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Fax Cover Sheet

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To: Dr. Jerry Pell  Fax: 202 318 7761
Principal NEPA Document Manager Phone:

From: John Russo, Community App - Congressman Filner

Number of Pages (including cover sheet): 3

Message:

Letter RE: (Docket No. PP-354)
Draft Environmental Impact Statement for
The Proposed Energia Sierra Juarez (ESJ)
U.S. Transmission Line - Presidential permit
Application
RESPONSE TO 101-1: The comments provided in this letter are similar to comments provided in Congressman Filner’s November 6, 2009, letter to DOE, provided herein on page 100-5. DOE responded to Congressman Filner in a letter dated December 3, 2009. In a subsequent letter exchange, Congressman Filner’s letter dated February 17, 2010 was responded to by DOE in a letter dated March 20, 2010. DOE will consider these comments, as well as all other comments received in this proceeding, before making a final determination on the permit application.

Potential socioeconomic impacts associated with short-term jobs from the ESJ U.S. Transmission Line project are addressed in EIS Section 3.13. Comments pertaining to the merits of the project with respect to labor policy, federal energy policy, and California utility regulations are outside the scope of the NEPA process. As noted above, DOE will consider these comments before making a final determination on the permit application.

Energia Sierra Juarez U.S. Transmission, LLC (ESJ) proposes to build a transmission line that crosses a U.S. border, and has applied to DOE for a Presidential permit. DOE issues Presidential permits under Executive Order (E.O.) 10485, as amended by E.O. 12038. DOE did not initiate, nor is it funding, the proposed transmission facility. The purpose and need for DOE’s action is to respond to the ESJ request for a Presidential permit, and DOE’s role is limited to deciding whether to issue a Presidential permit. However, DOE regularly sets conditions (such as reliability limitations or mitigation measures) for Presidential permits; in the normal course of events, DOE would consider reasonable alternatives to the proposed project, including route adjustments, to avoid an adverse impact.
RESPONSE TO 101-2: With respect to a power purchase agreement, DOE notes that according to a Sempra Generation press release dated April 19, 2011, San Diego Gas & Electric (SDG&E) has entered into a 20-year contract for up to 156 megawatts (MW) of renewable power to be supplied from the first phase of the ESJ U.S. Transmission Line project. (Sempra Generation 2011a; available online at: http://public.sempra.com/newsreleases/viewPR.cfm?PR_ID=2599&Co_Short_Nm=SE). However, it should be noted that whether or not the applicant has such an Agreement is beyond the purview of both the NEPA process and consideration of the Presidential permit application.

RESPONSE TO 101-3: The EIS acknowledges that the applicant is free at some future time to submit an application for an amendment to the Presidential permit to allow use of the transmission line to carry fossil-fueled power generation. However, should the application for this Presidential permit be approved, the permit would be conditioned on use of the line only for renewable energy. As stated in Section 1.5.1.2 (Issues Outside the Scope of the EIS), any new or revised Presidential permit application filed with DOE would be subject to a new and separate NEPA review. The permit presently under consideration would not allow for such alternative future uses of the transmission line. Therefore, the possible use of the line for non-renewable energy is outside the scope of this EIS.

In its comment letter to DOE (comment 404-1, provided herein), ESJ reiterated its previous communication to DOE that the import capacity of the transmission line in the Presidential permit would be limited to the physical capacity of the line (1,250 MW) and that power on this line be limited to renewable energy projects.
transmission line is expected to reduce the region’s dependence upon conventional fossil fuel fired generation plants, and improve the region’s ability to meet future electrical energy requirements.” According to the application, the project would also help California utilities meet the renewable energy portfolio standards specified in California Executive Order S-14-08, which requires that, by the end of 2020, 33% of retail electricity sales be generated from renewable energy sources. (DOE has not evaluated these statements.)

Comments questioned how DOE could be assured that the transmission line in Mexico would continue to operate consistent with the assumptions and analyses contained in the EIS.

Comments also stated that DOE should place conditions in the Presidential permits requiring that ESJ Wind abide by the same regulatory requirements as if they were constructed within the United States. The Record of Decision (ROD) and Presidential permit, if granted, would specify the purpose for the project as being limited to renewable resources, and that any changes to the project purpose with respect to transmission of renewable resources would require a Presidential permit amendment. The ROD will not address regulatory compliance in Mexico.

At the conclusion of the Presidential permit review process, based upon the entire record, including the environmental analysis contained in the EIS, DOE will determine whether the issuance of a Presidential permit would be consistent with the public interest. DOE also has the power “to attach to the issuance of the permit and to the exercise of the rights
granted thereunder such conditions as the public interest may in its judgment require” (Executive Order 10485, as amended by Executive Order 12038).

Imposition of such conditions would be addressed in the Record of Decision.

DOE is not in a position to require mitigation measures to be implemented in Mexico. However, the EIS does identify some potential mitigation measures relevant to the wind project in the context of discussing the potential for impacts in the United States, and for the information and guidance of the applicant and such other parties as may be in a position to implement these measures.

RESPONSE 101-4: With regard to connected actions, the EIS acknowledges the switchyard and loop-in portions of the proposed ECO Substation as a connected action to the ESJ U.S. Transmission Line project. As outlined in Section 1.1.2, DOE considers only the first points of interconnection with the electrical transmission grid (i.e., SDG&E’s ECO Substation switchyard facility and SWPL loop-in) as connected actions; therefore, the additional SDG&E ECO Substation Project components beyond the switchyards and loop-in are not considered connected actions to the ESJ U.S. Transmission Line project.

DOE has determined that the Sunrise Powerlink Project is not a connected action to the ESJ U.S. Transmission Line project. The Council on Environmental Quality (CEQ) definition of connected action (40 CFR 1508.25(1)) states, in part, that actions are connected if they:
(i) Automatically trigger other actions which may require environmental impact statements.

(ii) Cannot or will not proceed unless other actions are taken previously or simultaneously.

(iii) Are interdependent parts of a larger action and depend on the larger action for their justification.

The ESJ U.S. Transmission Line project is not dependent on Sunrise because the ESJ U.S. Transmission Line project will interconnect to the grid using the Southwest Powerlink via a loop-in from the ECO substation (i.e., not Sunrise Powerlink). Further, Sunrise Powerlink Project construction is underway and will be completed regardless of whether or not the ESJ U.S. Transmission Line project goes forward. The Sunrise Powerlink project is considered in the cumulative impact assessment in this EIS.

Comments pertaining to the merits of the project with respect to California utility regulations, potential for eminent domain, and project profitability are outside the scope of the NEPA process. DOE will consider these comments as well as all other comments received in that proceeding in the course of making a final determination on the permit application.

Additional discussion of the project’s potential to result in decreased property values and increased fire insurance rates has been added to Section 3.13.
RESPONSE TO 101-5: Additional discussion of the project’s potential to result in increased fire hazard and impacts to local fire fighting capabilities has been added to Section 3.9. Also refer to response to comments 306-1 through 306-9 for a discussion of fire fighting issues.

RESPONSE 101-6: Additional discussion of the project’s potential to result in decreased property values and increased fire insurance rates has been added to Section 3.13, and this topic is discussed in more detail in response to comment 107-2.

RESPONSE 101-7: Additional discussion of the project’s potential to impact Peninsular bighorn sheep populations, golden eagles, and other sensitive species in the project area has been added to Section 3.1. Refer to response to comment 108-7 for further discussion related to bighorn sheep. Refer to response to comment 108-8 for a discussion of potential eagle impacts.

RESPONSE 101-8: The EIS has been revised to include consideration of the potential use of the existing Western Energy Coordinating Council (WECC) transmission corridor as an alternative to the applicant’s proposed project. As discussed in Section 2.8.1, the potential of a direct interconnection to Mexican transmission lines using the WECC transmission corridor was considered but dismissed from detailed analysis for several reasons. The WECC Path 45 transmission corridor generally runs in an east-west orientation through northern Baja, Mexico, and connects to the California grid at an existing international border crossing in San Diego County. According to the applicant, the WECC transmission corridor would not provide enough
interconnection capability with the U.S. grid to deliver the capacity of the ESJ Wind project and would not meet reliability objectives when local renewable resources are unavailable (CPUC/BLM 2011a). This alternative would also have greater impacts because substantial changes to transmission lines would be required in Mexico. Import capacity of CFE into the United States is limited to 800 MW and, therefore, would not be able to accommodate the planned generation of 1,120 MW\(^1\) from the ESJ Wind Project without substantial upgrades. The applicant maintains that such upgrades would require detailed studies and new international agreements that would likely delay delivery of power from the ESJ Wind project. Furthermore, the proposed project reflects the shortest distance between the ESJ Wind project and the ECO Substation, so any other potential routing would be longer with likely commensurate greater impacts. The ECO Substation EIR/EIS (pages C-48 to C-50) also concluded that use of WECC Path 45 would not meet the objectives of the project:

“ECO System Alternative 6 [the Path 45 interconnection alternative] would not meet project objectives criteria or feasibility criteria. This alternative would not be able to interconnect all of the ESJ Gen-Tie Project or all the region’s planned renewable generation and, therefore, would only marginally meet project objectives.”

\(^1\) As noted in response to comment 101-1, electricity generated from subsequent phases of ESJ Wind development could be partitioned between the U.S. and Mexico.
RESPONSE TO 102-1: Refer to response to comment 101-1.

The comments provided in this letter are similar to comments provided in Congressman Filner’s November 6, 2009 letter to DOE. DOE responded to Congressman Filner’s November 6, 2009 letter in a letter dated March 20, 2010. DOE will consider these comments as well as all other comments received in this proceeding before making a final determination on the permit application.