed to identify this obligation and its ramifications under CEQA. As a result, Nevada Hydro believes that:

4-4 Cont.

1. SCE's application is not complete and should not have been deemed complete under Commission Rules; and,
2. The DEIR must be extensively revised to incorporate these significant omitted issues and then be recirculated in order for the Commission to comply with the CEQA.

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4-6

1.0. Introduction: Nevada Hydro's Lake Elsinore Advanced Pumped Storage project

The Federal Energy Regulatory Commission ("FERC") is responsible for licensing Nevada Hydro's proposed 500 MW Lake Elsinore Advanced Pumped Storage ("LEAPS") facility and its associated lines ("gen-ties") connecting the facility to the grid under its Project No. 14227. The project is being licensed as a major unconstructed hydroelectric facility under the provisions of the Federal Power Act of June 10, 1920 ("FPA"), Chapter 285 and under licensing regulations found at 18 CFR, Subchapter B, Part 4. The FERC is also the lead federal agency for National Environmental Policy Act ("NEPA") compliance. In 2007, FERC staff published a Final Environmental Impact Statement ("Final EIS") as required by NEPA for LEAPS⁵, in which it determined the point at which LEAPS is to connect to the Valley-Serrano transmission line, identified therein as the "Lake" site.

4-7

4-8

This gen-tie consists of nearly 15 miles of 500 kV wire suspended on roughly 41 towers, with a portion running underground, along a route identified in the Final EIS from LEAPS to the Lake site. Construction is expected to cost approximately \$260 million.

In addition to the referenced NEPA review, this route and connection point have been subject to previous CEQA analysis by the Commission. First, as far back as 2002, as part of the Valley-Rainbow Interconnect proceedings, the Commission and the BLM prepared a detailed analysis of a broad range of alternative transmission alignments meeting, in whole or in part, the stated objectives of the proposed project for compliance with CEQA.⁶ As indicated in that analysis, Nevada Hydro's route and connection point were identified as potentially the only viable route for the proposed connection.

4-9

⁴ / Southern California Edison Company, *Proponent's Environmental Assessment Alberhill System Project*, September 30, 2009 ("PEA") and the Amended PEA filed April 2014.

⁵ / Federal Energy Regulatory Commission, *Final Environmental Impact Statement for Hydropower License – Lake Elsinore Advanced Pumped Storage Project*, FERC Project No. 11858, FERC/EIS-0191F, January 2007 ("Final EIS"). This document is now in the process of being updated in the present docket.

4-8 Cont.

⁶ / *Interim Preliminary Report on Alternatives Screening for: San Diego Gas & Electric Company Valley - Rainbow 500 kV Interconnect Project*, CPCN Application No. 01-03-036, U.S. BLM Case No. CACA-43368.

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More recently, in the final environmental impact report the Commission prepared for the Sunrise Powerlink project, the Commission evaluated this route and connection point as part of the environmentally superior transmission alternative to the proposed Sunrise project.⁷ 4-10

2.0. The Interconnection Agreement between SCE and Nevada Hydro requires a 500 kV Connection linking LEAPS to the Alberhill substation, missing from the DEIR. 4-11

Commencing in 2006, SCE, the California Independent System Operator (“CAISO”) and Nevada Hydro began working together to interconnect LEAPS to the CAISO’s transmission system under the CAISO’s interconnection procedures for large generators.⁸ This work included execution of System Impact and Facilities Study Plans and preparation by SCE of System Impact and Facilities Studies. The project is number 72 in the CAISO interconnection queue.⁹ Based upon SCE’s findings from these studies, the parties negotiated and executed a Large Generator Interconnect Agreement (“LGIA”) which sets forth the terms and conditions under which LEAPS will connect to the CAISO controlled grid through the SCE high voltage system.¹⁰ 4-12

One of the major issues raised during this negotiation of the LGIA involved identifying the actual connection point. Originally, the connection was to be at a switchyard to be constructed by Nevada Hydro as described in the Final EIS called “Lake”. Nevada Hydro contended that it must use the site specified in the Final EIS, while SCE advanced planning for their Alberhill substation and insisted that the connection occur at their proposed Alberhill site. The fully executed LGIA now identifies Alberhill substation as the connection point. The site SCE proposed for its Alberhill substation in this proceeding is approximately one mile southeast of the FERC-identified Lake location. 4-13

Further, the LGIA requires that the parties coordinate their construction schedules so that the completion of Alberhill and other system upgrades would coincide with the timing for the commercial operation date for LEAPS, requiring Nevada Hydro to now commence funding these design, engineering, procurement and construction activities SCE has described in the LGIA. The omission of SCE’s obligations under the LGIA from the DEIR has thrown a “monkey wrench” into the expectations of Nevada Hydro, SCE as well as the CAISO. The CAISO is also a party to the LGIA, and has planned their own needs with the expectation that both SCE and Nevada Hydro would meet the responsibilities enumerated in the LGIA. 4-14
4-15
4-16

⁷ / California Public Utilities Commission and Bureau of Land Management, *Final Environmental Impact Report/Environmental Impact Statement and Proposed Land Use Amendment – San Diego Gas & Electric Company Application for the Sunrise Powerlink Project*, SCH No. 2006091071, DOI Control No. DES-07-58, October 2008.

⁸ / This procedure was imposed on Nevada Hydro by SCE and the CAISO notwithstanding that LEAPS is a storage facility and not a generator. 4-12 Cont. A

⁹ / Available at <http://www.caiso.com/Documents/ISOGeneratorInterconnectionQueue.pdf>. The project is in the fourth position from the top of the list. 4-12 Cont. B

¹⁰ / Terms of the LGIA were finalized in FERC Dockets ER12–1302 and ER12–1305 through a FERC-sponsored settlement proceeding that became final on February 21, 2014. A copy of the agreement as filed with the FERC is included as Attachment 1 to this letter. 4-12 Cont. C

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Among the many provisions of this agreement is that SCE has assumed the obligation to connect LEAPS to its 500 kV Valley Serrano line at Alberhill under the provisions identified in the LGIA. If it is unable to do so at Alberhill, SCE remains obligated to make this connection nonetheless:

In the event that SCE modifies its plan for the Alberhill 500/115 kV Substation . . . then the Participating TO would develop an alternate plan to connect the Generating Facility to the Valley – Serrano 500kV Transmission Line. The alternate plan for connection to the Valley-Serrano 500kV Transmission Line may be subject to CPUC review and concurrence if this information has not yet been evaluated as part of the LGIP review process. [Emphasis added]

4-17

A copy of a page extracted from the LGIA with the single line diagram SCE prepared showing its plans for connecting LEAPS, as well as the above quote obligation is included as Exhibit 1 to this letter.

Due to the omission of the LGIA obligation from the DEIR, SCE may be obligated to undertake interconnecting LEAPS at Lake (or another nearby site), with the impacts of this alternative absent from the DEIR, notwithstanding it would be a direct consequence of the omission. Clearly also, if SCE is unable to meet its obligations set forth in the agreement, it could be subjected to certain consequences as specified in the LGIA. Please see Nevada Hydro's recent letter to SCE on this issue, (Attachment 2), as an indicator of how serious this matter may be to the parties to this agreement.

4-18

4-19

4-20

3.0. CEQA requires that the DEIR include the obligation of SCE to interconnect LEAPS at Alberhill and as it does not, it fails to meet the mandates of CEQA.

4-21

CEQA requires that all relevant parts of a project, including reasonably foreseeable future expansion and other activities that are part of the project, must be included in the Project Description. The test expressed in the California Supreme Court's 1986 *Laurel Heights* decision: "an EIR must include an analysis of future expansion or other actions if: (1) it is a reasonably foreseeable consequence of the initial project, and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects."¹¹ CEQA also requires the study of actions related to a proposed project in the environmental document. These "related actions" include "connected actions," "indirect impacts," and "cumulative impacts."¹² As both parties have obligated themselves under contract to connect LEAPS at Alberhill, the connection of LEAPS through Alberhill is clearly a "reasonably foreseeable consequence" as well as a "connected action."¹³ Further, routing more than 15 miles of 500 kV transmission from LEAPS to Alberhill is "significant in that it will likely change the scope or nature of the initial project or its environmental effects." Nonetheless, the

4-22

¹¹/See *Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal.* (1988) 47 Cal. 3d 376.

¹²/Each of these related actions have been fully described by this Commission previously. See for example, *Assigned Commissioner's Ruling Addressing Newly Disclosed Environmental Information*, 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 06-08-010, July 27, 2007, at Page 2.

4-22 Cont. A

¹³/See Note 12 describing "connected actions" as those activities that are related in such a way that they should be considered parts of a single action. Connected actions, because they are closely related, must be analyzed in the same CEQA document as the proposed action.

4-22 Cont. B

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description and analysis of the 500 kV connection from LEAPS to the DEIR-identified site for Alberhill is absent from the DEIR. Also absent are the facilities within the Alberhill site and beyond that are required for the connection to occur, facilities described in detail in the LGIA.

4-22 Cont.

Nevada Hydro understands that in order for the Commission to comply with CEQA, the 500 kV line connecting LEAPS to Alberhill must be identified and analyzed in this DEIR. Further, the facilities required for this connection within the substation footprint and potentially elsewhere must also be included. Thus, the Commission must reexamine the alternatives selected for evaluation in DEIR in light of this significant omitted information. Otherwise, under what permitting scenario can Nevada Hydro obtain siting approval to reach the Valley Serrano transmission line without triggering a CEQA fragmentation claim? I am sure this is potential litigation and delay none of us wish to face.

4-23

4-24

Section 15205(a) of Title 14 of the Code of California Regulations (“CCR”) identifies the focus of review of an EIR is to be on “the sufficiency of the document in identifying and analyzing the possible impacts on the environment and ways in which the significant effects of the project might be avoided or mitigated.” Based upon its review, Nevada Hydro believes that the DEIR lacks the description of and impacts of the 500 kV connection from LEAPS to Alberhill and also does not account for the connection facilities needed to integrate LEAPS into the CAISO system as required by the LGIA.

4-25

Nevada Hydro respectfully suggests that § 15088.5(a) of CCR Title 14 controls this situation:

A lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification. As used in this section, the term “information” can include changes in the project or environmental setting as well as additional data or other information. New information added to an EIR is not “significant” unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project’s proponents have declined to implement.

4-26

The omission from the DEIR of analysis and conclusions of more than 15 miles of 500 kV transmission lines, supporting towers and other facilities needed to interconnect LEAPS to the grid in this populated area at minimum, presents “significant new information” as it is described in this section, requiring the Commission to recirculate the DEIR upon concluding this additional required analysis.

4.0. SCE may have neglected to inform the Commission of the full scope of the proposed project, and if so, the application should not have been accepted for filing and deemed complete.

4-27

Although SCE expended considerable time and resources working with Nevada Hydro and the CAISO to interconnect LEAPS, it appears to Nevada Hydro that SCE may have misinformed the Commission by excluding mention of the LEAPS LGIA during the Commission processing of its application.

4-28

For example, in its original PEA, filed with the Commission in September 2009, SCE mentioned LEAPS only briefly in Chapter 6:

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In addition to the developments listed below, the Nevada Hydro Company is proposing the Lake Elsinore Advanced Pump Storage (LEAPS) project that would include a pump storage facility utilizing Lee Lake (approximately 1.5 miles northwest of the Alberhill Substation site) and a reservoir to be created in the Cleveland National Forest west of the City of Lake Elsinore. The proposed LEAPS project also includes construction of transmission lines between the pump storage facility and SCE's Valley-Serrano 500 kV transmission line and San Diego Gas and Electric's (SDG&E's) Talega-Escondido 220 kV transmission line.

In 2009, when SEC filed its PEA, it was well aware of the interconnection process it was leading with Nevada Hydro to connect LEAPS, noting only that somehow the existence of LEAPS fell into the category of "Cumulative Impacts". Although the Amended PEA submitted in April 2011 did not include an update to Chapter 6, through most of 2011, the parties were negotiating terms of the LGIA, and in drafts from late 2010, SCE had already insisted that the connection point be identified as "Alberhill" rather than "Lake" as Nevada Hydro preferred.

4-28

While the LGIA had not been executed when it refiled its application with the Commission in early 2011, SCE was aware of the potential obligations it was incurring to connect LEAPS at Alberhill. When the parties finally executed the LGIA in late 2013 and SCE thereby formally assumed its obligation to interconnect LEAPS, perhaps it should have then notified the Commission of this obligation and new purpose for Alberhill in an amendment to its application or other notice to the Commission's CEQA team, but apparently did not.

It may seem, therefore, that SCE may have not properly informed the Commission of important information relevant to CEQA, and through that omission, failed to present crucial details necessary for the Commission to reach a reasoned and informed decision under CEQA.

5.0. E&E may have been misled by SCE's omissions, but they also failed to perform a rudimentary investigation that would have allowed the DEIR to meet the mandates of CEQA it now does not.

4-29

There are only three parties to this proceeding: a representative from SCE, a representative from this Commission, and Nevada Hydro. In its motion for party status, Nevada Hydro alerted the Commission to the issues described herein, yet Nevada Hydro was never contacted during the preparation of this DEIR.

4-30

4-31

In its PEA, SCE stated as follows:¹⁴

Previous applications from the Nevada Hydro Company to the CPUC for a Certificate of Public Convenience and Necessity (CPCN) to construct the Lake Elsinore Advanced Pump Storage (LEAPS) project have included a proposed switchyard . . .

4-32

SCE, Commission staff and E&E should have known (or could easily have found out) that Nevada Hydro's application to the Commission was for a transmission project not for approval of a pumped hydro project, which is jurisdictional exclusively to FERC under the Federal Power Act. Nonetheless,

¹⁴/See Note 4 at Page 2-1.

even this roundabout notice should have triggered inquiry of how LEAPS was to connect to the grid. Were there to be 2–500 kV connection points into the Valley–Serrano line within a mile of each other or were other configurations under consideration and might one involve Alberhill?

4-32

Then, in the DEIR, E&E failed to grasp the rudimentary basics of the business of constructing energy assets. In Table 3–1, for example, consideration of Nevada Hydro’s Lake substation site was eliminated from further consideration, apparently due to confusion over the project to be assessed.¹⁵ E&E apparently looked to Nevada Hydro’s proposed (and quite separate) transmission line project, rather than properly considering the site as a connection point for the LEAPS 500 kV gen tie under the LGIA, this notwithstanding findings in the Final EIS, and the Commission’s own EIS/EIR for the Sunrise project on the suitability of this site.

4-33

6.0. Conclusion

Nevada Hydro understood from conversations with SCE and Commission staff, that when the Commission evaluated Alberhill, it would incorporate into its analysis routing for the 500 kV connection from LEAPS into Alberhill and other necessary facilities. The omission from consideration of the obligations SCE has assumed reflected in the LEAPS LGIA is fundamental to the flaws in the DEIR that must be corrected to meet the mandates of CEQA.

4-34

4-35

However one may wish to characterize the cause of the omission of information describing SCE’s obligations under the LGIA, Public Resources Code § 21166 clearly requires that an EIR be updated (whether through preparation of a subsequent or supplemental EIR) when:

(a) Substantial changes are proposed in the project which will require major revisions of the environmental impact report.

(b) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report.

4-36

(c) New information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available.

Perhaps SCE had no obligation to mention the LGIA to the Commission until it was finally executed and approved, in which case it should have proposed “substantial changes” to the proposed project, thereby activating subsection (a). Perhaps final execution and approval of the LGIA then altered the “circumstances under which the project is being undertaken” in which case, subsection (b) rules. Least likely, the notice to the Commission in this filing may be seen as providing “new information, which was not known and could not have been known”, which would thereby activate subsection (c). In any case, CEQA requires that the DEIR as it now appears must be corrected to account for SCE’s obligations in the LGIA.

4-37

¹⁵ E&E may also have placed too much credence in SCE’s “evaluation” of the Lake site contained in its PEA at page 2–1, given the SCE’s stated preference for its selected site as well as competitive issues.

4-33a

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Nevada Hydro looks forward to working with Commission and E&E staff to provide factual information to help correct this deficiency.

Sincerely,

David Kates

David Kates

Enclosures

Exhibit 2

Excerpts

**Valley-Ivyglen Subtransmission Line
and Alberhill System Project EIR**

**Appendix L
Responses to Comments**

Lead Agency:
California Public Utilities Commission

Prepared by:
Ecology and Environment, Inc.
505 Sansome Street, Suite 300
San Francisco, CA 94111

April 2017

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APPENDIX L – RESPONSES TO COMMENTS

- 63-15:** See the revisions to the MSHCP discussion under Section 4.4.2.3, which describe how the applicant would be covered under the MSHCP.
- 63-16:** Your statement is included in the public record and will be taken into account by decision-makers when they consider the proposed Project.
- 63-17:** Comment noted.

The Nevada Hydro Company (Letter # 4)

- 4-1:** The CPUC acknowledges receipt of Nevada Hydro's comments.
- 4-2:** To clarify, the DEIR published by CPUC on April 14, 2016, is for two proposed projects—the Alberhill System Project and the Valley-Ivyglen Subtransmission Project, as explained on pages 1-1 through 1-2 of the DEIR. No additional response is required.
- 4-3:** Each project is subject to a separate proceeding at the CPUC. Nevada Hydro is a party to the Alberhill System Project proceeding (A.09-09-022) but is not a party in the Valley-Ivyglen Subtransmission Project proceeding (A.07-01-031). Because Nevada Hydro states it is a party to the proceeding and Nevada Hydro is only a party to the Alberhill System Project proceeding, it is assumed for purposes of responding to comments that the remainder of Nevada Hydro's comment letter is focused on the Alberhill System Project.
- 4-4:** See response to comments 4-2, 4-14, 4-15, 4-17, 4-18, and 4-22.
- 4-5:** See response to comment 4-27 regarding completeness of SCE's application for a CPCN.
- 4-6:** See response to comment 4-22 for a discussion of revisions to the EIR with respect to the Lake Elsinore Advanced Pump Storage Project (LEAPS) 500-kV transmission line and interconnection to Alberhill Substation. See response to comment 4-26 regarding whether the DEIR must be recirculated.
- 4-7:** To clarify, under project 14227, Nevada Hydro has been granted a preliminary permit. FERC is not actively licensing LEAPS at this time; however, the preliminary permit “[allows] the permit holder to investigate the feasibility of project while the permit holder conducts investigations and secures necessary data to determine the feasibility of the proposed project and to prepare a license application” (FERC 2012). The CPUC understands, based on information contained in Nevada Hydro's most recent reports to FERC, that Nevada Hydro “is continuing moving to complete necessary work that will allow it to file a complete license application in a timely fashion” (NV Hydro 2016). The CPUC recognizes that a license application was filed for LEAPS under FERC Project 11858, but that FERC dismissed that application due to concerns about the working relationship between Nevada Hydro and their co-applicant. With regards to the current LEAPS project—Project 14227—FERC indicated to the CPUC's consultant that a license application has not been filed (Fargo pers. comm. 2017). This comment does not raise environmental issues regarding the DEIR or its analyses or conclusions; therefore, no additional response is required.

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- 4-8:** The CPUC acknowledges that FERC staff published a Final Environmental Impact Statement (EIS) under NEPA in connection with FERC Project 11858. Note that the 2007 FERC LEAPS Final EIS does not state explicitly that LEAPS would connect at the “Lake” site to the Valley – Serrano 500-kV transmission line. Appendix F of the FERC Final EIS shows an aboveground route between LEAPS’ proposed upper reservoir and an area identified in Section 2 of the Final EIS as the “Proposed Northern Substation.” In addition, Section 5 of the Final EIS references the “northern substation near Lee Lake.” The CPUC also notes that Nevada Hydro’s 2012 LEAPS Pre Application Document (PAD)⁸ references a “Lake Switchyard” (Figure 2 of the PAD), which is presumably the “Lake Site” referenced by the commenter. This comment does not raise environmental issues regarding the DEIR or its analyses or conclusions; therefore, no additional response is required.
- 4-8a:** Contrary to the commenter's statement that the EIS is “in the process of being updated in the present docket,” FERC indicated to the CPUC that no National Environmental Policy Act (NEPA) review is currently underway for Project 14227 (Fargo pers. comm. 2017). Any additional NEPA review would occur after filing of a license application (Fargo pers. comm. 2017). Nevada Hydro has not yet filed an application for a license, as described in response to comment 4-7. This comment does not raise environmental issues regarding the DEIR or its analyses or conclusions; therefore, no additional response is required.
- 4-9:** The CPUC reviewed the *San Diego Gas & Electric Company Valley – Rainbow 500 kV Interconnect Project - Interim Preliminary Report on Alternatives Screening*. Nevada Hydro states that this document was prepared in compliance with CEQA; however, note that the alternative screening process was undertaken “to capture the analysis process and status alternatives as of November 2002,” and as stated in the report, “[the report] is intended to be an informational source and is not, in and of itself, a CEQA/NEPA document nor does it substitute for a full EIR/EIS” (CPUC and the Bureau of Land Management (BLM) 2002). Although a Notice of Preparation was issued for the project in 2001, and the CPUC published an Initial Study and public scoping report, the CEQA process was not completed. The request for a CPCN was denied, and the CPUC ordered that the Energy Division cease preparation of the CEQA document in 2002 (CPUC 2002).
- The report contains two routes that appear to have been submitted by Nevada Hydro (the “Cleveland National Forest, Trabuco District” alternatives). Although the commenter states, “Nevada Hydro’s route and connection point were identified as potentially the only viable route for the proposed connection,” the report notes that the feasibility of both Trabuco District alternatives were “undetermined” (CPUC and BLM 2002).
- This comment does not raise environmental issues regarding the DEIR or its analyses or conclusions; therefore, no additional response is required.
- 4-10:** To clarify, the CPUC, with the BLM as the NEPA lead agency, released the Final EIR/EIS for the Sunrise Powerlink project in 2008. The Final EIR/EIS examined two alternatives involving LEAPS, including the “LEAPS Generation and Transmission Alternative” and the “LEAPS Transmission-Only Alternative.” The LEAPS Generation and Transmission Alternative

⁸ The PAD was submitted for the LEAPS project in the docket for FERC Project 14227, under which Nevada Hydro currently holds a preliminary permit.

VALLEY-IVYGLEN AND ALBERHILL PROJECTS
APPENDIX L – RESPONSES TO COMMENTS

included the entire LEAPS project. The LEAPS Transmission-Only alternative included only the 500-kV transmission interconnection of the LEAPS Project and an upgrade to an existing 230-kV transmission line. The LEAPS Transmission-Only Alternative was the same as the Talega-Escondido/Valley-Serrano (TE/VS) 500-kV transmission line (CPUC 2008). The LEAPS Transmission-Only Alternative and LEAPS Generation and Transmission Alternative were found to be among the environmentally superior alternatives to the proposed project then under review. At the time, Nevada Hydro had applied to the CPUC for a CPCN for the TE/VS project (CPUC 2008). The CPUC's decision on the Sunrise Powerlink project concluded that there was not substantial evidence that the LEAPS Transmission-Only Alternative could meet most of the basic project objectives of the Sunrise Powerlink Project and determined it would be evaluated in its own CPCN proceeding (CPUC 2008). The CPUC's decision granting a CPCN approved a different alternative – the Environmentally Superior Southern Route (CPUC 2008).

This comment does not raise environmental issues regarding the Draft EIR or its analyses or conclusions; therefore, no additional response is required.

- 4-11:** See responses to comments 4-14, 4-17, and 4-18 regarding the requirements of the Large Generator Interconnection Agreement (LGIA) with regards to interconnection of LEAPS to the Alberhill Substation. See response to comment 4-22 for a discussion of revisions to the EIR with respect to the LEAPS' 500-kV transmission line and interconnection to Alberhill Substation.
- 4-12:** The CPUC acknowledges the LGIA between SCE and Nevada Hydro, and notes the commenter's statements about the CAISO interconnection queue. This comment does not raise environmental issues regarding the DEIR or its analyses or conclusions; therefore, no additional response is required.
- 4-12a:** The commenter's assertion is noted and included in the record. The commenter provides no detail nor does the commenter explain what bearing the statement has on the CPUC's review of the Alberhill System Project under CEQA that would allow for a more detailed response to this comment. Therefore, no additional response can be provided.
- 4-12b:** This statement is noted and included in the record, with the document found at the referenced hyperlink, for consideration by decision makers. The comment does not raise environmental issues regarding the DEIR or its analyses or conclusions; therefore, no additional response is required.
- 4-12c:** The LGIA is noted and included in the record for consideration by the decision makers. Note that CEQA does not require that the lead agency respond to general reference materials cited to support comments (*Environmental Protection Information Center v. Dept. of Forestry & Fire Protection* (2008) 44 Ca.4th 459, 483–484). To the extent that Nevada Hydro references specific portions of the LGIA in its comments on the EIR or uses specific portions of the LGIA to support its comments on the EIR, the LGIA is addressed in responses to comments 4-14, 4-15, 4-16, 4-17, 4-18, 4-19, and 4-22.
- 4-13:** Nevada Hydro's contentions about the settlement negotiations for the LGIA are noted and included in the record. Per response to comment 4-8, although the FERC Final EIS does not specifically reference a "Lake" site, the CPUC recognizes that the "Northern Substation" identified in the EIS—or potentially another location near Lee Lake referenced in other

VALLEY-IVYGLEN AND ALBERHILL PROJECTS
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documents—is understood by the commenter to be the “Lake location.” Further, the CPUC acknowledges that the LGIA identifies the Alberhill Substation as the point of interconnection and that it is generally understood that the Alberhill Substation would likely be the LEAPS interconnection point in the event that both the Alberhill Substation and LEAPS are constructed. Because the comment does not raise an environmental issue and the commenter does not explain the relevance of its claims about the settlement negotiations for the LGIA to the DEIR, no additional response can be provided.

- 4-14:** The LGIA’s identification of the Alberhill Substation as the LEAPS interconnection point is noted and included in the record. To clarify, while the LGIA identifies the Alberhill Substation as the point of interconnection, the LGIA discloses the possibility of other interconnection options should SCE modify its plan for the Alberhill Substation or if it is not constructed:

In the event that SCE modifies its plan for the Alberhill 500/115 kV Substation, or the substation project does not receive CPUC approval, then the Participating TO would develop an alternate plan to connect the Generating Facility to the Valley – Serrano 500kV Transmission Line. The alternate plan for connection to the Valley-Serrano 500kV Transmission Line may be subject to CPUC review and concurrence if this information has not yet been evaluated as part of the LGIP review process. (Nevada Hydro, SCE, and the California Independent System Operator (CAISO) 2013)

Regarding the commenter's assertions about the FERC Final EIS’s identification of a “Lake” site, see response to comment 4-8 and references to the “Northern Substation” and “Lake Switchyard.” The CPUC notes that the Alberhill Substation is about 1.6 miles southeast of the Lake Switchyard site. This comment does not raise environmental issues regarding the DEIR or its analyses or conclusions; therefore, no additional response is required.

- 4-15:** The CPUC reviewed the LGIA with regards to construction schedule and was unable to locate a clause that mandates that parties to the LGIA “coordinate their construction schedule so that completion of the Alberhill System Project and other upgrades would coincide with the timing for the commercial operation date for LEAPS. . . .” It is unclear what section of the LGIA the commenter is referring to because the commenter does not provide any specific references to sections of the LGIA. The commenter may be referring to the content of Article 5 of the LGIA, which sets forth the responsibilities for each party in selecting dates such as the in-service date and completion date of the required interconnection facilities and network upgrades. In any event, the commenter’s claims about schedule coordination and provisions of funds to SCE, whether or not they are required by the LGIA, do not raise any environmental issues regarding the DEIR or its analysis; therefore, no additional response is required.
- 4-16:** The commenter does not explain or provide detail as to which of their, SCE’s, or CAISO’s “expectations” have been affected by omission of SCE’s LGIA obligations from the EIR. The commenter has not provided detail about how CAISO’s planning efforts have been affected by the DEIR. Furthermore, CAISO did not submit a comment on the DEIR, and SCE’s comment on the Draft EIR was silent about the LGIA. CEQA Guidelines section 15126.2 requires that “[a]n EIR . . . identify and focus on the significant environmental effects of the proposed project.” CEQA Guidelines section 15358 requires that effects analyzed under CEQA be related to a physical change. Impacts to “expectations” without a nexus to a physical change in the environment need not be analyzed under CEQA. The comment does not allege a physical impact on the environment; therefore, no additional response can be or need be provided.

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- 4-17:** The statements regarding the LGIA’s requirements for interconnection of LEAPS to the Alberhill Substation, as well as Exhibit 1 attached to the commenter’s letter, are noted and included in the record for consideration by the decision makers. The full portion of the commenter’s quote from the LGIA is:

In the event that SCE modifies its plan for the Alberhill 500/115 kV Substation, or the substation project does not receive CPUC approval, then the Participating TO would develop an alternate plan to connect the Generating Facility to the Valley – Serrano 500kV Transmission Line. The alternate plan for connection to the Valley-Serrano 500kV Transmission Line may be subject to CPUC review and concurrence if this information has not yet been evaluated as part of the LGIP review process.

This comment does not raise an environmental issue or an issue with the DEIR’s analysis or conclusions; therefore, no further response is required.

- 4-18:** The commenter notes that impacts of an alternative LEAPS interconnection plan are absent from the Draft EIR. See response to comment 4-22, which explains that the LEAPS’ interconnection is not a consequence of the construction of the Alberhill Substation and is therefore not part of the proposed project under CEQA. As explained in response to comment 4-8, a “Lake Switchyard” is identified in Nevada Hydro’s 2012 PAD. The CPUC understands the “Lake site” referenced by the commenter to be the “Lake Switchyard” identified in Nevada Hydro’s 2012 PAD. The CPUC further acknowledges, per the LGIA quotation included in response to comment 4-17, that if the Alberhill Substation is not constructed and LEAPS is later approved, an “alternative plan to connect [LEAPS] to the Valley – Serrano 500kV Transmission Line” would be implemented. Such a plan could include interconnection at the Alternative DD Substation, if feasible, or as described in text added to Chapter 5.0, Comparison of Alternatives (see “Cumulative Impacts” under the Alternative DD analysis), would more likely include the construction of another substation at the Lake Switchyard site or another site. If either of the latter are required as a consequence of the Alberhill Substation not being constructed (i.e., if either the Lake Switchyard or another substation not analyzed in the EIR are required), a separate application would be filed at some point in the future. Finally, the CPUC notes that there is nothing in the record that would prevent Nevada Hydro or another entity from filing an application for another substation in the vicinity.
- 4-19:** Nevada Hydro’s claim about “certain consequences” to SCE if it does not meet obligations in the LGIA is noted and included in the project record. This comment does not raise environmental issues or issues with the DEIR analysis or conclusions; therefore, no additional response is required.
- 4-20:** Nevada Hydro’s letter to SCE, attached as Attachment 2 to the comment letter, as well as its comment on the seriousness of the matter are noted and included in the project record for consideration by the decision makers. Responses to comments 4-38 through 4-71 address the content of Nevada Hydro’s letter to SCE.
- 4-21:** See responses to comments 4-22 through 4-26.
- 4-22: Evaluation of LEAPS as Part of the Proposed Project**

CEQA requires “that an EIR must include an analysis of the environmental effects of future expansion or other action if: (1) it is a reasonably foreseeable consequence of the initial project;

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and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects. Absent these two circumstances, the future expansion need not be considered in the EIR for the proposed project” (*Laurel Heights Improvement Association of San Francisco v. Regents of the University of California* (1988) 47 Cal.3d 376, 396). Although the commenter claims that CEQA requires that certain information about future actions be included in the project description, under CEQA “the issue should not be rigidly defined as whether the project description was adequate . . . [as] the fundamental dispute is whether the EIR adequately discussed future uses of the [project] and their environmental effects” (*Id.*, n.6).

Although not made clear in the comment, it is presumed the commenter considers the interconnection of LEAPS at Alberhill Substation a “reasonably foreseeable consequence” of the Alberhill Substation’s construction as part of the Alberhill System Project. However, the LEAPS interconnection is not a “reasonably foreseeable consequence” of the Alberhill System Project. Rather, the interconnection of the LEAPS project to the SCE grid is a reasonably foreseeable consequence of LEAPS. Section 5.6 of the LGIA states that SCE shall begin construction of the interconnection facilities and network upgrades as soon as practicable after several conditions are satisfied. One condition listed in LGIA section 5.6.1 is that “[a]pproval of the appropriate Governmental Authority has been obtained for any facilities requiring regulatory approval” (Nevada Hydro, SCE, and CAISO 2014). Nevada Hydro would need a license from FERC as well as all other government approvals to build LEAPS to satisfy this condition before SCE must begin construction of interconnection facilities at Alberhill Substation.⁹ This clearly demonstrates that LEAPS’ 500-kV transmission line and interconnection to Alberhill Substation are *a reasonably foreseeable consequence of LEAPS* and that LEAPS’ 500-kV transmission line and interconnection to Alberhill Substation are not a reasonably foreseeable consequence of the construction of the Alberhill Substation or the Alberhill System Project. Furthermore, providing an interconnection for the LEAPS project is independent from the purpose of the Alberhill Substation and Alberhill System Project, and is not part of the proposed project. The objectives of the Alberhill System Project are explained in EIR section 1.2.2; none of the identified objectives relate to providing an interconnection for the LEAPS project. Details regarding the project objectives are further articulated in Appendix K. Therefore, the LEAPS project was correctly omitted from the Draft EIR’s project description and from the environmental analysis of the proposed Alberhill System Project, except in the context of cumulative impacts (as noted below).

Evaluation of LEAPS as a Connected Action

To clarify the commenter’s claims about “connected actions,” and as explained in the ruling cited by the commenter in footnote 12, “connected actions” are a consideration under NEPA. NEPA requires the proposed action under NEPA include federal connected actions (Code of Federal Regulations, Title 40, Section 1508.25(a)). Similarly, CEQA (CEQA Guidelines Section 15003 (h) and Section 15378) requires the “whole of the action” be analyzed for the proposed project. However, providing an interconnection for the LEAPS project is independent from purpose of the Alberhill Substation and Alberhill System Project, and is not part of the “whole of the action” or the proposed project.

⁹ As described in response to comment 4-7, Nevada Hydro currently has only a preliminary permit for the LEAPS project. As described in response to comment 4-8a, Nevada hydro has not even filed an application for a license for LEAPS from FERC.

Indirect Impacts

To clarify CEQA's requirements with regards to indirect impacts, CEQA Guidelines section 15358(a)(2) requires analysis of "indirect or secondary effects which are caused by the project and are later in time or farther removed in distance, but are still reasonably foreseeable." As described above, the LEAPS project was properly omitted from the project description of the Alberhill System Project; therefore, indirect impacts associated with LEAPS were properly omitted from the analysis. The commenter does not make any claims as to the DEIR's adequacy with regards to its analysis or conclusion regarding reasonably foreseeable indirect impacts associated with the proposed project as defined in the EIR; therefore, no additional response can be provided.

Evaluation of LEAPS as a Cumulative Project

Although the commenter does not explicitly request that the LEAPS interconnection be included in the cumulative impacts analysis, the CPUC has concluded that the LEAPS project should be considered a cumulative project, because (for CEQA purposes) it is prudent to consider it to be a reasonably foreseeable probable future project, due to the existence of (1) an LGIA with SCE and (2) a preliminary permit issued by FERC. (CEQA Guidelines section 15355(b).)

With regards to cumulative impacts, CEQA Guidelines Section 15355 defines cumulative impacts as "two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts." An EIR's discussion of cumulative impacts begins with a discussion of whether the "combined cumulative impact associated with the project's incremental effect and the effects of other projects is not significant . . ." (CEQA Guidelines section 15130(a)(2)). If the cumulative impact is not significant, the EIR does not need to provide additional detail about the impact (*see* CEQA Guidelines section 15130(a)(2)). If the cumulative impact is significant, then the EIR must discuss whether the project's contribution to that impact is "cumulatively considerable" (*see* CEQA Guidelines section 15130(a)(3)).

As explained in EIR section 6.2.2, the EIR uses the project list approach and the summary of projections approach for the cumulative impacts analysis. Individual cumulative projects are only examined when the project list approach is used. Given the fact that Nevada Hydro has not yet filed an application with FERC, it is unlikely that LEAPS would be constructed within the timeframe of the Alberhill System Project or Valley-Ivyglen Subtransmission Project. Therefore, the cumulative impacts of the LEAPS project have only been considered for resource areas where the DEIR uses the project list approach and where significant impacts would occur during operation.¹⁰

Under the project list approach, impacts of individual projects are considered in combination with the impacts of the proposed project. CEQA Guidelines section 15145 states the general rule that, "[i]f after thorough investigation, a Lead Agency finds that a particular impact is too speculative for evaluation, the agency should note its conclusion and terminate discussion of

¹⁰ As listed in Draft EIR section 4.2.2.1, resource areas that use the project list approach include aesthetics, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, noise, and transportation and traffic. However, the CPUC determined that only aesthetics impacts would have the potential to be cumulatively considerable because only aesthetics impacts would be significant and unavoidable during operations.

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the impact.” If the Alberhill Substation is constructed and the LEAPS project is approved, the LEAPs interconnection point would be the Alberhill Substation. However, if the Alberhill Substation is not constructed, an alternative, but as of yet unknown, plan to interconnect LEAPS would be implemented in accordance with the terms of the LGIA. Therefore, while the CPUC assumes that, in its review of each of the Alberhill Systems Project and the Valley-Ivyglen Subtransmission Line Project, each would contribute to a cumulative impact with certain LEAPS 500-kV interconnection components in certain resource areas, because the design, location and timing of construction of the LEAPS interconnection components are unknown, the nature and extent of the significance of the Valley-Ivyglen Subtransmission Line Project’s or the Alberhill System Project’s contribution to a cumulative impact cannot be ascertained and is speculative. Though the nature and severity of the potential impacts is speculative, a general discussion of impacts with respect to aesthetics has been added to Chapter 6.0.

In addition, while previous applications submitted to both the CPUC and FERC contained routing information for LEAPS’ associated 500-kV transmission line, the CPUC notes that such routes were intended to connect to the Lake Switchyard, which is located over a mile west of the proposed Alberhill Substation site. Therefore, it is reasonable to assume that if the Alberhill Substation is constructed and LEAPS is later approved, the 500-kV transmission line would be rerouted to connect to the Alberhill Substation. As a result, while a general discussion of impacts related to the LEAPS interconnection at the Alberhill Substation have been added to the aesthetics analysis in Chapter 6.0, the nature and extent of the impacts of the LEAPS 500-kV transmission line cannot be evaluated, and it would be speculative for the EIR to evaluate the cumulative impacts resulting from either of the proposed projects together with the LEAPS 500-kV transmission line. Therefore, a discussion of the cumulative impacts resulting from the LEAPS 500-KV transmission line is not included in Chapter 6.0.

- 4-22a:** To clarify, the *Assigned Commissioner’s Ruling Addressing Newly Disclosed Environmental Information* was issued on July 24, 2007, not July 27, 2007.
- 4-22b:** See response to comment 4-22 regarding the concept of “connected actions.”
- 4-23:** See response to comment 4-22 for a discussion of why the LEAPS 500-kV transmission line and its interconnection to the Alberhill Substation were properly excluded from the proposed project description and the impact analysis of the proposed project and why the CPUC instead considers LEAPS a cumulative project. Regarding alternatives, CEQA Guidelines section 15126.6(a) requires that an EIR describe a reasonable range of alternatives that “would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project” The alternatives analyzed in the EIR meet those requirements. That being said, a discussion of the cumulative impacts of Alternative DD in light of the LEAPS project has been added to Chapter 5.0, Comparison of Alternatives. As a result, Alternative DD is no longer considered the Environmentally Superior Alternative.
- 4-24:** The commenter’s question about successful permitting scenarios for LEAPS and its statement about litigation and delay are noted and included in the record for consideration by the decision makers. However, this comment pertains to the scope and adequacy of the permitting process for the Nevada Hydro’s LEAPS project. This comment does not raise an environmental issue or a concern about the adequacy of the environmental analysis or conclusions of the EIR for the Alberhill System Project, which, as explained in response to comment 4-22, does not include

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the LEAPS interconnection or 500-kV transmission line. Therefore, no additional response is necessary.

- 4-25:** To correct the commenter’s citation, it is section 15204(a) of title 14 of the California Code of Regulations (or, CEQA Guidelines section 15204(a)) that contains the text quoted by the commenter. See response to comment 4-22 for a discussion of revisions to the EIR with respect to the LEAPS’ 500-kV transmission line and interconnection to Alberhill Substation.
- 4-26:** A Lead Agency is required to recirculate an EIR when “significant new information” is added to the EIR after notice is given of the availability of the Draft EIR for public review but prior to certification. In addition, CEQA Guidelines section 15088.5 states that, “New information added to an EIR is not ‘significant’ unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect [...] that the project proponents have declined to implement.” Recirculation is not required where the new information added to the EIR merely clarifies, amplifies, or makes insignificant modifications to an otherwise adequate EIR. (See *Laurel Heights Improvement Assn. v. Regents of the University of California* (1993) 6 Cal.4th 1112, 1130.) Response to comment 4-22 discusses the EIR’s analysis of LEAPS. The CPUC considers the disclosure of the LEAPS project in the EIR to be adequate because the design, location and timing of construction of the LEAPS interconnection and its associated 500-KV transmission line are unknown and any further analysis would be speculative. As such, the public has not been deprived of an opportunity to provide meaningful comment, and therefore, recirculation is not required.
- 4-27:** The commenter does not cite to a specific requirement that SCE did not meet that should have precluded the CPUC from deeming SCE’s application complete, so it is uncertain which specific requirement the commenter believes SCE did not comply with. However, for CEQA purposes, CEQA Guidelines section 15101 outlines requirements for the lead agency’s review of an application for completeness and solely provides timelines for deeming an application complete. Any questions about the CPUC’s determination of the completeness of the application are outside of the CEQA process. Additionally, CPUC’s General Order 131-D Section VIII(A) outlines the content required in a CPCN application. Relevant to Nevada Hydro’s comment, GO 131-D Section VIII(A)(1)(a) requires a detailed project description. It is presumed, due to the content of the remainder of Nevada Hydro’s comment letter, that Nevada Hydro believes the “full scope of the proposed project” would include the LEAPS 500-kV transmission line and the interconnection to the Alberhill Substation. As explained in response to comment 4-22, LEAPS’ 500-kV transmission line and interconnection to the Alberhill Substation were appropriately omitted from the EIR’s project description and its environmental analysis of the Alberhill System Project (except as to cumulative impacts). Furthermore, this comment does not raise issues as to the adequacy of the environmental analysis or conclusions in the EIR; therefore, no further response is required.
- 4-28:** This comment contains various claims relating to information SCE provided to CPUC, what SCE knew about LEAPS, the content of SCE’s PEA and Amended PEA, and the LGIA negotiations between Nevada Hydro and SCE. This comment is included in the record for consideration by the decision makers. However, this comment does not raise an environmental issue or a concern about the adequacy of the environmental analysis or conclusions of the EIR; therefore, no additional response is required. See response to comment 4-22 regarding consideration of LEAPS in the EIR.

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- 4-29:** Due to the content of the remainder of Nevada Hydro’s comment letter, CPUC presumes this comment pertains to the inclusion of the LEAPS 500-kV transmission line and interconnection to the Alberhill Substation, as contemplated in the LGIA, in the EIR. See response to comment 4-22 for a discussion of revisions to the EIR with respect to the LEAPS’ 500-kV transmission line and interconnection to Alberhill Substation.
- 4-30:** To update and correct the commenter, there are four parties to the Alberhill System Project proceeding (A.09-09-022). The parties are Southern California Edison, CPUC’s Office of Ratepayer Advocates, Nevada Hydro, and Forest Residents Opposing New Transmission Lines (FRONTLINES). FRONTLINES was granted party status on August 31, 2016, after the commenter submitted his DEIR comment.
- 4-31:** CPUC Energy Division reviewed Nevada Hydro’s motion for party status dated June 23, 2010. It is assumed that the “issues” to which Nevada Hydro refers to in this comment are its claim that certain LEAPS components should be analyzed as part of the project description for the Alberhill System Project, as Nevada Hydro claims in its motion:

Contrary to specific CEQA requirements specifying that agencies consider the “whole of the action” (14 CCR 15378[a]), SCE proposes to fragment the environmental process by separating the approval process for its own Alberhill project from its near term purpose of connecting LEAPS and the TE/VS Interconnect into the grid.”

The claim that Nevada Hydro was not contacted during preparation of the Draft EIR is noted and included in the record for the decision makers. The commenter does not claim the lack of consultation with Nevada Hydro during preparation of the DEIR violates CEQA. Nonetheless, note that CEQA requirements for consultation during preparation of an EIR are contained in CEQA Guidelines section 15082 and 15083. Scoping activities are described in DEIR section 1.3.4 and in DEIR Appendix A (Public Scoping Summary). The CPUC’s scoping efforts met and exceeded CEQA requirements for scoping. For example, the CPUC conducted outreach to the general public beyond the requirements in CEQA Guidelines section 15082(a) and section 15083. Furthermore, the CPUC held three scoping meetings, all of which were open to the public, which goes beyond the requirements in CEQA Guidelines section 15082(c).

- 4-32:** This comment makes various claims about what various entities should have known and should have investigated with regards to LEAPS’ connection to the grid. Insofar as this comment ultimately pertains to evaluation of LEAPS in the EIR, as suggested by comment 4-29, see response to comment 4-22 for a discussion of revisions to the EIR with respect to the LEAPS’ 500-kV transmission line and interconnection to the Alberhill Substation.
- 4-33:** The commenter’s contentions that the CPUC’s consultant does not understand construction of energy assets is noted and included in the record.. Contracting with a professional consultant to prepare an EIR is an authorized method of preparation (CEQA Guidelines section 15084(d)(2) and a very common practice. Ultimately, the determination of whether the EIR meets CEQA requirements is made by the Lead Agency in its decision whether to certify the EIR. (CEQA Guidelines section 15090(a)(1).)

It is presumed that the commenter’s statements about “confusion over the project to be assessed” refer to the commenter’s contention that the LEAPS project should have been included in the project description of the Alberhill Systems Project. This is addressed in response to comment 4-22.

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In discussing the content of Table 3-1, the commenter refers to ASP Alternative A, the “Lee Lake Substation Site.” As explained in EIR section 3.2.3:

The Alternatives Screening Report [contained in Appendix D] was drafted using preliminary information for the project. As a result, the conclusions made in the EIR have affected the suitability of alternatives that were previously retained in the Alternatives Screening Report. Alternatives that were retained based on preliminary information in the Alternatives Screening Report, but are no longer suitable for full analysis in the EIR, are detailed in Table 3-1.

As explained in Table 3-1 of the EIR, ASP Alternative A was eliminated from consideration in the EIR because it did not meet CEQA requirements for consideration. Under CEQA, for consideration in an EIR, an alternative must avoid or substantially reduce a significant impact of the proposed project, among other requirements. Table 3-1 explains that ASP Alternative A would not avoid or substantially reduce a significant impact of the proposed project. The potential for the construction schedules of the Alberhill System Project and TE/VS project (which the commenter refers to as the “LEAPS 500-kV gen tie” in its comment) to overlap was considered in making that determination. Alternative A was therefore properly eliminated from consideration in the EIR as an alternative to the Alberhill System Project.

See response to comment 4-23 regarding consideration of the LEAPS’ 500-kV transmission line and interconnection to Alberhill Substation in the alternatives analysis for the Alberhill System Project. See response to comment 4-10 regarding the CPUC’s Sunrise Powerlink Project EIR/EIS. The CPUC assumes that “findings in the Final EIS” refers to FERC’s 2007 Final EIS for the LEAPS project as part of FERC Project 11858. See response to comment 4-8 regarding the FERC Final EIS for LEAPS.

Further, the CPUC notes that in the event that the Alberhill Substation is not constructed or the Alternative DD site is selected and the Nevada Hydro project is unable to connect as disclosed in Chapter 5.0, Comparison of Alternatives, the CPUC is unaware of anything in the record that would prevent Nevada Hydro or another entity from proposing another substation at the Lake Switchyard site or another site.

- 4-33a:** This comment contains Nevada Hydro’s unsupported speculation about why the CPUC’s consultant eliminated the “Lake substation site” from consideration in the EIR. See response to comment 4-33 regarding the EIR’s consideration of ASP Alternative A, “Lee Lake Substation Site.”
- 4-34:** This comment makes statements regarding Nevada Hydro’s understanding of conversations with SCE and CPUC staff about what would be included in the analysis of the Alberhill System Project. The comment does not indicate when these discussions occurred, and the CPUC Environmental Division is unaware of any such conversations. Note that the CPUC has conducted this analysis of the proposed Alberhill System Project in accordance with CEQA. See response to comment 4-22 for a discussion of revisions to the EIR with respect to the LEAPS’ 500-kV transmission line and interconnection to Alberhill Substation.
- 4-35:** See response to comment 4-22 for a discussion of revisions to the EIR with respect to the LEAPS’ 500-kV transmission line and interconnection to Alberhill Substation.

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- 4-36:** To clarify when preparation of a subsequent or supplemental EIR is required, CEQA Guidelines sections 15162 and 15163 explain that subsequent EIRs and supplemental EIRs are prepared only after an EIR has been certified. The EIR for the Alberhill System Project has not been certified; therefore, Public Resources Code section 21116 does not apply.
- 4-37:** Response to comment 4-36 explains why preparation of a subsequent EIR or supplement EIR is not required. See response to comment 4-22 for a discussion of revisions to the EIR with respect to the LEAPS' 500-kV transmission line and interconnection to Alberhill Substation.
- 4-38:** This comment is introductory material and for the raises no specific environmental issues. Nevada Hydro's general concerns about the EIR are noted and included in the project record. Refer to the responses to comments 4-39 to 4-71 for responses to the remainder of Nevada Hydro's letter to SCE.
- 4-39:** Refer to response to 4-14.
- 4-40:** Refer to response to 4-8.
- 4-40a:** Refer to response to 4-8a.
- 4-41:** This comment contains claims about negotiations with SCE. This comment is included in the record for consideration by the decision makers. However, this comment does not raise an environmental issue or a concern about the adequacy of the environmental analysis or conclusions of the EIR; therefore, no additional response is required.
- 4-42:** Refer to response to comment 4-34.
- 4-43:** The commenter's concern is noted and included in the record for consideration by the decision makers. The project description in the DEIR is based on SCE's submittals to the Energy Division. The CPUC is not aware of evidence that the project description in the DEIR is not accurate or is incomplete; therefore, no additional response can be provided.
- 4-44:** This comment contains speculation by Nevada Hydro, which is noted and included in the record, but does not raise environmental issues regarding the DEIR or its analyses or conclusions. Therefore, no additional response is required. Refer to responses to comments 4-64 through 4-71 regarding specific concerns expressed in Attachment 1.
- 4-45:** This comment does not raise environmental issues regarding the DEIR or its analyses or conclusions. Therefore, no additional response is required. Insofar as Nevada Hydro previously claimed that SCE's application to the CPUC was incomplete because it did not discuss the full scope of the project, refer to responses to comments 4-27 and 4-28.
- 4-46:** Refer to response to comment 4-22 for discussion of LEAPS as a "connected action." To clarify, the CAISO source cited in Table 3-1 is CAISO's 2014–2015 Transmission Plan. Table 2.6-7 of the 2014–2015 Transmission Plan notes that the Talega–Escondido/Valley–Serrano 500-kV Interconnect, as submitted by Nevada Hydro, was not found to be needed in the 2014–2015 transmission planning cycle. In the DEIR, this information was used to support the idea that "the potential for the construction schedules for the Alberhill Project and the TE/Vs project to overlap was unlikely." Refer to response to comment 4-33 for further explanation of the content of Table 3-1 of the DEIR.

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- 4-47:** This comment contains speculation by Nevada Hydro and is included in the record for consideration by the decision makers. To the extent it raises a question about the LGIA's consideration in the Draft EIR, refer to response to comment 4-22.
- 4-48:** This comment contains speculation about a contractual breach, statements about payments by Nevada Hydro, and various assertions about how LEAPS cannot interconnect as described in the LGIA. Comments about payments and contractual breach do not raise environmental issues regarding the Draft EIR or its analyses or conclusions; therefore, no additional response to these comments is required. Response to comment 4-22 discusses the DEIR's project description with regards to LEAPS and the LGIA. The commenter states there is a "substation drawing" in the LGIA; to clarify, the figure in the LGIA is a one-line diagram of the interconnection to Alberhill Substation, which is a schematic drawing.
- 4-49:** This comment expresses concern, reference to unspecified proposed changes, penalties to SCE, a statement that Nevada Hydro cannot know when it may be able to energize LEAPS, and statements about delay. This comment does not raise environmental issues regarding the DEIR or its analyses or conclusions; therefore, no additional response is required.
- 4-50:** Refer to response to 4-22.
- 4-50a:** Refer to response to 4-22.
- 4-50b:** Refer to response to 4-22.
- 4-51:** Refer to response to 4-24.
- 4-52:** This comment contains a question for SCE that does not pertain to the adequacy of the DEIR or its environmental analysis or conclusions; therefore, no response is required to the question. Attachment 2 is noted and included in the record for consideration by the decision makers. Refer to response to 4-17 regarding the full text of the LGIA provision cited by the commenter.
- 4-53:** This comment contains a statement regarding Nevada Hydro's uncertainty about how SCE will allow for a connection pursuant to the LGIA, which does not raise an issue with the environmental analysis in the DEIR or its conclusions; therefore, no additional response is required. Presumably, the "piecemealing" claim raised by the commenter refers to the DEIR's discussion of the LGIA. Refer to response to comment 4-22.
- 4-54:** This comment contains various statements of Nevada Hydro regarding the content of the LGIA; actions of the SCE, CAISO, and CPUC with regard to the interconnection; discussions between SCE and CAISO; and Nevada Hydro's speculation about violations of FERC 1000. Nevada Hydro also alludes to other unnamed concerns. Regarding the discussion of the LGIA in the DEIR and the CPUC's treatment of the LEAPS interconnection, refer to response to comment 4-22. Otherwise, this comment does not raise an issue with the environmental analysis in the DEIR or its conclusions; therefore, no additional response is required.
- 4-55:** Presumably, given the content of the remainder of the letter, the commenter believes the "mess" referenced in this comment is the DEIR's omission of the LEAPS 500-kV transmission line interconnect to the Alberhill Substation. For a discussion of the content of SCE's PEA, refer to

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response to comment 4-27. Regardless of the content of SCE's PEA, the DEIR's discussion of LEAPS is adequate under CEQA, as explained in response to comment 4-22.

It is unclear what discussion with CAISO the commenter is referring to; however, the commenter may be referring to the information from CAISO cited in DEIR Table 3-1, per comment 4-46. Refer to response to comment 4-46.

- 4-56:** Refer to response to 4-22.
- 4-56a:** This comment is noted and included in the record for the decision makers for consideration. To the extent that, as a footnote to 4-56, the comment may refer to how the CPUC should have considered the LGIA in the DEIR, refer to response to comment 4-22.
- 4-57:** This comment requests that SCE notice the CPUC that it will update its PEA to include SCE's obligations under the PEA. This comment does not raise an issue with the environmental analysis in the DEIR or its conclusions; therefore, no additional response is required. Refer also to response to comment 4-27.
- 4-58:** This comment requests that CAISO submit comments on the DEIR. This comment does not raise an issue with the environmental analysis in the DEIR or its conclusions; therefore, no additional response is required. Regarding Table 3-1, refer to response to comment 4-33.
- 4-59:** Refer to response to comment 4-22 regarding discussion of the LEAPS 500-kV transmission line and interconnection to Alberhill Substation in the DEIR.
- 4-60:** Refer to response to comment 4-26.
- 4-61:** This comment requests that SCE amend its PEA to discuss SCE's obligations under the LGIA. This comment does not raise an issue with the environmental analysis in the DEIR or its conclusions; therefore, no additional response is required. Refer also to response to comment 4-27.
- 4-62:** The comment contains a demand that SCE and CAISO agree to certain terms regarding payment schedules in the LGIA and does not raise an issue with the environmental analysis in the DEIR or its conclusions; therefore, no additional response is required.
- 4-63:** This comment contains various references to SCE's negotiations with Nevada Hydro, SCE's obligations under the LGIA, and CAISO's potential interpretation of interconnection delays. Nevada Hydro expresses a desire to work with SCE and CAISO. This comment does not raise an issue with the environmental analysis in the DEIR or its conclusions; therefore, no additional response is required.
- 4-64:** The commenter does not specify which CPUC rule or which Public Utilities Code section that SCE may have violated. Refer to response to comment 4-27 regarding the content of SCE's PEA. Because Nevada Hydro provides no specificity in this comment, no additional response can be provided.
- 4-65:** Refer to response to comment 4-22 regarding discussion of LEAPS facilities in the LGIA in the DEIR, as well as section 4.3 of the LGIA in particular. To clarify, the section of the LGIA that Nevada Hydro refers to requires that construction begin as soon as practicable after four

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conditions are met, only one of which is “[a]pproval of the appropriate Governmental Authority has been obtained for any facilities requiring regulatory approval.” The comment does not otherwise raise an issue with the environmental analysis in the DEIR or its conclusions; therefore, no additional response is required.

- 4-66:** The comment about SCE’s demand regarding interconnection of LEAPS does not raise an environmental issue about the DEIR or its analysis or conclusions. Refer to response to comment 4-8 regarding the Lake site’s identification in the FERC Final EIS for LEAPS. Refer to response to comment 4-22 regarding discussion of LEAPS facilities in the LGIA in the DEIR. Note that the CPCN application is for SCE to construct the Alberhill System Project as proposed by SCE.
- 4-67:** This comment contains an allegation that CAISO may have acted in bad faith, which does not raise an issue with the environmental analysis in the DEIR or its conclusions; therefore, no additional response is required. Refer to response to comment 4-33 regarding the content of Table 3-1 of the DEIR.
- 4-68:** Refer to response to comment 4-66.
- 4-69:** This comment contains Nevada Hydro’s speculation about what an arbitrator might determine with regards to SCE’s obligations under the LGIA, which does not raise an issue with the environmental analysis in the DEIR or its conclusions; therefore, no additional response is required.
- 4-70:** Refer to response to comment 4-33 regarding the content of Table 3-1 of the DEIR. This comment contains an allegation that CAISO may have acted in bad faith or did not exercise reasonable efforts, which does not raise an issue with the environmental analysis in the Draft EIR or its conclusions; therefore, no additional response is required.
- 4-71:** This comment contains statements regarding SCE’s obligations under the LGIA. This comment does not raise an issue with the environmental analysis in the DEIR or its conclusions, and no additional response is required.

We Are Temescal Valley (Letter # 324)

- 324-1:** Your support for VIG M and opposition to both the Alberhill Substation site and Alternative DD substation site have been noted.
- 324-2:** The commenter has not provided any specifics regarding allegations of inadequacy or referenced an specific items of the Riverside County General Plan. Therefore, no further response can be given.
- 324-3:** Comment noted.
- 324-4:** See the revised discussion of Alternative DD in Chapter 5.0, Comparison of Alternatives. Further, note that Alternative DD is no longer considered the Environmentally Superior Alternative.
- 324-5:** See response to comment 324-4.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing **SOUTHERN CALIFORNIA EDISON COMPANY'S ("SCE") COMMENTS TO THE NEVADA HYDRO COMPANY'S ("NEVADA HYDRO") NOTICE OF INTENT TO FILE APPLICATION ("NOI"), AND ON THE NEVADA HYDRO'S JULY 31, 2017 LETTER, REGARDING LINE CONFIGURATION – P-14227-000 *The Nevada Hydro Company, Inc. Application for Preliminary Permit*** upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Rosemead, California, this 22nd day of September, 2017.

/s/ Jorge Martinez _____

Jorge Martinez, Legal Administrative Assistant
SOUTHERN CALIFORNIA EDISON COMPANY

2244 Walnut Grove Avenue
Post Office Box 800
Rosemead, California 91770

FERC Official Service List_P-14227-000

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EDMUND G. BROWN, Jr., Governor
CHARLTON H. BONHAM, Director



July 19, 2017

Ms. Kimberley D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, D.C. 20426

SUBJECT: COMMENTS FROM THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE ON NEVADA HYDRO COMPANY'S MAY 31, 2017, NOTIFICATION OF INTENT TO FILE ORIGINAL LICENSE APPLICATION FOR THE LAKE ELSINORE ADVANCED PUMPED STORAGE PROJECT (FERC PROJECT No. 14227)

Dear Secretary Bose:

The California Department of Fish and Wildlife (Department) is providing the comments contained herein on the Nevada Hydro Company's May 31, 2017 Notification of Intent to File Original License Application (NOI) for the Lake Elsinore Advanced Pumped Storage (LEAPS) Project, FERC Project No. 14227.

AUTHORITIES

The Department is the relevant State fish and wildlife agency for resource consultation pursuant to the Federal Power Act Section 10(j) (16 U.S.C. section 803 (j)). The fish and wildlife resources of the State of California are held in trust for the people of the State by and through the Department (Fish & G. Code § 711.7). The Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and the habitat necessary for biologically sustainable populations of those species (Fish & G. Code § 1802). The mission of the Department is to manage California's diverse fish, wildlife, and plant resources, and the habitats on which they depend, for their ecological values and for their use and enjoyment by the public.

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1. The NOI (Page 5) states "The Company [Nevada Hydro Company] is distributing this notification of intent to the appropriate Federal, state, and interstate resource agencies, Indian tribes, local governments, and members of the public likely to be interested in this proceeding." The Department has not received a copy of the entire NOI. Documentation from Nevada Hydro Company

Secretary Bose
 FERC Project No. 14227
 Page 2 of 4

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2. The NOI states (Page 1): "The Company here is providing evidence of the significant amount of work it has undertaken to keep the information and consultation efforts fresh..." The Department has not been provided information or participated in consultation efforts since 2011/2012.
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 - CEQA analysis and conclusions regarding the Project, published by the CPUC in a final CEQA and NEPA report.
 - Updated environmental analysis.
 - Results of detailed relevant consultation between the Company and the US Forest Service in connection with the Project's proposed used of lands of the Cleveland National Forest ("Forest").
 - Executed interconnection agreements describing the scope and cost of connecting the project to the region's high voltage grid.
 - Extensive, multi-year, consultation by the Company with resource agencies and other stakeholders."

As previously mentioned, the Department has not had the opportunity to consult on this project since 2011/2012. In 2011 the Department submitted a comment letter on the CEQA Notice of Preparation of a Draft Environmental Impact Report for the TEVS [Talega-Escondido/Valley-Serrano] 500 kV Interconnect Project (State Clearinghouse Number 2011031037). As far as the Department is aware a Draft Environmental Impact Report is still outstanding, and certainly the Department is unaware of the existence of a "final CEQA...report" associated with State Clearinghouse No. 2011031037, and/or "published by the CPUC." This fact can be readily verified by consulting the CPUC's website regarding the project:

http://www.cpuc.ca.gov/Environment/info/aspen/Nevadahydro/Talega_escondido_valley_serrano.htm

The CPUC's website states that "On May 24, 2012 The Nevada Hydro Company's (TNHC) TEVS 500 kV Interconnect Project Application (A. 10-07-

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 6. Section 3.1.3 of the NOI references an updated environmental assessment and updated impact analysis. The Department has not received this information.
 7. Section 3.2 of the NOI states that “extensive consultation has occurred...” As stated previously, the Department has not consulted on this project in the last five years. The Department will be acting as both a trustee and responsible agency for this project under CEQA. The Nevada Hydro Company will need to notify the Department per section 1602 of the Fish and Game Code, and will need to consult with the Department regarding the project’s consistency with the policies and procedures of the Western Riverside County Multiple Species Habitat Conservation Plan. Recent consultation with the Department has not occurred.
 8. The Department is unclear regarding the particulars of The Nevada Hydro Company’s statement (page 12 of the NOI) that “The Company also worked closely with representatives of the regional state Fish and Wildlife office in connection with the designation of land near project facilities for species protection purposes.” The Department is unaware of the “designation of land” related to this project, where this land is located, or the species that will be conserved through these proposed land protection activities.
 9. The Department has not received copies of the Study Plans and Studies, and has not had the opportunity to review or comment on these documents.

As previously stated, the Department has jurisdiction over the conservation, protection, and management of wildlife, native plants, and habitat necessary to maintain biologically sustainable populations. As a trustee for these resources, the Department provides the requisite biological expertise to review and comment upon environmental documents and impacts arising from project activities and identifies ways to avoid or reduce environmental impact. With respect to its trustee agency status, the Department always serves in that capacity under the Fish and Game Code with regard to the

Secretary Bose
FERC Project No. 14227
Page 4 of 4

State's fish and wildlife resources. For the purposes of CEQA, the Department serves as a trustee agency whenever a project affects fish and wildlife resources, regardless of whether those effects are significant.

In addition to the Department's role as a trustee agency, the Department also takes on the role of responsible agency when a lead agency's decision will result in a project that requires the issuance of a Department permit, such as a California Endangered Species Act Incidental Take Permit or a Lake or Streambed Alteration Agreement. This project will, at a minimum, require the issuance of a Lake or Streambed Alteration Agreement. As a responsible agency, the Department must actively participate in the lead agency's CEQA process, review the lead agency's CEQA document, and use that document when making a decision on the project.

The Department does not have a clear understanding of the status of the CEQA document that will be relied on by The Nevada Hydro Company for this project. As previously stated, in 2011 the Department submitted a comment letter on the CEQA Notice of Preparation of a Draft Environmental Impact Report for the Nevada Hydro Company's Talega-Escondido/Valley-Serrano 500 kV Interconnect Project, with the CPUC acting as the CEQA lead agency (State Clearinghouse No. 2011031037). However, a subsequent environmental document (e.g., Draft Environmental Impact Report) was never circulated. The Department currently does not have an understanding of the specific project elements or environmental impacts associated with this project, and has not been recently (within the last five years) consulted on this project. Further, the Department has not been consulted on the development of Study Plans and Studies.

The Department looks forward to being contacted by The Nevada Hydro Company regarding this project in the near future, and provided with a complete copy of the NOI.

If you have questions regarding the contents of this letter further, please contact Joanna Gibson at joanna.gibson@wildlife.ca.gov or (909) 987-7449.

Sincerely,


Leslie MacNair
Regional Manager

ec: Bruce Kinney, CDFW, bruce.kinney@wildlife.ca.gov
Jeff Brandt, CDFW, jeff.brandt@wildlife.ca.gov
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EDMUND G. BROWN, Jr., Governor
CHARLTON H. BONHAM, Director



September 21, 2017

Ms. Kimberley D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, D.C. 20426

SUBJECT: ADDITIONAL COMMENTS FROM THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE ON NEVADA HYDRO COMPANY'S MAY 31, 2017, NOTIFICATION OF INTENT TO FILE ORIGINAL LICENSE APPLICATION FOR THE LAKE ELSINORE ADVANCED PUMPED STORAGE PROJECT (FERC PROJECT No. 14227)

Dear Secretary Bose:

The California Department of Fish and Wildlife (Department) previously provided comments on the Nevada Hydro Company's May 31, 2017 Notification of Intent to File Original License Application (NOI) for the Lake Elsinore Advanced Pumped Storage (LEAPS) Project, FERC Project No. 14227, in a letter dated July 19, 2017 (enclosed). Since this date Nevada Hydro Company transmitted a copy of the Draft License Application and NOI Attachments to the Department. The Department has since completed a cursory review of these documents. The Department requests that FERC consider the Department's original comments submitted July 19, 2017, in addition to the comments contained in this letter in its consideration of Nevada's Hydro's notice of intent and request to waive pre-filing requirements.

AUTHORITIES

The Department is the relevant State fish and wildlife agency for resource consultation pursuant to the Federal Power Act Section 10(j) (16 U.S.C. section 803 (j)). The fish and wildlife resources of the State of California are held in trust for the people of the State by and through the Department (Fish & G. Code § 711.7). The Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and the habitat necessary for biologically sustainable populations of those species (Fish & G. Code § 1802). The mission of the Department is to manage California's diverse fish, wildlife, and plant resources, and the habitats on which they depend, for their ecological values and for their use and enjoyment by the public.

Secretary Bose
FERC Project No. 14227
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ADDITIONAL COMMENTS ON THE NOI

1. The biological resources information included in the NOI is outdated. Studies included in the NOI were completed between 2001 and 2006; more than 11 years has elapsed since these dates. The Department recommends that all biological data be updated. The Department also recommends the incorporation of new sources of data and recent studies, where available (for example, the multi-year Southern California Mountain Lion Study being conducted by University of California, Davis). Further, as the Department is California's Trustee Agency for fish and wildlife resources, and holds those resources in trust by statute for all the people of the state (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) we request that Nevada Hydro consult with the Department prior to completing refreshed studies.
2. The NOI and associated documents do not clarify whether Nevada Hydro will request take coverage through the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP). Because the proposed CEQA lead agency (i.e., the CPUC) is not a permittee to the MSHCP, in order to participate in the MSHCP, the CPUC/Nevada Hydro would need to act as a Participating Special Entity (PSE). If the CPUC/Nevada Hydro chooses to act as a PSE and obtain take through the MSHCP all applicable MSHCP policies and procedures will apply. If the project is not processed through the MSHCP for covered species, then the project may be subject to the Federal Endangered Species Act (FESA) and/or CESA for threatened, endangered, and/or candidate species. The Department recommends that Nevada Hydro contact the Riverside County Regional Conservation Authority to arrange a meeting to discuss the proposed project.
3. Based on review of the proposed project, the project has the potential to impact conserved mitigation lands. For example, the transmission alignment is proposed to traverse a portion of the Estelle Mountain Reserve, and project operations may decrease the long term conservation value of mitigation lands within and adjacent to Lake Elsinore. The Department recommends that potential impacts to conserved lands within and adjacent to the project be addressed.
4. The NOI identifies impacts to areas subject to section 1600 et seq. of the Fish and Game Code. Because the Department has not had the opportunity to review or consult on these areas, we cannot, at this point in time, comment on the impact calculations included in the NOI. The project will require notification to the Department pursuant to section 1602 of the Fish and Game Code.
5. Significant development has occurred within the project vicinity. The Department recommends that the NOI and all associated environmental documents be revised to adequately assess the impact of the proposed project.

Secretary Bose
FERC Project No. 14227
September 20, 2017
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6. The Department has not had the opportunity to comment on study plans and studies, and has not participated in a site visit of the proposed project.

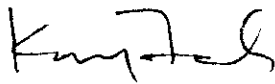
CONCLUSION

Based on the lack of recent environmental studies and consultation with wildlife agencies, the Department recommends that FERC not waive the Integrated Licensing Process (ILP) pre-licensing activities for this project.

Further, as previously stated (enclosed), the Department does not have a clear understanding of the status of the CEQA document that will be relied on by Nevada Hydro for this project. Because the project will, at a minimum, require the issuance of a Lake or Streambed Alteration Agreement, the Department will act as a responsible agency pursuant to CEQA. As a responsible agency, the Department must actively participate in the lead agency's CEQA process, review the lead agency's CEQA document, and use that document when making a decision on the project.

If you have questions regarding the contents of this letter further, please contact Joanna Gibson at joanna.gibson@wildlife.ca.gov or (909) 987-7449.

Sincerely,

for 

Bruce Kinney
Environmental Program Manager

Enclosure: CDFW July 19, 2017 letter.

ec: Jeff Brandt, CDFW, jeff.brandt@wildlife.ca.gov
Joanna Gibson, CDFW, joanna.gibson@wildlife.ca.gov



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July 19, 2017

Ms. Kimberley D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, D.C. 20426

SUBJECT: COMMENTS FROM THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE ON NEVADA HYDRO COMPANY'S MAY 31, 2017, NOTIFICATION OF INTENT TO FILE ORIGINAL LICENSE APPLICATION FOR THE LAKE ELSINORE ADVANCED PUMPED STORAGE PROJECT (FERC PROJECT No. 14227)

Dear Secretary Bose:

The California Department of Fish and Wildlife (Department) is providing the comments contained herein on the Nevada Hydro Company's May 31, 2017 Notification of Intent to File Original License Application (NOI) for the Lake Elsinore Advanced Pumped Storage (LEAPS) Project, FERC Project No. 14227.

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Secretary Bose
 FERC Project No. 14227
 Page 2 of 4

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Secretary Bose
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Secretary Bose
FERC Project No. 14227
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The Department looks forward to being contacted by The Nevada Hydro Company regarding this project in the near future, and provided with a complete copy of the NOI.

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Sincerely,


Leslie MacNair
Regional Manager

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Jeff Brandt, CDFW, jeff.brandt@wildlife.ca.gov
Joanna Gibson, CDFW, joanna.gibson@wildlife.ca.gov



San Bernardino Valley
Audubon Society



via FERC docket

The Honorable Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE Washington, DC 20426

August 7, 2017

**RE: Lake Elsinore Advanced Pumped Storage Project Number P-14227
Comments on The Nevada Hydro Company's May 31, 2017 Notification of Intent to File
License Application**

Dear Secretary Bose:

The Center of Biological Diversity, San Bernardino Valley Audubon Society, and Endangered Habitats League, and Audubon California submit this letter regarding The Nevada Hydro Company's (Nevada Hydro) May 31, 2017 Notification of Intent to File License Application (NOI) for the Lake Elsinore Advanced Pumped Storage Project (LEAPS), Project Number 14227. While we strongly support environmentally beneficial methods of energy storage in support of renewable energy our organizations are deeply concerned about the impacts to wildlife, the environment, and the individuals who regularly use and enjoy the lands that will be affected by the LEAPS project, including the Cleveland National Forest, Lake Elsinore, and surrounding areas. This project will be extremely detrimental to wildlife, including threatened and endangered species, and the citizens who enjoy hiking, backpacking, photography, wildlife viewing, scientific study, and living in the area.

Nevada Hydro's FERC application must be denied for three reasons: 1) the 2007 Environmental Impact Statement (EIS) Nevada Hydro intends to rely upon is outdated and does not reflect the current environmental, socioeconomic, legal, and jurisdictional circumstances affecting the area, 2) Nevada Hydro has not been able to meet the legal standards under CEQA and obtain a water quality permit from the State Water Resources Control Board and, 3) Nevada Hydro no longer possesses any contractual or recognized water rights necessary for the project. To allow Nevada Hydro to move forward with this contentious project in light of the numerous legal deficiencies, overwhelming environmental and financial constraints, and lack of the

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Jonathan Evans, Environmental Health Legal Director & Senior Attorney
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necessary permitting and licenses, would be a substantial waste of time and resources for all parties involved. We urge FERC to immediately reject the application and LEAPS project.

I. THE EIS IS OUTDATED AND CANNOT BE RELIED UPON

Nevada Hydro incorrectly asserts that the original project p-11858 is almost entirely “identical” to the current project P-14227.¹ Therefore, the company claims that “because extensive consultation occurred in this previous docket culminating with the issuance of the FEIS, and because little in the region has changed,” Nevada Hydro will only need to “refresh” the relevant information in order to update its 2007 EIS.²

This argument is inaccurate on two grounds. First, the current project is significantly different from project P-11858. Second, the environmental, social, and economic conditions in the area have changed dramatically since 2007. Under NEPA, a supplemental EIS is required when there are substantial changes in the project, there are significant new circumstances relevant to environmental concerns, or a supplemental EIS will further the purposes of NEPA. 40 CFR § 1502.9(c)(1) & (2). For the reasons discussed in detail below, Nevada Hydro must complete a full supplemental EIS, rather than merely “refreshing” their outdated information.

A. *The Project is Different*

According to the Elsinore Valley Municipal Water District (EVMWD), the previous co-applicant of project P-11858, the original project proposed a 500-megawatt hydroelectric facility and “the potential construction” of two transmission lines, one that would carry power south to SDG&E’s Talega-Escondido transmission line, and one that would carry power north to SCE’s Valley-Serrano transmission line.³ The description of project P-11858 was extremely unclear on whether one or both segments of the Talega-Escondido/ Valley-Serrano transmission line (TE/VS) would be built and whether they would be built simultaneously, or over time.⁴ The 2007 EIS that was completed for the LEAPS Project only included the 500-megawatt hydroelectric facility, as defined in the February 2, 2004 Application submitted by co-applicants EVMWD and Nevada Hydro.⁵

The current project P-14227 submitted by Nevada Hydro includes both the original

¹ The Nevada Hydro Company, LAKE ELSINORE ADVANCED PUMPED STORAGE PROJECT NUMBER 14227 NOTIFICATION OF INTENT TO FILE LICENSE APPLICATION 8 (May 31, 2017). (https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14587694)

² The Nevada Hydro Company, DRAFT FINAL APPLICATION FOR LICENSE OF MAJOR UNCONSTRUCTED PROJECT, DETAILED DESCRIPTION OF CONSULTATIONS EFFORTS AND RESULTS 1 (May 2017). (Consultation.PDF https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14577052)

³ Elsinore Valley Municipal Water District, INADEQUACY OF THE 2007 ENVIRONMENTAL IMPACT STATEMENT FOR CONSIDERATION OF LEAPS LICENSE APPLICATION (PROJECT NO. P-14227) 4-5 (May 6, 2014). (https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14213761)

⁴ Cross- Complaint at 3, *The Nevada Hydro Company, Incorporated v. Elsinore Valley Municipal Water District*, No. 2012- 00057077-CU-BC-NC (Nov. 1, 2012). (https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14588122)

⁵ Elsinore Valley Municipal Water District, Inadequacy of the 2007 EIS at 4-5.

LEAPS Project as well as a separate TE/VS transmission line.⁶ However, Nevada Hydro has yet to acknowledge this major change from the original project and incorrectly maintains that the “only difference between the proposal described in the current draft application and that considered previously under P-11858 would be the location of a substation.”⁷ This assertion is false. In a recent letter from FERC to Nevada Hydro, FERC states that the project description *still* does not clearly state how the project’s transmission lines will connect or operate: “The previous project proposal contemplated combining the transmission lines to carry system load in excess of the power generated by the LEAPS Project. Exhibit A of the draft license application, however, makes no reference to this aspect of the prior proposal.”⁸ Nevada Hydro has yet to disclose the entire parameters of its project and should not be allowed to continue to downplay the significant differences between the original and current projects.

Because P-14227 is substantially different from P-11858, Nevada Hydro cannot rely on the original 2007 EIS because this evaluation excluded an analysis of the environmental impacts from both the LEAPS project and its TE/VS powerline. Nevada Hydro must analyze the environmental impacts of the entire project in order to ensure the public is provided with adequate information and sufficient environmental and public protections.

B. Environmental Conditions are Different

Not only have there been substantial changes to the project, the environmental and socioeconomic conditions surrounding the project are very different from those in 2007. Nevada Hydro inaccurately believes that “not much has changed” in the ten years since the EIS was finalized.⁹ This belief has no basis in reality.

First, there has been rapid development and significant population growth within the project area.¹⁰ Lake Elsinore is one of the fastest growing cities in the entire state. The population has maintained a growth increase of 3.74% to 7.42% per year since 2000.¹¹ This population increase has been coupled with tremendous commercial and residential development. It is highly unlikely that an EIS prepared in 2007 would accurately reflect the environmental impacts of a population that has increased in an amount over 10,000 new residents in the City of Lake Elsinore alone. Wildomar, neighboring the LEAPS project, incorporated into a city, and the surrounding areas of the Temescal Valley and Alberhill have also experienced substantial population increases in the past ten years.¹²

Second, as of the 2007 EIS, 11 federally listed plant species and 8 federally listed wildlife species were found to occur or had been documented to occur in the project area.¹³ This

⁶ Elsinore Valley Municipal Water District, Inadequacy of the 2007 EIS at 5-6.

⁷ Federal Energy Regulatory Commission, Letter to Rexford Wait 2 (Jul. 24, 2017). (https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14589966)

⁸ FERC Letter to Rexford Wait at 2.

⁹ The Nevada Hydro Company, Notification of Intent to File at 16.

¹⁰ Elsinore Valley Municipal Water District, Inadequacy of the 2007 EIS at 6.

¹¹ Population of Lake Elsinore, <http://population.us/ca/lake-elsinore/> (last visited Aug. 2, 2017).

¹² Paul Bandong, *Lake Elsinore is Exploding Part 3, Residential growth expands* (Mar. 16, 2017) (<http://myvalleynews.com/business/lake-elsinore-exploding-part-3-residential-growth-expands/>)

¹³ Federal Energy Regulatory Commission, FINAL ENVIRONMENTAL IMPACT STATEMENT LAKE ELSINORE

conclusion is based on outdated field studies conducted between 2001 and 2005.¹⁴ Today, there are 42 federally listed species that are known to or are believed to occur in Riverside County, where the project will be located.¹⁵ Additionally, it is highly likely the locations of endangered or threatened species and their critical habitat have changed since 2001.¹⁶ Further, the surveys have not accounted for the many wildfires that have ravaged the area since the last survey was completed.¹⁷ Nor do the previous surveys contain an analysis of impacts to the Decker Canyon watershed and groundwater levels since California experienced one of the most severe droughts in history.¹⁸ It is clear that new surveys in compliance with the Endangered Species Act are required.

Third, the 2007 EIS relied upon valid management plans and Biological Opinions regarding the Cleveland National Forest where the reservoir and transmission lines will be located. However, the Biological Opinion for the Cleveland National Forest was later ruled invalid and ordered revised. The most recent Biological Opinion was completed in July 2010.¹⁹ Therefore, the EIS must be supplemented to address the changed forest management regulations under the Endangered Species Act affecting sensitive species that would be impacted by the LEAPS-TE/VS project.²⁰

Finally, as pointed out by EVMWD, the 2007 EIS, if reissued today, would not be in compliance with NEPA, as the 2007 EIS predates much of the information now available regarding the Project's greenhouse gas emissions.²¹

Nevada Hydro claims to have conducted "extensive, multi-year" consultation with numerous local agencies in order to keep their application up to date.²² In reality, much of Nevada Hydro's consultations are outdated and any efforts to "refresh" them have been severely inadequate. For example, the California Department of Fish and Wildlife (CDFW) has not had the opportunity to consult on the project since 2011/2012.²³ This is extremely problematic because CDFW will be acting as both a trustee and responsible agency for the project under CEQA.²⁴ Not only has Nevada Hydro failed to consult with CDFW, but it has not even provided enough information for the Department to understand the parameters of the project. CDFW states

ADVANCED PUMPED STORAGE PROJECT 3-124 (Jan. 2007).

(<https://www.ferc.gov/industries/hydropower/enviro/eis/2007/01-30-07.asp>)

14 Final EIS at 3-124.

15 U.S. Fish and Wildlife, Endangered Species, <https://www.fws.gov/endangered/>

16 Elsinore Valley Municipal Water District, Inadequacy of the 2007 EIS at 5-6

17 The Nevada Hydro Company, Consultations Efforts at 7.

18 The Nevada Hydro Company, Consultation Efforts at 7.

19 Biological Evaluation for Regional Forester's Sensitive Plant and Wildlife Species on the Cleveland National Forest for the Sunrise Powerlink Project (Jul. 2010).

(https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb5323385.pdf)

20 See e.g. *Klamath Siskiyou Wildlands Center v. Boody*, 468 F.3d 549 (9th Cir. 2006).

21 Elsinore Valley Municipal Water District, Inadequacy of the 2007 EIS at 6.

22 Nevada Hydro, Notification of Intent at 7.

23 California Department of Fish and Wildlife, COMMENTS FROM CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE ON NEVADA HYDRO COMPANY'S MAY 31, 2017, NOTIFICATION OF INTENT TO FILE ORIGINAL LICENSE APPLICATION FOR THE LAKE ELSINORE ADVANCED PUMP STORAGE PROJECT 2 (Jul. 19, 2017).

(https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14589124)

24 CDFW Comments on Notification of Intent to File at 3.

that it is unaware of the designation of land related to the project, where the land is located, or the species that will be conserved through any proposed land protection activities, as well as any Study Plans or Studies.²⁵

Further, both the City of Lake Elsinore and the EVMWD are opposed to the project and have not been recently consulted. Currently, Nevada Hydro is fully engaged in extensive litigation with its former co-applicant, EVMWD over its termination of the contract that once granted the Nevada Hydro the right to use Lake Elsinore for the LEAPS project. The NOI is devoid of any mention of the pending lawsuit.²⁶ Nevada Hydro has also failed to consult in any form with the City of Lake Elsinore which is the fee owner of the real property comprising the lake's basin and holds the exclusive easement to use the lake's surface for recreation purposes.²⁷ Nevada Hydro did not even send a copy of its NOI to the city.²⁸ Rather, the city learned of the NOI from a citizen. Due to their complete lack of consultation with the City, the City has stated that it "has no intention of facilitating the regulatory appropriation of its most treasured recreational asset for the benefit of a private company."²⁹

Nevada Hydro should not be permitted to merely refresh their outdated EIS. The environmental, socioeconomic, legal, and jurisdictional conditions surrounding the project changed dramatically since 2007. Further, the project itself now includes the poorly defined TE/VS lines which were never considered in the original EIS. Finally, Nevada Hydro's has demonstrated inadequate consultation effort by failing to obtain input from several of the most important local agencies.

II. NEVADA HYDRO DOES NOT HAVE SECTION 401 WATER QUALITY CERTIFICATION OR WATER RIGHTS

For over a decade, Nevada Hydro has been unsuccessfully attempting to obtain the necessary water certification and water rights for the LEAPS project. Due to its inadequate CEQA analysis and a contentious legal battle with EVMWD, it is even more unlikely the company will be able to obtain these water rights or certification in the future. Without any contractual rights or legal authorization to remove water from the lake, the 500-megawatt hydroelectric facility simply cannot function.

Nevada Hydro and prior co-applicant EVMWD filed and withdrew several applications with the State Water Resources Control Board (State Water Board) in an attempt to obtain water quality certification under Section 401 of the Clean Water Act (CWA).³⁰ The fifth and final application filed by the applicants on January 21, 2009 was ultimately dismissed without

²⁵ CDFW Comments on Notification of Intent to File at 3.

²⁶ City of Elsinore, LAKE ELSINORE ADVANCED PUMPED STORAGE PROJECT NUMBER 14227 COMMENTS TO THE NEVADA HYDRO COMPANY'S MAY 31, 2017 NOTIFICATION OF INTENT TO FILE LICENSE APPLICATION 1 (Jul. 14, 2017). (https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14588122)

²⁷ City of Elsinore Comments on Notification of Intent at 1.

²⁸ City of Elsinore Comments on Notification of Intent at 1.

²⁹ City of Elsinore Comments on Notification of Intent at 2.

³⁰ Center for Biological Diversity, MOTION/NOTICE OF INTERVENTION AND COMMENTS OF THE CENTER FOR BIOLOGICAL DIVERSITY REGARDING THE NEVADA HYDRO COMPANY'S APPLICATION FOR A PRELIMINARY PERMIT 3 (Jan. 27, 2012). (https://elibrary.ferc.gov/idmws/file_list.asp?document_id=13991686)

prejudice by the State Water Board on October 1, 2009.³¹ The dismissal was based on a failure to provide the State Water Board with documentation adequately analyzing the LEAPS Project's environmental impacts under the California Environmental Quality Act, which is a pre-requisite to State Water Board certification. 23 Cal. Code Regs., § 3856(f).³² Nevada Hydro petitioned the San Diego Court for a Writ of Mandamus directing the State Water Board to vacate its order or allow the company to resubmit its application.³³ However, Nevada Hydro ultimately abandoned this suit.

Today, Nevada Hydro has still yet to publish an adequate CEQA document. Nevada Hydro claims in its NOI that it has worked to develop “a significant public record of relevant new detailed Project information since the Commission issued the Final EIS... [including] . . . CEQA analysis and conclusions regarding the Project, published by the CPUC in a final CEQA and NEPA report.”³⁴ However, it appears there is no existence of a final CEQA report associated with State Clearinghouse No. 2011031037 or published by the CPUC.³⁵ According to the CPUC website, there is currently no application before the Commission for this project.³⁶ With no environmental impact analysis under CEQA, there is no possibility of Nevada Hydro obtaining water quality certification from the State Water Board.

In addition to the company's lack of 401 certification, Nevada Hydro does not have the water rights necessary to execute the project due to the termination of the contract with EVMWD in 2011. Since then, EVMWD has consistently disavowed any involvement in the project.³⁷ Nevada Hydro states in its consultation effort summary document that the “[a]pplicant will obtain all necessary property rights including water rights to construct, operate and maintain the Project as will be required by the FERC license.”³⁸ However, Nevada Hydro fails to explain how they plan on obtaining these rights without EVMWD or the City of Lake Elsinore's support or participation. With *Nevada Hydro v. EVMWD* set to begin jury trial September 22, 2017 and expected to last over a month due to the deep nature of dispute, it is extremely unlikely Nevada Hydro will be able to obtain the necessary water rights in any reasonable timeframe.³⁹

III. CONCLUSION

FERC should not allow Nevada Hydro's to move forward with the LEAPS project. Not only does the company continue to attempt to skirt its legal requirements under NEPA, CEQA, and the CWA, the project itself remains ill-defined and lacking in fundamental support from numerous agencies and local governments. After almost a decade, Nevada Hydro still does not have any of the necessary permitting or property rights and has not presented any clear plan as to how it plans to obtain them. Further, without a viable CEQA or NEPA analysis, there is no

31 Cross Complaint at 5.

32 Cross Complaint at 5.

33 Center for Biological Diversity Motion/Notice of Intervention at 3.

34 CDFW Comments on Notification of Intent to File at 2.

35 CDFW Comments on Notification of Intent to File at 2.

36 CDFW Comments on Notification of Intent to File at 3.

37 City of Elsinore Comments on Notification of Intent at 3.

38 Nevada Hydro Consultation Efforts at 11.

39 City of Elsinore Comments on Notification of Intent at 2.

possibility of the company obtaining them in the future. In short, the LEAPS project has been and continues to be a major waste of time and resources. If permitted, the project would pose significant detrimental harm to the environment, local species, and citizens. For these reasons, we respectively request that FERC deny the P-14772 application.

Sincerely,



Jonathan Evans
Environmental Health Legal Director and Senior Attorney
Center for Biological Diversity

/s/ Lucille Flinchbaugh
Lucille Flinchbaugh
Law Clerk
Center for Biological Diversity

Drew Feldmann
Conservation Committee Director
San Bernardino Valley Audubon Society

Dan Silver
Chief Executive Officer
Endangered Habitats League

Sandy DeSimone
Director of Research and Education
Audubon California, Starr Ranch Sanctuary



ORIGINAL



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
COMMISSIONER

SECRETARY OF THE
COMMISSION

State Water Resources Control Board

AUG 22 P 2:14

AUG 14 2017

FEDERAL ENERGY
REGULATORY COMMISSION

Ms. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

Mr. Rexford Wait
The Nevada Hydro Company, Inc.
2416 Cades Way
Vista, CA 92083

Dear Secretary Bose and Mr. Wait:

COMMENTS ON NOTICE OF INTENT FOR LAKE ELSINORE ADVANCED PUMPED STORAGE PROJECT; FEDERAL ENERGY REGULATORY COMMISSION PROJECT NO. 14227; RIVERSIDE COUNTY

On June 1, 2017, Nevada Hydro Company, Inc. (Applicant) filed a notice of intent (NOI) to file a license application and a draft license application with the Federal Energy Regulatory Commission (FERC) for the proposed 500-megawatt Lake Elsinore Advanced Pumped Storage Project (LEAPS or Project). In its NOI, the Applicant requests that FERC's pre-filing licensing requirements be waived to allow it to proceed directly to filing a final license application (FLA). The Applicant did not distribute the NOI to state agencies, including the State Water Resources Control Board (State Water Board), as required by Code of Federal Regulations, title 18, section 5.5 (c). Because the environmental studies and existing documents are not recent and may not accurately reflect the potential Project impacts, State Water Board staff strongly recommends that FERC not waive the Integrated Licensing Process (ILP) pre-licensing activities.

In accordance with Item 5 of the *Pre-Application Filing Activities Under the ILP* section of the memorandum of understanding¹ (MOU) executed between the FERC and the State Water Board, State Water Board staff will work with FERC staff to set up a time to discuss the needs of our respective agencies related to the FERC's issuance of a license and the State Water Board's issuance of a water quality certification.

The comments provided in this letter by State Water Board staff are in accordance with Item 4 of the *Pre-Application Filing Activities Under the ILP* section of the MOU and should be considered by the Applicant when developing the Final License Application.

¹ Memorandum of Understanding Between the Federal Energy Regulatory Commission and the California State Water Resources Control Board Concerning Coordination of Pre-application Activities for Non-federal Hydropower Proposals in California. A copy of the MOU is available online at: https://www.waterboards.ca.gov/water/rights/water_issues/programs/water_quality_cert/ferc_mou/docs/mou_111913.pdf

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

1001 I Street, Sacramento, CA 95814 | Mailing Address: P.O. Box 100, Sacramento, Ca 95812-0100 | www.waterboards.ca.gov

Ms. Bose and Mr. Wait

- 2 -

AUG 14 2017

Regulatory Authority and General Comments

The Applicant must obtain water quality certification from the State Water Board, pursuant to Section 401(a)(1) of the Federal Clean Water Act (CWA) (33 U.S.C. §1341(a)(1)). Section 401 of the CWA requires any applicant for a federal license or permit, which may result in any discharge to navigable waters, to obtain water quality certification (certification) from the state in which the discharge originates that the discharge will comply with the state's water quality standards and other appropriate requirements of state or federal law. The State Water Board is the certifying agency under Section 401 for the Project. Accordingly, the State Water Board may set conditions implementing CWA requirements, including the requirements of Section 303 of the CWA for water quality standards and implementation plans, or to implement "any other appropriate requirement of State law." (33 U.S.C. § 1341(d).)

The California Regional Water Quality Control Boards adopt, and the State Water Board approves, water quality control plans (basin plans) for each watershed basin in the State. The basin plans designate the beneficial uses of waters within each watershed basin, and water quality objectives designed to protect those uses pursuant to Section 303 of the Clean Water Act. (33 U.S.C. S 1313.) The beneficial uses together with the water quality objectives that are contained in the basin plans and state and federal anti-degradation requirements constitute California's water quality standards.

The California Regional Water Quality Control Board, Santa Ana Region (Santa Ana Regional Water Board) adopted, and the State Water Board and United States Environmental Protection Agency approved, the *Water Quality Control Plan for the Santa Ana River Basin* (Basin Plan). The Basin Plan designates the beneficial uses of waters to be protected along with the water quality objectives necessary to protect those uses. The Basin Plan lists the following beneficial uses for Lake Elsinore in the San Jacinto River Basin: water contact recreation; non-contact water recreation; warm freshwater habitat; and wildlife habitat.

California Code of Regulations, title 23, section 3833.1, subdivision (b)(2)(A) identifies that review in anticipation of consideration of certification is initiated when a NOI is filed pursuant to Code of Federal Regulations, title 18, sections 5.5 or 16.6. The Applicant's June 1, 2017 NOI, marks the beginning of the review process for certification and related proceedings. Annual fees for the proposed Project are applicable starting Fiscal Year 2016/2017. (Cal. Code Regs. tit. 23, § 3833.1, subd. (b)(1).)

The Applicant must file an application for water quality certification once FERC issues the Notice of Ready for Environmental Analysis. A complete application for water quality certification must include a description of any steps that have been, or will be taken to avoid, minimize, or compensate for loss of, or significant adverse impacts to beneficial uses of water. (Cal. Code Regs. tit. 23, § 3856, subd. (h)(6).) If the Project will adversely affect water quality, then the Applicant must describe the actions that the Applicant will take to bring the Project into compliance with applicable water quality requirements, including water quality objectives established in order to protect and maintain the beneficial uses of the state's waters. During the licensing process, State Water Board staff will act in an advisory role to inform the Applicant of the requirements of a complete application for water quality certification. State Water Board staff cannot prejudge the outcome of any proceeding before the State Water Board acts on an application for water quality certification.

State Water Board staff intends to use the information developed in this licensing process to develop conditions in the water quality certification to ensure compliance with the CWA and with

Ms. Bose and Mr. Wait

- 3 -

AUG 14 2017

other requirements of state law. It is essential that the licensing process consider all available technical information.

Additionally, the Applicant must consult with the State Water Board's Division of Water Rights prior to submitting the FLA and describe in the FLA any water rights needs for the Project. Construction and operation of the Project must not affect existing water right holders. The Applicant should investigate if the Project will conflict with any water rights holders and the FLA should include a discussion of such water right holders and any agreements necessary to mitigate for any potential impacts during the initial impoundment of water.

If you have questions regarding this letter, please contact me at (916) 323-9397 or by email at oscar.biondi@waterboards.ca.gov. Written correspondence should be directed to:

State Water Resources Control Board
Division of Water Rights
Water Quality Certification Program
Attn: Oscar Biondi
P.O. Box 2000
Sacramento, CA 95812

Sincerely,



Oscar Biondi, P.E.
Water Resource Control Engineer
Water Quality Certification Program

cc: Mr. Tomas Torres, Director
U.S. EPA, Region 9
Water Division
75 Hawthorne Street
San Francisco, CA 94105

Ms. Hope A. Smith
Executive Officer
Santa Ana RWQCB
3737 Main Street, Suite 500
Riverside, CA 92501

Mr. Jim Fargo
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

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KEN CALVERT
42ND DISTRICT, CALIFORNIA

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(202) 225-1888
FAX: (202) 225-2004

DISTRICT OFFICE:
400 SOUTH VICENTIA AVENUE
SUITE 125
CORONA, CA 92882
(951) 277-0042
FAX: (951) 277-0420



UNITED STATES
HOUSE OF REPRESENTATIVES

September 6, 2017

COMMITTEE ON APPROPRIATIONS

SUBCOMMITTEES.

CHAIRMAN
INTERIOR, ENVIRONMENT AND RELATED AGENCIES

VICE CHAIRMAN
DEFENSE

APPROPRIATIONS LIAISON TO HOUSE INTELLIGENCE
COMMITTEE

ENERGY AND WATER DEVELOPMENT

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SECRETARY OF THE
COMMISSION
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FEDERAL ENERGY
REGULATORY COMMISSION

The Honorable Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE
Washington, DC 20426

ORIGINAL

RE: Lake Elsinore Advanced Pumped Storage Project
Project Number 14227
Comments to the Nevada Hydro Company's June 1, 2017 Notice of Intent to File License Application

Dear Secretary Bose,

On June 1, 2017, the Nevada Hydro Company, Inc. filed a Notice of Intent to File License Application (NOI) with the Federal Energy Regulatory Commission (FERC) for the proposed Lake Elsinore Advanced Pumped Storage Project (LEAPS project). In the NOI, Nevada Hydro requests that FERC's pre-filing licensing requirements are waived to allow the 500-megawatt project to proceed directly to filing a final license application.

As you know, in 2007, Nevada Hydro submitted an application to FERC for the same project. FERC ultimately denied licensing the project in 2011. Nevada Hydro's request to waive these pre-filing licensing requirements would allow for the 2007 Environmental Impact Statement to suffice as an adequate environmental review and would virtually eliminate customary scoping of the project.

Since Nevada Hydro filed its original license application for the project in 2007, the landscape of the City of Lake Elsinore, California, and the surrounding area, has changed drastically. The population has nearly doubled and a number of new housing and commercial projects are in development. Furthermore, land rights in the region have shifted. Therefore, environmental review documents produced during the 2007 application process are outdated and inadequate to assess the project's effect on the region.

To date, opposition to the project has come from a variety of stakeholders, including the City of Lake Elsinore, the County of Riverside, Elsinore Valley Municipal Water District, and the Pechanga Band of Luisefo Indians, among others. Many stakeholders were not notified of the NOI prior to its filing. Without sufficient collaboration or notification, I remain concerned that there has not been due diligence to ensure community support of the LEAPS project. As such, it is imperative that each step of the application process be carried out deliberatively.

Encouraging energy stability has been a top priority of mine during my time in Congress. However, I believe in the case of the LEAPS project, further due diligence must be conducted. I respectfully request that FERC not waive the pre-filing licensing requirements as requested by Nevada Hydro, so that the local community can more sufficiently assess and express the impact a project as large as LEAPS may have on their region.

I appreciate your consideration of this request.

Sincerely,

A handwritten signature in black ink that reads "Ken Calvert". The signature is written in a cursive, slightly slanted style.

KEN CALVERT
Member of Congress

**cc: City of Lake Elsinore
County of Riverside
Elsinore Valley Municipal Water District
Pechanga Band of Luisefio Indians**

20171129-0007 FERC PDF (Unofficial) 11/29/2017

20170911-0013 FERC PDF (Unofficial) 09/11/2017

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ORIGINAL

COUNTY OF RIVERSIDE



Board of Supervisors

- District 1 Kevin Jeffries
951-955-1010
- District 2 John F. Tavaglione
Chairman 951-955-1020
- District 3 Chuck Washington
951-955-1030
- District 4 V. Manuel Perez
951-955-1040
- District 5 Marlon Ashley
951-955-1050

**The Honorable Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE
Washington, DC 20426**

**FILED
SECRETARY OF THE
COMMISSION
OCT - 2 P 3 58
FEDERAL ENERGY
REGULATORY COMMISSION**

**Re: Lake Elsinore Advanced Pumped Storage Project
Project Number 14227
Comments to The Nevada Hydro Company's May 31, 2017 Notification of Intent to File
License Application**

Honorable Secretary Bose,

It has come to the attention of the County of Riverside, California that the Nevada Hydro Company has submitted a Notification of Intent to File License Application for their previously rejected Lake Elsinore Advanced Pumped Storage Project, and that as part of that submittal, have asked not to be required to hold new scoping meetings or produce a new environmental planning document.

The County of Riverside has many concerns regarding the pumped storage project and the 32 miles of 500kv transmission lines it would bring through the Cleveland National Forest, the community of Temescal Valley, and large areas of Multi-Species Habitat Preserve. Approval of this project would bring major public impacts, including lake water quality, dam safety issues, wildfire dangers, visual and public safety impacts from transmission lines, and disturbance of multiple sensitive habitat areas.

Since FERC last rejected Nevada Hydro Company's application in 2011, and subsequent to their last never-approved environmental documents completion in 2009, significant changes have occurred in the region environmentally, in terms of new development in Temescal Valley, and a competing and partially overlapping transmission line proposal by Southern California Edison has already advanced significantly through their own approval process. These changes demand a fresh start in any application that FERC may allow to proceed.

Nevada Hydro Company no longer has any local government partner, and prior to the Board Meeting where this letter was authorized, had not only neglected to communicate with the County of Riverside, but has refused to respond to inquiries from the Board of Supervisors. As

COUNTY OF RIVERSIDE



Board of Supervisors

District 1	Kevin Jeffries 951-955-1010
District 2 <i>Chairman</i>	John F. Tavaglione 951-955-1020
District 3	Chuck Washington 951-955-1030
District 4	V. Manuel Perez 951-955-1040
District 5	Marlon Ashley 951-955-1050

such, on August 29th, the Board of Supervisors approved the attached motion, declaring the opposition of Riverside County to the renewal of the LEAPS application, and that should FERC choose to allow the application to move forward, that they require a full new environmental study, scoping meetings, and cooperation with Riverside County throughout the application process.

Thank you for your consideration of the County's request,

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin Jeffries".

Kevin Jeffries 1st District
Riverside County Board of Supervisors

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



**ITEM
3.4
(ID # 5135)**

**MEETING DATE:
Tuesday, August 29, 2017**

FROM : SUPERVISOR KEVIN JEFFRIES:

**SUBJECT: SUPERVISOR KEVIN JEFFRIES: Riverside County Opposition to Renewal of
LEAPS Application before FERC [1st District]**

RECOMMENDED MOTION: That the Board of Supervisors direct the Executive Office and our federal lobbyists to draft a letter of opposition to the renewal of the LEAPS application currently being considered by FERC.

ACTION: Policy


Supervisor Kevin Jeffries 8/15/2017

MINUTES OF THE BOARD OF SUPERVISORS

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,
STATE OF CALIFORNIA**

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ N/A	\$ N/A	\$ N/A	\$ N/A
NET COUNTY COST	\$ N/A	\$ N/A	\$ N/A	\$ N/A
SOURCE OF FUNDS: N/A			Budget Adjustment: No	
			For Fiscal Year: 17/18	

C.E.O. RECOMMENDATION: [CEO use]

BACKGROUND:

Summary

The Lake Elsinore Advanced Pumping System (LEAPS) was originally proposed as far back as 1988 by the Elsinore Valley Municipal Water District (EVMWD), who later joined with Nevada Hydro Company, Inc. as the financial and development partner. This partnership has since been dissolved, and EVMWD recently brought to the 1st District's attention that Nevada Hydro Company has now unilaterally re-filed an application for the two-pronged LEAPS project without their support:

- 1) The advanced pumping station, for which a dam would be built in the mountains above Lake Elsinore. At night, when energy costs are low, up to 10% of the volume of the lake would be pumped up the hill and into the reservoir, and during the day, when energy prices are high, the water would be released through a hydro-electric facility, generating power on its way back into the lake. That power would then be sold on the open market.
- 2) 32 miles of 500 kV transmission lines and 170 high-voltage steel towers, running from San Diego County across the Cleveland National Forest, into Temescal Valley, and through the RCA's Multi-Species Habitat Conservation Areas.

After significant local opposition to the project and concerns about the inadequacy of the environmental studies produced by Nevada Hydro Company, the Federal Energy Regulatory Commission (FERC) dismissed their application in 2011.

On May 31, 2017, the Nevada Hydro Company ("Nevada Hydro") filed a Notification of Intent to File License Application ("NOI") with the Federal Energy Regulatory Commission ("FERC") for its proposed Lake Elsinore Advanced Pumped Storage ("LEAPS") Project, FERC Project No. 14227.

In resubmitting their application, Nevada Hydro Company is no longer associated in any way with EVMWD, and has no other local partners. They have not reached out to any planning staff in Riverside County or the 1st District Supervisorial Office, and have thus far refused to respond to multiple inquiries from our office and a request to attend MAC meetings in the areas impacted by this project.

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They have specifically asked FERC not to require them to do new scoping meetings and to allow their never-approved EIR from 2009 to stand as is, despite the many changes in development through the 15 corridor, the increased fire dangers in the Cleveland National Forest, and the application now before the California Public Utilities Commission by Southern California Edison for transmission lines that would overlap with the LEAPS lines through portions of the Temescal Valley.

For these reasons, it is requested that the Executive Office work with our federal lobbyists and express to FERC and our Congressional and US Senate delegation the opposition of Riverside County to the renewal of the LEAPS application, and should FERC choose to allow the application to move forward, that they require a full new environmental study, scoping meetings, and cooperation with Riverside County throughout the application process.

Impact on Residents and Businesses

Approval of the LEAPS project could lead to major public impacts, including lake water quality, dam safety issues, wildfire dangers, visual and public safety impacts from transmission lines, and disturbance of sensitive habitat areas.

Document Content(s)

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