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<b>DOCKET</b>	
<b>07-AFC-3</b>	
<b>DATE</b>	<u>Nov 21 2008</u>
<b>RECD.</b>	<u>Nov 21 2008</u>

STATE OF CALIFORNIA  
ENERGY RESOURCES  
CONSERVATION AND DEVELOPMENT COMMISSION

In the Matter of: ) Docket No. 07-AFC-3  
)  
Application for Certification, )  
for the CPV SENTINEL ENERGY PROJECT ) RESPONSES TO OCTOBER 14, 2008  
by CPV Sentinel, LLC ) COMMENTS OF SOUTHERN  
) CALIFORNIA EDISON  
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)  
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The attached table provides responses to the October 14, 2008 comments of Southern California Edison (SCE), which are also attached for reference. The attached responses have been reviewed and approved by representatives of SCE working under the supervision of Tom Burhenn, Director of Regulatory Licensing for SCE. As indicated in the attached table, with one relatively minor exception, no changes to CEC staff testimony are necessary to address SCE's comments.

DATED: November 21, 2008

Respectfully submitted,



Michael J. Carroll  
of LATHAM & WATKINS LLP  
Counsel to Applicant

Cc: Tom Burhenn, SCE  
Manuel Alvarez, SCE

**Responses to SCE Comments Dated October 14, 2008  
CPV Sentinel Energy Project  
November 20, 2008**

<b>SCE Comment Number</b>	<b>Response to SCE Comment</b>	<b>Resolution</b>
<b>Global Comments</b>		
1.	Applicant believes that the intended usage of the word "linear" in the Final Staff Assessment is clear from the context.	No changes necessary
2.	The proposed transmission line is part of the overall project. Therefore, conditions that apply generally to the project also apply to the transmission line unless the context indicates otherwise. Those conditions that apply specifically to the transmission line are clearly identified.	No changes necessary
<b>Biology Section</b>		
1.	The transmission line is discussed in more detail in the Project Description chapter of the FSA. It is not deemed necessary to discuss each element of the project within each resource chapter.	No changes necessary
2.	The term "linears" in this context applies to the proposed transmission line, gas line, water line, and road (Melissa Lane). The transmission line is within the CVMShCP. The CVMShCP covers a large area (see attached Figure 3-1), including the power plant project site, construction laydown area, transmission line route, gas line route, and water line route associated with the project. However, although these project areas are located within the CVMShCP, they are outside any areas designated as "conservation areas" within the CVMShCP.	No changes necessary
3.	<p>The following are the areas surveyed (also see AFC Table 7.2-1 and responses to Data Requests 66 and 67):</p> <p>February 26, 2007: Project site, water and gas line route, access road, transmission line route</p> <p>April 3, 2007: Project site, construction laydown area, gas line route, transmission line route</p> <p>May 7-10, 2007: Project site, construction laydown area, water and gas line route, access road, and transmission line route</p> <p>March 24, 25, 26, 28, 2008: Project site, construction laydown area, water and gas line route, transmission line route</p> <p>October 5 and 8, 2007: These surveys were conducted by the CEC.</p> <p>The following additional survey was also conducted subsequent to a minor modification to the transmission line route (also see PSA comments Attachment A):</p> <p>July 2008: Transmission line route surveyed</p>	No changes necessary

SCE Comment Number	Response to SCE Comment	Resolution
4.	The CVMShCP covers a large area (see attached Figure 3-1), including the power plant project site, construction laydown area, transmission line route, gas line route, and water line route associated with the project. However, although these project areas are located within the CVMShCP, they are outside any areas designated as "conservation areas" within the CVMShCP.	No changes necessary
5.	This statement includes the transmission line. Therefore, no US Army Corps of Engineers or state jurisdictional wetlands were identified within or proximate to the transmission line route.	No changes necessary
6.	Construction of the transmission line would not impact mesquite hummocks.	No changes necessary
7.	Desert tortoise, burrowing owl, Coachella Valley fringed-toed lizard, and flat tailed horned lizard may occur along the 200kV transmission line based on CNDDDB records, current and historic range maps, and habitat assessments and surveys conducted in 2007 and 2008. The likelihood of occurrence of the desert tortoise, Coachella Valley fringed-toed lizard, and flat tailed horned lizard are very unlikely; the likelihood of occurrence of burrowing owl is higher but still unlikely.	No changes necessary
8.	Based on URS' discussion with Johanna Page (SCE biologist) on November 20, 2008, it is our understanding that SCE's concern was related to the statement on page 4.2-18 of the FSA which states "BIO-7 requires that bird perch diverters and/or specifically designed avian protection materials should be used to cover electrical equipment where adequate separation is not feasible." The reference to bird perch diverters is not specifically referenced in BIO-7, but is incorporated within the BIO-7 (2) which requires adherence to <i>Suggested Practices for Raptor Protection on Power Lines: The State of the Art in 2006</i> . SCE indicated that they typically design their structures to include sufficient spacing to avoid potential avian mortality. SCE asserts that bird perch diverters are ineffective; however, the "and/or" within the statement provides SCE the option to use other specifically designed avian protection materials other than bird perch diverters.	No changes necessary
9.	Impacts to mesquite hummocks are not anticipated. Therefore, it is not anticipated that coverage under the CVMShCP as a participating special entity will be required.	No changes necessary
10.	Per our discussion with Johanna Page (SCE biologist) on November 20, 2008, BIO-7 states that "all feasible measures" should be implemented, including designing, installing, and maintaining structures and supports to prevent common raven nesting. However, ravens may still find a means to nest in the area, but the condition provides SCE with the opportunity to contend that preventing raven nesting is not feasible.  Regarding the second point that destroying raven nests prior to egg laying is illegal: according to the United States Department of the Interior Migratory Bird Permit Memorandum dated April 15, 2003, "the MBTA [(Migratory Bird Treaty Act)] does not contain any prohibition that applies to the destruction of a migratory bird nest alone (without birds or eggs), provided that no possession occurs during the destruction". The memo in its entirety is included. Though not illegal, SCE has an	No changes necessary

SCE Comment Number	Response to SCE Comment	Resolution
	<p>existing agreement with USFWS regarding the removal of bird nests from power poles and would need to act in accordance with this agreement.</p> <p>To clarify, nests of threatened or endangered bird species and bald and golden eagle nests will not be removed or destroyed without concurrence from USFWS and/or CDFG.</p>	
11.	<p>Comment noted. The likelihood of the 220kV power line permanently impacting burrowing owl breeding habitat is very low.</p>	<p>No changes necessary.</p>
<b>Hazardous Materials Handling Section –</b>		
1.	<p>Unleaded gasoline is listed for use by construction vehicles. This condition allows the use of other materials as long as such usage is approved in advance by the CPM. It is acknowledged that diesel will be used for construction vehicles and should be listed. Applicant proposes modifying Appendix B to include up to 2,500 gallons diesel fuel storage, with usage up to 2,000 gallons per week, stored in tanks with secondary containment. Applicant does not anticipate usage of kerosene, however, as stated, the condition allows for changes to the list if necessary.</p>	<p>Amend Appendix B to add diesel fuel for construction vehicles</p>
2.	<p>The Risk Management Plan (RMP) is required based on the storage of large quantities of aqueous ammonia on the power plant site. The RMP requirement does not apply to construction or operation of the transmission line. The Business Plan is required based on the storage of hazardous materials, and would not apply during commissioning and operation of the transmission line.</p>	<p>No changes necessary</p>
3.	<p>This condition is specific to ongoing hazardous materials transport. Therefore, it would not apply to diesel fuel be transported on a temporary basis for construction purposes.</p>	<p>No changes necessary</p>
4.	<p>SOIL &amp; WATER-1 (see Final Staff Assessment p. 4.9-65) requires a Storm Water Pollution Prevention Plan to be developed and implemented for the construction of all linear facilities.</p>	<p>No changes necessary</p>
<b>Air Quality</b>		
1.	<p>The air quality section will not be “redone.” It will be supplemented, as necessary, once a final emission offset package has been identified. It is expected that the analysis will comply with all applicable SCAQMD requirements.</p>	<p>No changes necessary</p>



<b>DOCKET</b>	
<b>07-AFC-3</b>	
DATE	<u>Oct 14 2008</u>
RECD.	<u>OCT 24 2008</u>

October 14, 2008

John Kessler, Energy Commission Project Manager  
California Energy Commission  
1516 Ninth St. MS-4  
Sacramento, CA 95814-5512

Subject: CPV Sentinel Application for Certification – Docket 07-AFC-3

Dear John:

Southern California Edison (SCE) has reviewed the California Energy Commission's PSA on the CPV Sentinel Application for Certification. Please find attached our comments on the document and any concerns we would like to see addressed.

Please feel free to contact me with any questions or concerns.

Sincerely,

***Milissa Marona***

Milissa Marona  
Project Manager, RP&A

## SCE Comments for CPV Sentinel Final FSA

10/14/08

### Global Comments:

- 1) The word "linear" is used throughout the document. It is hard to distinguish where the term linear is referring to SCE's transmission line, gas line, water line, or to all linear aspects.
- 2) There is no separation between the power plant component of the project and SCE's transmission line (T/L) component in impact analysis. Therefore, it is unclear as to exactly which Mitigation Measures will be required for the T/L component of the project

### Biology Section:

- 1) The 3,250 ft of proposed transmission line to be built and operated by Southern California Edison (SCE) needs to be better addressed in the Project Area and Vicinity Description section. The transmission line is not addressed in the Regional Setting along with the other utilities and project components.
- 2) pg. 4.2-6 Project Area and Vicinity Description section (2nd Paragraph, 3rd sentence): The word linear is used in this sentence. What do you mean by linear? May want to define the term. Is the 220kV transmission line within the Coachella Valley Multi-Species Habitat Conservation Plan?
- 3) pg. 4.2-9 Special-Status Species and Sensitive Natural Communities section (1st Paragraph): It is unclear as to which areas were surveyed during these focused surveys. Do these surveys cover the power plant site, transmission line, gas pipeline, construction lay down area, and recycle water pipeline corridor. You may want to clarify whether all or which portions of the project were surveyed during each of the biological surveys mentioned in this paragraph. If it does not cover the transmission line, then the transmission line definitely needs to be surveyed.
- 4) pg. 4.2-11 Critical Habitat; CVMSHCP Sensitive Areas; and Sensitive Aquatic Habitat sections: It is unclear as to which portions of the project fall within these biologically sensitive areas. As written, it seems as if the gas line is the only portion of the project that crosses and/or takes place in these areas. It needs to be clarified.
- 5) pg 4.2-11 Sensitive Aquatic Habitat section (1st Paragraph, 1st Sentence) 'including the associated linear facilities and construction laydown areas: What is meant by the associated linear facilities? This term needs to be defined if it is to be used. Are you just talking about the gas and water lines or does this also include the transmission line?
- 6) pg 4.2-16 Construction-Related Impacts and Mitigation section (1st Paragraph after bullets): It sounds like the impacts to the mesquite hummock plant community are only due to the CPVS power plant site, but I just want to clarify.
- 7) pg 4.2-16 CPV Sentinel Power Plant Site and Transmission Line to Devers Substation section (1st Paragraph, 4th and 5th sentences): It states that there is potential for desert tortoise, burrowing owl, Coachella Valley fringe-toed lizard and flat-tailed horned lizard to occur in the area. Are these results based off of those surveys conducted in 2007 and 2008? If so, you might want to state that the results are based on the 2007 and 2008 surveys somewhere in the paragraph. What is the possibility for any of these species to occur along the 220kV transmission line corridor?
- 8) 4.2-19 Avian Collision and Electrocutation section (3rd Paragraph, towards the middle of the section): It states that bird perch diverters will be utilized. Studies on the effects of bird perch diverters are on going and have not proven to be effective. It is therefore, just a waste of time and money. Additionally, it is my understanding that other lines (i.e. two 220kV lines and a 66kV line) are located within the same right of way. Therefore, even if the bird perch diverters worked, which they don't, installment of bird perch diverters on

- this single line will not be effective in this area because the other lines do not contain bird perch diverters.
- 9) 4.2-24 Compliance with LORS section (3rd Paragraph): It states that the applicant may receive coverage under the CVMSHCP as a Participating Special Entity. Are you going to participate as a Participating Special Entity?
  - 10) 4.2-31 Impact Avoidance Mitigation Features BIO-7 (# 4.): It would be impossible for SCE to design, install, and maintain structures and supports to prevent common raven nesting. Not to mention there are other lines within this right of way that have the potential to support raven nesting, which defeats the purpose of this mitigation feature. BIO-7 #4 of this feature also states that raven's nest will be destroyed prior to egg laying. It is illegal to destroy raven's nest prior to egg laying and this measure is not consistent with SCE policy. This measure does not comply with the requirements of the state and federal Migratory Bird Treaty Acts and would need to be approved by USFWS and CDFG
  - 11) 4.2-38 Burrowing Owl and Nesting Bird Surveys and Impact Avoidance Bio-12 (section 2C.): The burrowing owl is a state species of special concern and the guidelines that are written for surveying this species is suggested practice and not law. SCE will not commit to purchasing 6.5 acres if impacts occur within a 500ft buffer of a burrowing owl, if found. Instead, SCE will suggest that if impacts to foraging and burrow habitat are unavoidable consultation with CDFG may be necessary.

**Haz Mat Section:**

- 1) HAZ-1: Appendix B does not include Diesel Fuel for Construction vehicles and equipment. It doesn't include kerosene either.
- 2) HAZ-2: It should be clarified whether or not SCE will be responsible for a preliminary and a final Business Plan, as well as a Risk Management Plan for the T/L (or if this is only for the power plant).
- 3) HAZ-3: It appears that this mitigation measure is only for the Power Plant. Therefore, although diesel fuel will be transported to the T/L construction lay down areas in tanker trucks, it appears that a Safety Management Plan will NOT be required.
- 4) Please add into the document that a SWPPP plan will be prepared by SCE for the T/L construction if necessary.

**Air Quality:**

- 1) Since the AQ section is being redone, will the analysis follow SCAQMD requirements?

**STATE OF CALIFORNIA  
ENERGY RESOURCES  
CONSERVATION AND DEVELOPMENT COMMISSION**

In the Matter of: ) Docket No. 07-AFC-3  
Application for Certification, )  
for the CPV SENTINEL ENERGY PROJECT ) **ELECTRONIC PROOF OF SERVICE**  
 ) **LIST**  
 )  
 ) (October 24, 2008]  
 )

Transmission via electronic mail and by depositing one original signed document with FedEx overnight mail delivery service at Costa Mesa, California with delivery fees thereon fully prepaid and addressed to the following:

DOCKET UNIT

**CALIFORNIA ENERGY COMMISSION**

Attn: DOCKET NO. 07-AFC-3  
1516 Ninth Street, MS-15  
Sacramento, California 95814-5512  
[docket@energy.state.ca.us](mailto:docket@energy.state.ca.us)

Transmission via electronic mail addressed to the following:

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CPV SENTINEL ENERGY PROJECT  
CEC Docket No. 07-AFC-3

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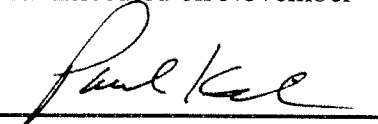
**DECLARATION OF SERVICE**

I, Paul Kihm, declare that on November 21, 2008, I deposited a copy of the attached:

**RESPONSES TO SOUTHERN CALIFORNIA EDISON'S OCTOBER 14, 2008 COMMENTS**

with FedEx overnight mail delivery service at Costa Mesa, California with delivery fees thereon fully prepaid and addressed to the California Energy Commission. I further declare that transmission via electronic mail was consistent with the requirements of California Code of Regulations, title 20, sections 1209, 1209.5, and 1210. All electronic copies were sent to all those identified on the Proof of Service List above.

I declare under penalty of perjury that the foregoing is true and correct. Executed on November 21, 2008, at Costa Mesa, California.

  
\_\_\_\_\_  
Paul Kihm

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November 21, 2008

File No. 030137-0012

**VIA FEDEX**

CALIFORNIA ENERGY COMMISSION

Attn: Docket No. 07-AFC-3

1516 Ninth Street, MS-4

Sacramento, California 95814-5512

Re: CPV Sentinel Energy Project: Docket No. 07-AFC-3

Dear Sir/Madam:

Pursuant to California Code of Regulations, title 20, sections 1209, 1209.5, and 1210, enclosed herewith for filing please find Applicant's Responses to Southern California Edison's October 14, 2008 Comments.

Please note that the enclosed submittal was also filed today via electronic mail to your attention.

Very truly yours,



Paul E. Kihm  
Senior Paralegal

Enclosure

cc: CEC 07-AFC-3 Proof of Service List (w/encl. via e-mail)  
Michael J. Carroll, Esq. (w/ encl.)