

13 Appendix D – Scoping Documentation

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13.1 – State Clearinghouse Notice of Preparation (NOP)

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Description

Eagle Mountain Pumped Storage Project

SCH Number: 2009011010

Document Type: NOP - Notice of Preparation

Project Lead Agency: State Water Resources Control Board

Project Description

The proposed project would be a pumped storage project using two existing mining pits near the town of Eagle Mountain, California. Water would be pumped from a lower/pit reservoir to an upper pit/reservoir during periods of low demand to generate peak energy during periods of high demand. To obtain the needed storage volume at the existing upper pit, two dams would be constructed along its perimeter. The lower pit has enough storage volume, so no dams would be needed. Eagle Crest is proposing to initially fill the reservoirs with either water from wells in the nearby Chuckwalla Basin or from surface water purchased from willing sellers elsewhere and transferred to the project through the Colorado River Aqueduct. Reservoir losses would be replaced by water from the nearby wells.

Contact Information

Primary Contact:

Camilla Williams
State Water Resources Control Board
(916) 327-4807
Division of Water Rights
1001 I Street, 14th Floor
Sacramento, CA 95814

Project Location

County: Riverside
City:
Region:
Cross Streets:
Latitude/Longitude:
Parcel No:

Township:
Range:
Section:
Base:
Other Location Info:

Proximity To

Highways:
Airports:
Railways:
Waterways:
Schools:
Land Use:

Development Type

Local Action

Project Issues

Archaeologic-Historic, Biological Resources, Geologic/Seismic, Soil
Erosion/Compaction/Grading, Landuse, Aesthetic/Visual, Air Quality

Reviewing Agencies (Agencies in **Bold Type** submitted comment letters to the State Clearinghouse)

Resources Agency; **Colorado River Board**; California Energy Commission; Cal Fire; Department of Parks and Recreation; **Department of Water Resources**; Department of Fish and Game, Region 6; Office of Emergency Services; **Native American Heritage Commission**; Public Utilities Commission; State Lands Commission; Caltrans, District 8; Regional Water Quality Control Board, Region 7; **Other - Public Comments**

Date Received: 1/7/2009 **Start of Review:** 1/7/2009 **End of Review:** 2/5/2009

13.2 – Notice of Preparation Distribution List

The project applicant maintains a mailing list which includes entities on the FERC Service List and the FERC Mailing List for the project, as well as other individuals and organizations who have expressed an interest in the project. A notice was sent to the mailing list notifying them of the availability of the license application.

First	Last	Organization	Location
John	Rydzik	Bureau of Indian Affairs	Palm Springs Field Office
Ronald	Jaeger	Bureau of Indian Affairs	Pacific Regional Office, Sacramento, CA
Tom	Dang	Bureau of Indian Affairs	Pacific Regional Office Sacramento, CA
Virgil	Townsend	Bureau of Indian Affairs	Southern California Agency
Mike	Bennett	Bureau of Land Management	Palm Springs South Coast Field Office
Claude	Kirby	Bureau of Land Management	Palm Springs South Coast Field Office
Mark	Massar	Bureau of Land Management	Palm Springs South Coast Field Office
John	Kalish	Bureau of Land Management	Palm Springs South Coast Field Office
Greg	Hill	Bureau of Land Management	Palm Springs South Coast Field Office
Tom	Gey	Bureau of Land Management	Palm Springs South Coast Field Office
		Bureau of Land Management	California State Office
Donald	Bryce	Department of Interior, Bureau of Reclamation	Lower Colorado Regional Office
Ann	McPherson	Environmental Protection Agency	Regional Office
Alexis	Strauss	Water Division, Environmental Protection Agency	San Francisco, CA
Gregor	Blackburn, CFM	Federal Emergency Management Agency	Region IX
Edward	Perez	Federal Energy Regulatory Commission	Portland Regional Office
		Regional Engineer, Federal Energy Regulatory Commission	Portland Regional Office
		National Marine Fisheries Service	Regional Office
		National Marine Fisheries Service	Southwest Fishery Science Center
Karin	Messaros	National Park Service	Joshua Tree National Park
Steve	Bowes	National Park Service	Regional Office
Curt	Sauer	National Park Service	Joshua Tree National Park
Michael	Vamstad	National Park Service	Joshua Tree National Park

First	Last	Organization	Location
Luke	Sabala	National Park Service	Joshua Tree National Park
Eric	Theiss	NOAA Fisheries	Southwest Region
Scott	John	U.S. Army Corps of Engineers	State District Office, REGULATORY BRANCH/PERMITS
Mark	Durham	U.S. Army Corps of Engineers	State District Office, REGULATORY BRANCH/PERMITS
		U.S. Army Corps of Engineers	Divisional Office Regulatory Branch
		U.S. Army Corps of Engineers	Southern CA Area Office
		U.S. Army Corps of Engineers	San Francisco District Office
		U.S. Fish and Wildlife Service	Sacramento, California
		U.S. Fish and Wildlife Service	Ventura, California
		U.S. Fish and Wildlife Service	Attn: FERC Coordinator
		U.S. Fish and Wildlife Service	Arcata FWO
Pete	Sorenson	U.S. Fish and Wildlife Service	Carlsbad Fish & Wildlife Office
Tannika	Engelhard	U.S. Fish and Wildlife Service	Carlsbad Fish & Wildlife Office
Peggy	Bartels, MS	U.S. Fish and Wildlife Service	Carlsbad Fish & Wildlife Office
		U.S. Forest Service	Pacific Southwest Region
Hon. Barbara	Boxer	United States Senate	
Hon. Dianne	Feinstein	United States Senate	
Doug	McPherson	Department of Interior, Bureau of Reclamation	Temecula, California
		U.S. Geological Survey, Water Resources Division	Sacramento, California
		American River Conservancy	Sacramento, California
Steve	Rothert	American Rivers	Nevada City, CA
Steve	Wald	California Hydropower Reform Coalition	Berkeley, CA
Nate	Rangel	California Outdoors	Coloma, CA
Jim	Crenshaw	California Sportfishing Protection Alliance	Woodland, CA
Curtis	Knight	California Trout	San Francisco, CA
Jim	Edmondson	California Trout	San Francisco, CA
Traci	Sheehan Van Thull	California Wild Heritage Campaign	Sacramento, CA
Joan	Clayburgh	Center for Sierra Nevada Conservation	Georgetown, CA
Dave	Steindorf	Chico Paddleheads	Paradise
Pete	Bell	Foothill Conservancy	Pine Grove, CA
Kelly	Catlett	Friends of the River	Sacramento, CA
Richard	Roos-Collins	Natural Heritage Institute	Berkeley, CA
Jerry	Meral	Planning and Conservation League	Sacramento, CA

First	Last	Organization	Location
		Sierra Club	San Francisco, CA
Joan	Clayburgh	Sierra Nevada Alliance	So. Lake Tahoe, CA
John	Beuttler	California Sportfishing Protection Alliance	Berkeley, CA
Charlton	Bonham	Trout Unlimited	Berkeley, CA
Stephen	Lowe	Eagle Crest Energy Company	Palm Desert, CA
Terry	Cook	Kaiser Ventures, LLC	Ontario, CA
Jan Roberts	Roberts	Kaiser Eagle Mountain	Desert Center, CA
Tom	Covey	S.P. Pazargad	Van Nuys, CA
Veronica	Evans	Lake Tamarisk Library	Desert Center, CA
Larry	Charpied	Citizens for the Chuckwalla Valley	Desert Center, CA
Donna	Charpied	Citizens for the Chuckwalla Valley	Desert Center, CA
Kristine	Wilson	Perkins Coie LLP	Bellevue, WA
Markham	Quehrn	Perkins Coie LLP	Bellevue, WA
Stephen	Maguin	County Sanitation Districts of Los Angeles County	Whittier, CA
		Office of Planning and Research	Sacramento, CA
Michael	Campbell	Imperial Irrigation District	Imperial, CA
Perry	Rosen	Akin Gump Strauss Hauer & Feld LLP	Washington, D.C.
Michael	Postar	Duncan Weinberg Genzer and Pembroke PC	Washington, D.C.
Alexander	Shipman	Lewis, Brisbois Bisgaard & Smith LLP	Los Angeles, CA
Daniel	Hyde	Lewis, Brisbois Bisgaard & Smith LLP	Los Angeles, CA
Donald	Clarke	Law Offices of GKRSE	Washington, D.C.
Rekha	Rao	Law Offices of GKRSE	Washington, D.C.
Margit	Chiriaco Rusche		Chiriaco Summit, CA
Gary	Johnson	Mine Reclamation, LLC	Palm Desert, CA
		California Air Resources Board	Sacramento, CA
		Resources Agency of California	Sacramento, CA
James	Sheridan	California Department of Fish and Game	Eastern Sierra Inland Deserts Region
		California Department of Fish and Game	Regional Office, Region 6
Mike	Meinz	California Department of Fish and Game	Rancho Cordova, CA
		California Department of Fish and Game	Sacramento, CA
Gary	Watts	California State Parks	Inland Empire District
Glen	Eastman	Metropolitan Water District of Southern California	Desert Center, CA
Robert	Perdue	California Department of Water Resources	California Regional Water Quality Control Board
		California Department of Water	Sacramento, CA

First	Last	Organization	Location
		Resources, Department of Safety of Dams	
Beth	Hendrickson	California Dept. of Conservation	Office of Mine Reclamation
Kip	Gonzalez	California Dept. of Conservation	Office of Mine Reclamation
Greg	Sonorio	California Dept. of Conservation	Office of Mine Reclamation
Paul	Marshall	California Dept. of Conservation	Compliance Section
		California Fish and Game Commission	Environmental Services Division
		California Office of Attorney General	Los Angeles, CA
Cherilyn	Widell	California Office of Historic Preservation	Sacramento, CA
		California Office of the Governor	State Capitol Building
Nicholas	Sher	California Public Utilities Commission	San Francisco, CA
Marina	Brand	California State Lands Commission	Division of Environmental Planning
Jim	Porter	California State Lands Commission	Sacramento, CA
Greg	Pelka	California State Lands Commission	Sacramento, Ca
Camilla	Williams	California State Water Resources Control Board	Division of Water Rights
Paul	Murphey	California State Water Resources Control Board	Division of Water Rights
Nathan	Jacobsen	State Water Resources Control Board	Office of Chief Counsel
Craig	Weightman	California Department of Fish and Game	
Anna	Milloy	California Department of Fish and Game	Regional Office
Michael	Flores	California Department of Fish and Game	Regional Office
Beth	Hendrickson	California Dept. of Conservation	Office of Mine Reclamation
Jim	Canady	California State Water Resources Control Board	Sacramento, CA
		County Sanitation Districts of Los Angeles County, CA	Los Angeles, CA
Randy	Baysinger, P.E.	Turlock Irrigation District	Turlock, CA
	Chief	California Department of Parks and Recreation	Sacramento, CA
Peter	vonHaam	Metropolitan Water District of Southern California	Los Angeles, CA
Matthew	Hacker	Metropolitan Water District of Southern California	Los Angeles, CA
Delaine W.	Shane	Environmental Planning Team, Metropolitan Water District of Southern California	Los Angeles, CA
MaryLisa	Lynch	California Department of Fish and	Rancho Cordova

First	Last	Organization	Location
		Game	
Matthew	Campbell	California Office of Attorney General	Sacramento
Lamia	Mamoon	California Public Utilities Commission	San Francisco
		California Public Utilities Commission	San Francisco
Cheri	Sprunck	Placer County Water Agency	Auburn
Kathleen	Smith	Placer County Water Agency	Auburn
Michael	Harrod	Riverside County	Riverside
	County Clerk	Riverside County	Riverside
David	Jones	Riverside County	TLMA- Planning
Mike	Cipra	National Parks Conservation Association	Joshua Tree, CA
Karen	Goebel	U.S. Fish and Wildlife Service	Carlsbad, CA
		South Coast Air Quality Air Management District	Diamond Bar, CA
David	Jump	Cathedral City	Cathedral City, CA
Renata	DiBattista	City of Indio	Community Development Department
Clifford	LaChappa	Barona Band of Mission Indians	Lakeside
John	James	Cabazon Tribal Business Committee	Indio
Celeste	Hughes	Cahuilla Band of Mission Indians	Anza
Edward	Smith	Chemehuevi Tribal Council	Havasu Lake
Robert	Martin	Morongo Band of Mission Indians	Cabazon
Britt	Wilson	Morongo Band of Mission Indians	Cabazon
Mary	Belardo	Torres-Martinez Desert Cahuilla Indians	Thermal
Kurt	Russo	Native American Lands Conservancy	Bellingham
Dean	Mike	Twenty-Nine Palms Band of Mission Indians	Coachella
Richard	Milanovich	Aqua Caliente Band of Cahuilla Indians	Palm Springs
Richard	Begay	Aqua Caliente Band of Cahuilla Indians	Palm Springs
Thomas	Davis	Aqua Caliente Band of Cahuilla Indians	Palm Springs
Julie	Branchini	Aqua Caliente Band of Cahuilla Indians	Palm Springs
Sean	Milanovich	Aqua Caliente Band of Cahuilla Indians	Palm Springs
David	DeRosa	Aqua Caliente Band of Cahuilla Indians	Palm Springs

13.3 – FERC Notice of Scoping

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Eagle Crest Energy Company

Project Nos. 13123-000
12509-001

NOTICE OF SCOPING MEETINGS AND SITE VISIT

(December 17, 2008)

- a. Type of Filing: Notice of Intent to File a License Application; Pre-Application Document; and Request to Use the Traditional Licensing Process.
- b. Project Nos.: 13123-000 and 12509-001¹
- c. Dated Filed: October 16, 2008
- d. Submitted By: Eagle Crest Energy Company (Eagle Crest)
- e. Name of Project: Eagle Mountain Pumped Storage Project
- f. Location: The Eagle Mountain Project would be located at two depleted mining pits in the Eagle Mountain Mine in Riverside County, California, near the town of Desert Center, California.
- g. Filed Pursuant to: 18 CFR Part 5 of the Commission's Regulations
- h. Applicant Contact: Arthur Lowe, Eagle Crest Energy Company, 1 El Paso, Suite 204, Palm Desert, California 92260.
- i. FERC Contact: Kim Nguyen (202) 502-6105 or e-mail kim.nguyen@ferc.gov.
- j. Eagle Crest filed Pre-Application Document (PAD) and draft License Application (LA) for the Eagle Mountain Pumped Storage Project, including proposed process plan and schedule, with the Commission pursuant to 18 CFR 5.6 of the Commission's regulations.

¹ Previously, the project was given FERC Project No. 12509-001. Upon issuance of a new preliminary permit on August 13, 2008, the project was given FERC Project No. 13123-000.

- k. Copies of the PAD, draft LA, and Scoping Document 1 (SD1) are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website (<http://www.ferc.gov>), using the "eLibrary" link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, contact FERC Online Support at FERCONlineSupport@ferc.gov or toll free at 1-866-208-3676, or for TTY, (202) 502-8659. The applicant maintains a project website with meeting information www.eaglemountainenergy.net.

Register online at <http://ferc.gov/esubscribenow.htm> to be notified via e-mail of new filings and issuances related to these or other pending projects. For assistance, contact FERC Online Support.

- l. With this notice, we are soliciting comments on SD1. In addition, all comments on the PAD, draft LA, and SD1, study requests, requests for cooperating agency status, and all communications to Commission staff related to the merits of the potential applications (original and eight copies) must be filed with the Commission at the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. All filings with the Commission relevant to the Eagle Mountain Hydroelectric Project must include on the first page, the project name and number (P-13123-000), and bear the heading, as appropriate, "Comments on Scoping Document 1." Any individual or entity interested in commenting on SD1 must do so no later than 60 days from receipt of this notice.

Comments on SD1 and other permissible forms of communications with the Commission may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's website (<http://www.ferc.gov>) under the "e-filing" link.

- m. At this time, Commission staff intends to prepare an Environmental Impact Statement for the project, in accordance with the National Environmental Policy Act.
- n. Scoping Meetings

We will hold two scoping meetings for each project at the times and places noted below. The daytime meetings will focus on resource agency, Indian tribes, and non-governmental organization concerns, while the evening meetings are primarily for receiving input from the public. We invite all interested individuals, organizations, Indian tribes, and agencies to attend one or all of the meetings, and to assist staff in

identifying particular study needs, as well as the scope of environmental issues to be addressed in the environmental document. The times and locations of these meetings are as follows:

Daytime Scoping Meeting

Date: January 16, 2009
Time: 9:00 am
Location: University of California at Riverside
Palm Desert Graduate Center
75-080 Frank Sinatra Drive, Room B114/117
Palm Desert, California 92211

Evening Scoping Meeting

Date: January 15, 2009
Time: 7:00 pm
Location: University of California at Riverside
Palm Desert Graduate Center,
75-080 Frank Sinatra Drive, Room B200
Palm Desert, California 92211

SD1, which outlines the subject areas to be addressed in the environmental document, has been mailed to the individuals and entities on the Commission's mailing list. Copies of SD1 will be available at the scoping meetings, or may be viewed on the web at <http://www.ferc.gov>, using the "eLibrary" link. Follow the directions for accessing information in paragraph k. Depending on the extent of comments received, a Scoping Document 2 (SD2) may or may not be issued.

Site Visit

The applicant will conduct a site visit of the project on January 15, 2009 at 9:00 a.m. Those wishing to participate in the site visit should meet at the University of California at Riverside, Palm Desert Graduate Center, 75-080 Frank Sinatra Drive, Room B200, Palm Desert, California. To appropriately accommodate persons interested in attending the site visit, participants should contact Andrea Oliver with Eagle Crest at (760) 346-4900 or e-mail at aoliver@eaglecrestenergy.com by January 8, 2009.

Scoping Meeting Objectives

At the scoping meetings, staff will: (1) present the proposed list of issues to be addressed in the EA; (2) review and discuss existing conditions and resource agency management objectives; (3) review and discuss existing information and identify preliminary information and study needs; (4) review and discuss the process plan and schedule for pre-filing activity that incorporates the time frames provided for in Part 5 of the Commission's regulations and, to the extent possible, maximizes coordination of federal, state, and tribal permitting and certification processes; and (5) discuss requests by any federal or state agency or Indian tribe acting as a cooperating agency for development of an environmental document.

Meeting participants should come prepared to discuss their issues and/or concerns. Please review the PAD and draft LA in preparation for the scoping meetings. Directions on how to obtain a copy of the PAD, draft LA, and SD1 are included in item k of this notice.

Scoping Meeting Procedures

The scoping meetings will be recorded by a stenographer and will become part of the formal Commission records for the projects.

Kimberly D. Bose,
Secretary.

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426
December 17, 2008

OFFICE OF ENERGY PROJECTS

Project No. 13123-000 – California
Eagle Mountain Pumped Storage
Hydroelectric Project
Eagle Crest Energy Company

Subject: Scoping of environmental issues for the licensing of the Eagle Mountain Pumped Storage Hydroelectric Project

To the Parties Addressed:

On January 10, 2008, Eagle Crest Energy Company (Eagle Crest) filed with the Federal Energy Regulatory Commission (Commission) a Notice of Intent to file a license application, a request to use the Traditional Licensing Process, and a Pre-Application Document for the proposed 1,300- megawatt Eagle Mountain Pumped Project.²

The project would be located in two depleted mining pits in the Eagle Mountain Mine in Riverside County, California, near the town of Desert Center, California. The proposed project would occupy federal lands administered by the Bureau of Land Management (BLM) and private lands owned by Kaiser Eagle Mountain, LLC.

On June 16, 2008, Eagle Crest submitted a Draft License Application (DLA). The Commission has reviewed the DLA and provided comments along with many interested stakeholders. These comments can be viewed on the Commission's website at http://elibrary.FERC.gov/idmws/file_list.asp?accession_num=20081015-5009.

On October 17, 2008, Eagle Crest filed a request for approval of an early scoping process to coordinate both federal and California state environmental procedures. The Commission approved this request on October 29, 2008 and will hold early scoping to coordinate the Commission's National Environmental Policy Act (NEPA) with the State Water Resources Control Board's California Environmental Quality Act (CEQA).

² Previously, the project was given FERC Project No. 12509-001. Upon issuance of a new preliminary permit on August 13, 2008, the project was given FERC Project No. 13123-000. On March 4, 2008, the Commission approved Eagle Crest's request to use the TLP.

Based on the comments filed for the DLA and pursuant to NEPA, the Commission staff intends to prepare an Environmental Impact Statement for the project, which will be used by the Commission to determine whether, and under what conditions, to issue new hydropower licenses for the projects. To support and assist our environmental review, we are beginning the public scoping process to ensure that all pertinent issues are identified and analyzed, and that the environmental document is thorough and balanced.

We invite your participation in the scoping process and are circulating the enclosed Scoping Document 1 (SD1) to provide you with information on the project and to solicit comments and suggestions on our preliminary list of issues and alternatives to be addressed in the EIS. Please review this scoping document and, if you wish to provide comments, follow the instructions included in section 5.0.

As part of our scoping process and in an effort to identify issues, concerns, and opportunities associated with the proposed action, we will hold two scoping meetings on Thursday and Friday, January 15 and 16, 2009, to receive input on the scope of the EIS. A daytime meeting on Friday focused on resource agencies, Indian tribes, and non-governmental organizations (NGO's), will begin at 9:00 a.m. An evening meeting on Thursday, primarily for the public, will start at 7:00 p.m. Both meetings will be held at the University of California at Riverside, University of California at Riverside, Palm Desert Graduate Center, 75-080 Frank Sinatra Drive, Palm Desert, California. The public, agencies, Indian tribes, and NGOs may attend either or both meetings.

Further, the Eagle Crest and Commission staff will conduct a site visit of the project on Thursday, January 15, 2009, starting at 9:00 a.m. Those wishing to participate should meet at the University of California at Riverside, University of California at Riverside, Palm Desert Graduate Center, 75-080 Frank Sinatra Drive, Room B200, Palm Desert, California. To appropriately accommodate persons interested in attending the site visit, participants should contact Andrea Oliver with Eagle Crest by January 8, 2009 at (760) 346-4900 or e-mail at aoliver@eaglecrestenergy.com. More information about the scoping meetings and site visit is available in the scoping document.

The SD1 is being distributed to the Commission's official mailing list (see section 9.0). If you wish to be added to or removed from the Commission's official mailing list, please send your request by mail to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Room 1A, Washington, DC 20426. All written, electronic filings, or e-mailed requests must specify your wish to be removed or added to the mailing list and must clearly identify the following on the first page: Eagle Mountain Pumped Storage Project No. 13123-000. For assistance with electronic filing or e-mail notification registration, please refer to the instructions in section 5.0 of the scoping document.

For any questions about the SD1, the scoping process, or how Commission staff will develop the EIS for this project, please contact Kim Nguyen at (202) 502-6105 or e-mail at kim.nguyen@ferc.gov. Any questions concerning CEQA, the water quality certification, and the California water rights process should be directed to Camilla Williams at (916) 327-4807 or email at CKWilliams@waterboards.ca.gov. Additional information about the Commission's licensing process and the Eagle Mountain Project may be obtained from our website, <http://www.ferc.gov>.

Enclosure: Scoping Document 1

cc: Mailing List
Public Files

13.4 – Scoping Document 1



NEPA SCOPING DOCUMENT 1

and

CEQA NOTICE OF PREPARATION

EAGLE MOUNTAIN PUMPED STORAGE HYDROELECTRIC PROJECT

CALIFORNIA

FERC PROJECT NO. 13123-000



State of California
Environmental Protection Agency
State Water Resources Control Board



Federal Energy Regulatory Commission
Office of Energy Projects
Division of Hydropower Licensing
Washington, DC

December 2008



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ACRONYMS AND ABBREVIATIONS

APE	area of potential effects
BLM	U. S. Bureau of Land Management
CEQA	California Environmental Quality Act
Commission	Federal Energy Regulatory Commission
DLA	draft license application
Eagle Crest	Eagle Crest Energy Company or Applicant
EIR	Environmental Impact Report
EIS	Environmental Impact Statement
ESA	Endangered Species Act
FPA	Federal Power Act
HPMP	Historic Properties Management Plan
Joshua Tree NP	Joshua Tree National Park
MW	megawatt
NEPA	National Environmental Policy Act
NGO	Nongovernmental organization
PAD	Pre-Application Document
Project	Eagle Mountain Pumped Storage Project
SHPO	California State Historic Preservation Officer
Water Board	California State Water Resources Control Board

INTRODUCTION

The Federal Energy Regulatory Commission (Commission), under the authority of the Federal Power Act (FPA),³ may issue licenses for terms ranging from 30 to 50 years for the construction, operation, and maintenance of non-federal hydroelectric projects. On January 10, 2008, Eagle Crest Energy Company (Eagle Crest) filed a Notice of Intent to file a license application, a request to use the Traditional Licensing Process, and a Pre-Application Document (PAD) for the proposed 1,300-megawatt (MW) Eagle Mountain Pumped Project.⁴

The project would be located in two depleted mining pits in the Eagle Mountain Mine in Riverside County, California, near the town of Desert Center, California. See Figure 1. The proposed project would occupy federal lands administered by the Bureau of Land Management (BLM) and private lands owned by Kaiser Eagle Mountain, LLC.

Following the submission of the PAD, there was a 60-day comment period when interested stakeholders were invited to submit requests for additional studies. In addition, a joint meeting and site visit was held on April 9 and 10, 2008. Transcripts from the joint meeting are available on the Commission's website at www.ferc.gov.

On June 16, 2008, Eagle Crest submitted a Draft License Application (DLA) to the Commission. Comments on this DLA were filed by many interested stakeholders and can be viewed on the Commission's website at http://elibrary.FERC.gov/idmws/file_list.asp?accession_num=20081015-5009.

On September 26, 2008, Eagle Crest applied to the State Water Resources Control Board (Water Board) for water quality certification under section 401 of the Clean Water Act. For purposes of the California Environmental Quality Act (CEQA), the Water Board will be the California state lead agency for the preparation of an Environmental Impact Report (EIR) for California public agency approvals relating to environmental impacts associated with the proposed licensing of the project. On October 15, 2008, the Water Board determined that the application met the requirements for a complete application and was acceptable for processing.

³ 16 U.S.C. §§ 791(a)-825(r) (2000).

⁴ Previously, the project was given FERC Project No. 12509-001. Upon issuance of a new preliminary permit on August 13, 2008, the project was given FERC Project No. 13123-000. On March 4, 2008, the Commission approved Eagle Crest's request to use the TLP.

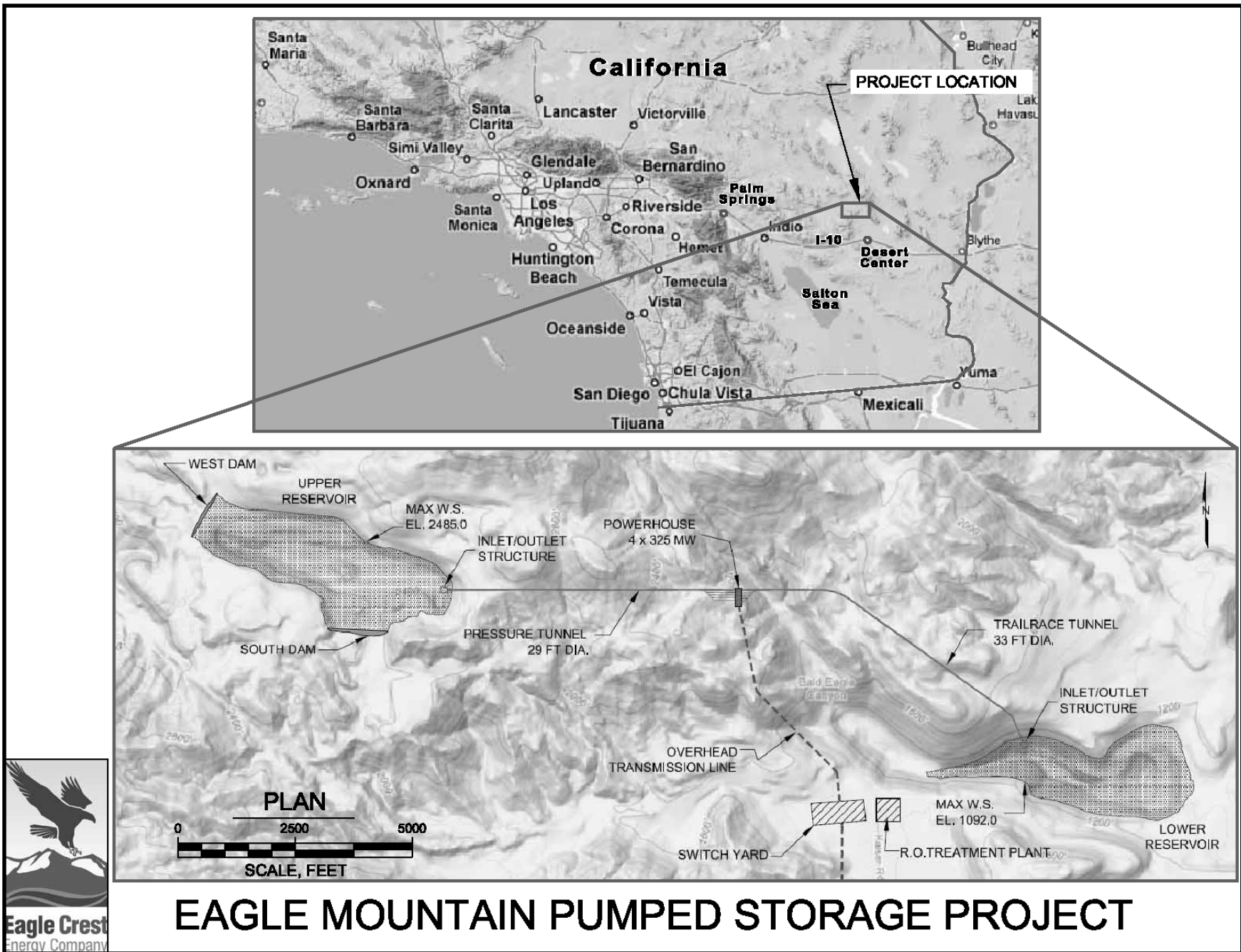


Figure 1. Location of the Eagle Mountain Pumped Storage Project (Source: Eagle Crest Energy Company, 2008).

The National Environmental Policy Act (NEPA) of 1969,⁵ the Commission's regulations, and other applicable laws require that we independently evaluate the environmental effects of licensing the project as proposed, as well as consider reasonable alternatives to the proposed action. At this time, we intend to prepare a draft and final Environmental Impact Statement (EIS) that describes and evaluates the probable impacts, including an assessment of the site-specific and cumulative effects, if any, of the proposed action and alternatives considered. This scoping process will help the Commission and Water Board staff to identify the pertinent issues for analysis in the EIS and EIR.

SCOPING

This scoping document is intended to advise all participants about the proposed scope of the EIS and EIR and to seek additional information pertinent to this analysis. This document contains: (1) a description of the scoping process and schedule for developing the EIS and EIR; (2) a description of the proposed action and alternatives; (3) a preliminary identification of environmental issues; (4) a request for comments and information; (5) proposed EIS and EIR outlines; and (6) a preliminary list of comprehensive plans that may be applicable to the project.

14.1 Purposes of Scoping

Scoping is the process used to identify issues, concerns, and opportunities for protection or mitigation associated with a proposed action. The process should be conducted early in the planning stage of a project.

The purposes of the scoping process are as follows:

- Invite participation of federal, state, and local resource agencies; Indian tribes; non-governmental organizations (NGOs); and the public to help identify significant environmental and socioeconomic issues related to the proposed action.
- Determine the resource areas, depth of analysis, and significance of issues to be addressed in the EIS and EIR.
- Identify how the project would or would not contribute to cumulative impacts in the project area.
- Identify reasonable alternatives to the proposed action that should be evaluated in the EIS and EIR.

⁵ National Environmental Policy Act of 1969, as amended (Pub. L. 91-190. 42 U.S.C. 4321-4347, January 1, 1970, as amended by Pub. L. 94-52, July 3, 1975, Pub. L. 94-83, August 9, 1975, and Pub. L. 97-258, §4(b), Sept. 13, 1982).

- Solicit from participants available information on the resources at issue.
- Determine the resource areas and potential issues that do not require detailed analysis during review of the project.

14.2 Comments and Scoping Meetings

Between now and the Commission's decision on the proposed project and the Water Board's notice of determination, there will be several opportunities for the public, resource agencies, Indian tribes, and NGOs to provide input. These opportunities occur:

- During the public scoping process, prior to preparation of the draft EIS and draft EIR, so Commission and Water Board staff can receive written comments regarding scope of the issues and analysis for the EIS and EIR.
- In response to the Commission's ready for environmental analysis notice when we solicit comments, recommendations, terms, conditions, and prescriptions for the proposed project.
- After issuance of the Draft EIS and Draft EIR with draft 401 water quality certification, so that staff can receive written comments.

In addition to written comments solicited by this scoping document, the Commission and the Water Board staff will hold two public scoping meetings in the vicinity of the project. A daytime meeting will focus on concerns of the resource agencies, Indian tribes, and NGOs and an evening meeting will focus on receiving input from the public. We invite all interested agencies, Indian tribes, NGOs, and individuals to attend one or both of the meetings to assist staff in identifying environmental issues that should be analyzed in the EIS and EIR. The times and locations of the meetings are listed below.

Daytime Scoping Meeting

Date: January 16, 2009
Time: 9:00 am
Location: University of California at Riverside
Palm Desert Graduate Center
75-080 Frank Sinatra Drive, Room B114/117
Palm Desert, California 92211

Evening Scoping Meeting

Date: January 15, 2009
Time: 7:00 pm
Location: University of California at Riverside
Palm Desert Graduate Center,
75-080 Frank Sinatra Drive, Room B200
Palm Desert, California 92211

The scoping meetings will be recorded by a court reporter, and both written and verbal statements will become part of the Commission's and the Water Board's public records for the project. Individuals presenting statements at the meetings will be asked to clearly identify themselves for the record. Interested entities who choose not to speak or who are unable to attend any of the scoping meetings may provide written comments and information to the Commission and the Water Board as described in section 5.0 of this scoping document. These meetings will be posted on the Commission's calendar, located on the internet at <http://www.ferc.gov/EventCalendar/EventsList.aspx>, along with other related information. In addition, the applicant maintains a project website with meeting information www.eaglemountainenergy.net.

Meeting participants are encouraged to come to the scoping meetings prepared to discuss their issues and/or concerns as they pertain to licensing the project. To prepare for the scoping meetings, participants are asked to please review the DLA. A copy of the DLA is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website (<http://www.ferc.gov>), using the "eLibrary" link. Enter the docket number, P-13123, to access the document. Contact FERC Online Support at FERCOnlineSupport@FERC.gov, call toll free at 866-208-3676, or TTY, 202-502-8659 for assistance.

The applicant will conduct a site visit of the project on January 15, 2009 at 9:00 a.m. Those wishing to participate in the site visit should meet at the University of California at Riverside, Palm Desert Graduate Center, 75-080 Frank Sinatra Drive, Room B200, Palm Desert, California. To appropriately accommodate persons interested in attending the site visit, participants should contact Andrea Oliver with Eagle Crest at (760) 346-4900 or e-mail at aoliver@eaglecrestenergy.com by January 8, 2009.

Following the scoping meetings and comment period, all issues raised will be reviewed and decisions will be made about the level of analysis needed. If preliminary analysis shows that any issues presented in this scoping document have little potential for causing significant effects, the issue(s) will be identified and the reasons for not providing a more detailed analysis will be given in the EIS and EIR.

If the Commission receives no substantive comments on this scoping document, then the Commission will not prepare a Scoping Document 2 (SD2). We will so notify participants by letter. If the Commission issues an SD2, it will be for informational use only and will not require a response from any participant in the process.

PROPOSED ACTION AND ALTERNATIVES

In accordance with NEPA and CEQA, our environmental analysis will consider the following alternatives, at a minimum: (1) the applicant's proposed action; (2) alternatives to the proposed action; and (3) no-action.

14.3 Eagle Crest Energy Company's Proposed Action

Eagle Crest is seeking an original license to construct and operate the Eagle Mountain Pumped Storage Project. The Commission will consider whether, and under what conditions, to issue an original license for the project. The Water Board will consider whether, and under what conditions, to issue water quality certification for the project.

14.3.1 Proposed Project Facilities

The proposed project would be a pumped storage project using two existing mining pits near the town of Eagle Mountain, California. Water would be pumped from a lower pit/reservoir to an upper pit/reservoir during periods of low demand to generate peak energy during periods of high demand. To obtain the needed storage volume at the existing upper pit, two dams would be constructed along its perimeter. The lower pit has enough storage volume, so no dams would be needed. The project would consist of the following facilities: (1) two roller-compacted dams at the upper reservoir at heights of 60- and 120-feet; (2) an upper reservoir with capacity of 20,000 acre-feet; (3) a lower reservoir with capacity of 21,900 acre-feet; (4) inlet/outlet structures; (5) water conveyance tunnels consisting of 4,000-foot-long by 29-foot-diameter upper tunnel, 1,390-foot-long by 29-foot-diameter shaft, 1,560-foot-long by 29-foot-diameter lower tunnel, four 500-foot-long by 15-foot-diameter penstocks leading to the powerhouse, 6,835-foot-long by 33-foot-diameter tailrace tunnel to the lower reservoir; (6) surge control facilities; (7) a 72-foot-wide, 150-foot-high, and 360-foot-long underground powerhouse with 4 Francis-type turbine units; (8) a 50.5-mile, 500-kilovolt transmission line; (9) water supply facilities including a reverse osmosis system; (10) access roads; and (11) appurtenant facilities.

Eagle Crest is proposing to initially fill the reservoirs with either water from wells in the nearby Chuckwalla Basin or from surface water purchased from willing sellers elsewhere and transferred to the project through the Colorado River Aqueduct. Reservoir losses would be replaced by water from the nearby wells.

14.3.2 Proposed Project Operation

The project would use off-peak energy to pump water from the lower reservoir to the upper reservoir during periods of low electrical demand and generate valuable peak energy by passing the water from the upper to the lower reservoir through the generating units during periods of high electrical demand. The low demand periods are expected to be during weekday nights and throughout the weekend, and the high demand periods are expected to be in the daytime during week days, especially during the summer months. The project would provide an economical supply of peaking capacity, as well as load following, system regulation through spinning reserve⁶, and immediately available standby generating capacity.

The proposed energy storage volume would allow for operation of the project at full capacity for 9 hours each weekday, with 8 hours of pumping each weekday night and additional pumping during the weekend to fully recharge the upper reservoir. The amount of active storage in the upper reservoir would be 17,700 acre-feet, providing 18.5 hours of energy storage at the maximum generating discharge. Water stored in the upper reservoir would provide approximately 22,200 megawatt-hours of on-peak generation.

14.3.3 Proposed Studies

Based on comments received on the DLA, Eagle Crest has identified the following additional information and studies that will be needed prior to license issuance:

Water Resources

- Location of wells for groundwater supply
- Best management practices for construction spoils
- Assessment of potential impacts to the Colorado River Aqueduct
- Assessment of potential seepage from the former mine pits and the brine pond
- Assessment of potential ground subsidence from groundwater pumping

Wildlife Resources

- Surveys of special status species along linear and non-linear features
- Construction and operation mitigation measures for wildlife and sensitive status species

Cultural Resources

- Cultural resource inventory of linear features and project area
- Consultation - Historic Properties Management Plan
- Identify locations requiring additional cultural resource surveys

⁶ Spinning reserve are used to quickly replace lost electrical generation resulting from a forced outage, such as the sudden loss of a major transmission line or generating unit.

3.2 Alternatives to the Proposed Action

The Commission and the Water Board staff will consider and assess various alternatives, including environmental measures not proposed by Eagle Crest. We will consider and assess all alternative recommendations for operational or facility modifications, as well as protection, mitigation, and enhancement measures identified by the Commission staff, Water Board staff, the resource agencies, Indian tribes, NGOs, and the public. To the extent that modifications would reduce power production from the project, the Commission and the Water Board staffs will evaluate the costs of providing an equivalent amount of fossil-fueled power generation, and the contributions of such generation to airborne pollution. Water Board staff will also evaluate necessary changes to existing appropriated water rights if surface water must be used to augment groundwater stored in the reservoirs.

3.3 No Action Alternative

Under the no-action alternative, the effects of a non-construction scenario are analyzed.

3.4 Alternatives Considered but Eliminated from Detailed Study

At present, neither the Commission nor the Water Board staff proposes to eliminate any specific alternatives from detailed and comprehensive analyses in the EIS or EIR.

SCOPE OF CUMULATIVE EFFECTS AND RESOURCE ISSUES

14.4 Cumulative Effects

According to the Council on Environmental Quality's regulations for implementing NEPA (40 CFR section 1508.7), a cumulative effect is an impact on the environment resulting from the incremental impacts of the action when added to other past, present and reasonably foreseeable future actions, regardless of what agency or person undertakes such other actions. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time, including hydropower and other land and water development activities.

Under CEQA, a cumulative impact refers to two or more individual effects, which, when considered together, are considerable or which compound or increase other environmental impacts (Cal. Code Regs., tit. 14, § 15355.).

14.4.1 Resources That Could Be Cumulatively Affected

We have reviewed the information provided in the DLA developed for the Eagle Mountain Pumped Storage Project. Based on our preliminary analysis of the DLA, we have identified water resources, desert big horn sheep and desert tortoise, land use, and air quality as resources that could be cumulatively affected by the proposed Eagle Mountain Pumped Storage Project in combination with other activities in the Colorado River Basin.

14.4.2 Geographic Scope

The geographic scope of the analysis defines the physical limits or boundaries of the proposed action's effect on the resources. Because the proposed action would affect the resources differently, the geographic scope for each resource may vary. For each resource that participants recommend we analyze for cumulative effects, we are also asking them to recommend an appropriate geographic scope.

At this time, we propose the geographic scope for water resources to be the Chuckwalla Valley Aquifer. This geographic scope was selected because the groundwater to be used for this project, as well as other reasonably foreseeable projects, would be withdrawn from this aquifer. The geographic scope for the cumulative effects analysis on the desert big horn sheep, desert tortoise, land use, and air quality would be the Chuckwalla Valley and I-10 corridor east to Blythe, California. This geographic scope was selected because construction traffic, noise, air emissions, and loss/alteration of desert habitats associated with the development of this project and the proposed Eagle Mountain landfill and area wind farms, would cumulatively affect these resources within the Chuckwalla Valley.

14.4.3 Temporal Scope

The temporal scope of our cumulative effects analysis in the EIS and EIR will include a discussion of past, present, and future actions and their respective effects on each resource. Based on the potential term of an original license, the temporal scope will look 30 to 50 years into the future, concentrating on the effect to the resources from reasonably foreseeable future actions. The historical discussion will be limited, by necessity, to the amount of available information for each resource.

14.5 Resource Issues

In this section, we present a preliminary list of environmental issues and concerns to be addressed in the EIS and EIR. This list is not intended to be exhaustive or final, but is an initial listing of issues we have identified to date associated with licensing the project. We may modify or add to the list of issues based on comments received during scoping. After scoping is completed, we will review this list and determine the appropriate level of analysis needed to address each issue in the EIS and EIR. For convenience, the issues have been listed by resource

area. Those issues identified by an asterisk (*) will be analyzed for both cumulative and site-specific effects.

14.5.1 Geology and Soils Resources

- Effects of project construction on geology and soils resources.
- Effects of project construction on soil erosion and sedimentation.

14.5.2 Water Resources*

- Effect of reservoir seepage on groundwater levels.
- Effects of groundwater pumping on other water users in the Chuckwalla Valley, including agricultural water users.
- Effects of seepage from the reservoirs on groundwater quality.
- Effects of the brine ponds on groundwater quality.
- Effects on long term water quality in the reservoirs.
- Effects of construction activities on water quality in the project area.

14.5.3 Aquatic Resources

- No issues associated with aquatic resources have been identified.

14.5.4 Terrestrial Resources

- Effects of the reservoirs as a rare water source in the desert environment on the attraction of waterfowl and bats, attraction of predators (e.g., coyotes, badge, and ravens), and establishment and composition of riparian communities.
- Effects of project construction (i.e., disturbance and habitat fragmentation) and operation (i.e., lighting, physical and noise disturbance, and migration barriers) on desert bighorn sheep migration patterns, foraging habitat, and breeding and lambing behavior; what would be consequences to desert bighorn sheep populations in the area.*
- Potential effects of the project's reservoirs on deer, big horn sheep, and desert tortoise drowning in the reservoirs, and escaping from area fencing.
- Effects of the brine ponds on birds; what measures would be implemented to minimize adverse effects.
- Effects of project construction and operation, including, but not limited to, construction of the access roads, water pipeline, transmission line, powerhouse, brine ponds and reservoirs, staging areas, transmission line pulling areas, and waste spoil and salt disposal sites on vegetation.
- Effects of project construction and operation on the spread of invasive species including the consequences of the spread of noxious weeds on vegetation species composition and wildlife habitat values.

- Effects of project construction and operation on special status species, including BLM sensitive species and state threatened and endangered species.

14.5.5 Threatened and Endangered Species

- Effect of project construction and operation on federally threatened and endangered species: (1) desert tortoise and its critical habitat, (2) Coachella Valley milkveath.*

14.5.6 Recreation and Land Use

- Effects of project construction and operation on recreational use within the project area, including lands administered by the BLM for dispersed recreational use and, at the Joshua Tree National Park (Joshua Tree NP).
- Effects of project construction and operation on special designated areas, including BLM's Chuckwalla Valley Dune Thicket Area of Critical Environmental Concern, and Chuckwalla Critical Habitat Unit (an area designated by the U.S. Fish and Wildlife Service as desert tortoise habitat).*
- Effects of project construction and operation on other land uses, including future mineral development, and a 14,784-acre, 500-MW solar farm.*
- Effects of project construction and operation on the proposed Eagle Mountain Landfill and Recycling Center.⁷*
- Effects of project-related desalinization ponds (from the reverse osmosis system) and associated removal of an estimated 2,500 tons of salt from the upper reservoir on land use.

14.5.7 Cultural Resources

- Effects of construction and operation of the proposed project on historic, archeological, and traditional resources that may be eligible for inclusion in the National Register of Historic Places.
- Effects of project's construction and operation on the project's defined area of potential effects.

14.5.8 Aesthetic Resources

- Effects of proposed project facilities on visitors who view the landscape (i.e., Riverside County has designated the section of Interstate 10 from Desert Center to Blythe as a scenic corridor).
- Effects of project construction and associated noise on visitors to the area, including the Joshua Tree NP.

⁷ By letter filed September 12, 2008, Kaiser Eagle Mountain, LLC and Mine Reclamation, LLC state that the landfill facility would be designed to dispose up to 708 million tons of municipal solid waste materials.

14.5.9 Socioeconomics

- Effects of increased traffic and potential congestion on local roads due to existing mining-related traffic, and project construction and operation.
- Effects of the proposed project on local, tribal, and regional economies.

4.2.10 Air Quality

- Effects of construction and operation of the project on air quality in the region.
- Effects of the project on carbon production emissions.

4.2.11 Developmental Resources

- Effects of the proposed project and alternatives, including any protection, mitigation, and enhancement measures, on economics of the project.

REQUEST FOR INFORMATION

The Commission and Water Board staff are asking federal, state, and local resource agencies, Indian tribes, NGOs, and individuals to forward to the Commission and the Water Board any information that will assist us in conducting an accurate and thorough analysis of the project-specific and cumulative effects associated with the proposed Eagle Mountain Pumped Storage Project. The types of requested information include, but are not limited to:

- Information, quantitative data, or professional opinions that may help define the geographic and temporal scope of the analysis (both site-specific and cumulative effects), and that helps identify significant environmental issues.
- Identification of, and information from, any other EA, EIS, or similar environmental study (previous, ongoing, or planned) relevant to the proposed licensing of the project.
- Existing information and any data that would help to describe the past, present, and future actions and effects of the project and other developmental activities on environmental and socioeconomic resources.
- Information that would help characterize the existing environmental conditions and habitats.
- Identification of any federal, state, or local resource plans, and any future project proposals in the affected resource area (e.g., proposals to construct or operate water treatment facilities, recreation areas, water diversions, timber harvest activities, or fish management programs) along with any implementation schedules.

- Documentation that the proposed project would or would not contribute to cumulative adverse or beneficial effects on any resources. Documentation can include, but not need be limited to, how the project would interact with other projects in the area and other developmental activities; study results; resource management policies; and reports from federal, state, and local agencies.
- Documentation showing why any resources should be excluded from further consideration.

The requested information and comments on SD1 should be submitted in writing to the Commission and the Water Board no later than 60 days from receipt of this notice. All written filings pertaining to the proposed Eagle Mountain Pumped Storage Project must clearly identify the following on the first page: **Eagle Mountain Pumped Storage Project (P-13123-000)**. All information, comments, and study requests should be sent to:

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E., Room 1A
Washington, DC 20426
and

Camilla Williams
Division of Water Rights
State Water Resources Control Board
1001 I Street, 14th Floor
Sacramento, CA 95814

All filings sent to the Secretary of the Commission should contain an original and eight copies. Failure to file an original and eight copies may result in appropriate staff not receiving the benefit of your comments in a timely manner. Scoping comments may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's website (<http://www.ferc.gov>) under the "efiling" link. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll free at 1-866-208-3676, or for TTY (202) 502-8659. The Commission strongly encourages electronic filings.

Register online at <http://www.ferc.gov/esubscribenow.htm> to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, please contact FERC Online Support.

Any questions concerning the scoping meetings, site visits, or how to file written comments with the Commission should be directed to Kim Nguyen at (202) 502-6105 or by email at kim.nguyen@ferc.gov. Any questions concerning CEQA, the water quality certification, and the California water rights process should be directed to Camilla Williams at

(916) 327-4807 or by email at CKWilliams@waterboards.ca.gov. Additional information about the Commission's licensing process and the proposed Eagle Mountain Pumped Storage Project may be obtained from the Commission's website at www.ferc.gov.

EIS PREPARATION SCHEDULE

At this time, the Commission staff anticipates the need to prepare a draft and final EIS. The draft EIS will be sent to all persons and entities on the Commission's service and mailing lists for the Eagle Mountain Pumped Storage Project. The draft EIS will include our recommendations for operating procedures, as well as environmental protection, mitigation and enhancement measures that should be part of any license issued by the Commission. All recipients will have 60 days to review the draft EIS and file written comments with the Commission. All comments on the draft EIS filed with the Commission will be considered in the preparation of the final EIS.

The major milestones, including those for preparing the EIS, are as follows:

<u>Major Milestone</u>	<u>Target Date</u>
Scoping Document 1 (SD1) and meetings	January 2009
Comments on SD1	February 2009
Scoping Document 2 (if necessary)	March 2009
APEA & License Application Filed	March 2009
Issue Ready for Environmental Analysis Notice	June 2009
Deadline for Filing Comments, Recommendations, and Agency Terms and Conditions/Prescriptions	August 2009
Reply Comments from Applicant	December 2009
Draft EIS Issued	July 2010
Comments on the draft EIS due	September 2010
Final EIS Issued	April 2010

If Commission staff determines that there is a need for additional information or additional studies, the issuance of the Ready for Environmental Analysis notice could be delayed. If this occurs, all subsequent milestones would be delayed by the time allowed for Eagle Crest to respond to the Commission's request.

EIR PREPARATION SCHEDULE

At this time, the Water Board anticipates the need to prepare a draft and final EIR. The draft EIR will be made publically available for review and comment. The draft EIR will define

the baseline environmental setting, will include findings for significant environmental impacts, and will provide an analysis of feasible mitigation or alternatives to avoid significant environmental impacts. Recipients will have 45 days to provide the Water Board with written comments on the draft EIR. All comments filed with the Water Board on the draft EIR will be considered, and as appropriate, incorporated into the analysis for the final EIR. The final EIR will be considered in any Water Board notice of determination and water quality certification.

The Water Board preliminary schedule for preparing the EIR and making a certification decision is as follows:

<u>Action</u>	<u>Target Date</u>
Request for water quality certification	September 2008
Water Board determination that application for water quality certification is complete	October 2008
Release Notice of Preparation	November 2008
Scoping Meetings	January 2008
Submit Applicant Prepared EIR	March 2009
Draft EIR and draft water quality certification issued	May 2009
Comments on draft EIR and draft water quality certification due	July 2009
Final EIR and final water quality certification	September 2009
Notice of Determination	September 2009

EIS OUTLINE

The preliminary outline for the Eagle Mountain Pumped Storage Project EIS is as follows. The EIR will follow a similar outline, but adapted to address specific requirements of CEQA.

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FOREWORD

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LIST OF COMPREHENSIVE PLANS

Section 10(a)(2) of the FPA, 16 U.S.C. section 803(a)(2)(A), requires the Commission to consider the extent to which a proposed project is consistent with federal or state comprehensive plans for improving, developing, or conserving a waterway or waterways affected by a project. The Commission staff has preliminary identified and reviewed the plans listed below that may be relevant to the proposed Eagle Mountain Pumped Storage Project. The Commission asks agencies to review this list and inform the Commission staff of any changes. If there are other comprehensive plans that should be considered for this list that are not on file with the Commission or if there are more recent versions of the plans already listed, they can be filed for consideration with the Commission according to 18 CFR 2.19 of the Commission's regulations. Please follow the instructions for filing a plan at <http://www.ferc.gov/industries/hydrpower/gen-info/complan.pdf>.

The following is a list of comprehensive plans currently on file with the Commission that may be relevant to the proposed Eagle Mountain Pumped Storage Project:

California Department of Parks and Recreation. 1998. Public opinions and attitudes on outdoor recreation in California. Sacramento, California. March 1998.

California Department of Parks and Recreation. 1980. Recreation outlook in Planning District 2. Sacramento, California. April 1980. 88 pp.

California Department of Parks and Recreation. 1980. Recreation outlook in Planning District 3. Sacramento, California. June 1980. 82 pp.

California Department of Parks and Recreation. 1994. California outdoor recreation plan (SCORP) - 1993. Sacramento, California. April 1994. 154 pp. and appendices.

California Department of Water Resources. 1983. The California water plan: projected use and available water supplies to 2010. Bulletin 160-83. Sacramento, California. December 1983. 268 pp. and attachments.

California Department of Water Resources. 1994. California water plan update. Bulletin 160-93. Sacramento, California. October 1994. Two volumes and executive summary.

California State Water Resources Control Board. 1995. Water quality control plan report. Sacramento, California. Nine volumes.

California - The Resources Agency. Department of Parks and Recreation. 1983. Recreation needs in California. Sacramento, California. March 1983. 39 pp. and appendices.

National Park Service. 1982. The nationwide rivers inventory. Department of the Interior. Washington, D.C. January 1982.

State Water Resources Control Board. 1999. Water Quality Control Plans and Policies Adopted as Part of the State Comprehensive Plan. April 1999.

U.S. Fish and Wildlife Service. Undated. Fisheries USA: the recreational fisheries policy of the U.S. Fish and Wildlife Service. Washington, D.C.

U.S. Fish and Wildlife Service. Canadian Wildlife Service. 1986. North American waterfowl management plan. Department of the Interior. Environment Canada. May 1986.

U.S. Forest Service. 1986. Cleveland National Forest land and resources management plan. Department of Agriculture, Corona, California. February 1986.

MAILING LIST

The list below is the Commission's official mailing list for the Eagle Mountain Pumped Storage Project. If you want to receive future mailings for the Eagle Mountain Pumped Storage Project and are not included in the list below, please send your request by mail to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Room 1A, Washington, DC 20426. All written requests to be added to the mailing list must clearly identify the following on the first page: Eagle Mountain Pumped Storage Project No. 13123-000. You may use the same method if requesting removal from the mailing list shown below.

California Air Resources Board
PO Box 2815
Sacramento, CA 95812-2815

California Department of Fish and Game

COORDINATOR
1416 9th St
Sacramento, CA 94244

MaryLisa F. Lynch
California Department of Fish and Game
1701 Nimbus Road, Suite A
Rancho Cordova, CA 95670

California Department of Water Resources
Department of Safety of Dams
PO Box 942836
Sacramento, CA 94236-0001

California Dept. of Parks and Recreation
CHIEF
PO Box 942896
Sacramento, CA 94296-0001

CALIFORNIA FISH & GAME COMM
ATTN: ENVIRONMENTAL SERVICES DIVISION
1416 9th St
Sacramento, CA 95814-5511

California Office of Attorney General
ATTORNEY GENERAL
300 S Spring St Fl 2
Los Angeles, CA 90013-1230

Matthew R Campbell
California Office of Attorney General
1300 I St # 125
Sacramento, CA 95814-2919

CHERILYN E WIDELL, DIRECTOR
CALIFORNIA OFFICE OF HISTORIC PRESERV.
1416 9th St
Sacramento, CA 95814

California Office of the Governor
Governor
State Capitol Building
Sacramento, CA 95814

California Public Utilities Commission
Secretary
505 Van Ness Ave
San Francisco, CA 94102-3214

California State Lands Commission
SUITE 100-SOUTH
100 Howe Ave
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FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426
June 5, 2009

OFFICE OF ENERGY PROJECTS

Project No. 13123-000 – California
Eagle Mountain Pumped Storage
Hydroelectric Project
Eagle Crest Energy Company

**Reference: Scoping Document 2 for the Eagle Mountain Pumped Storage
Hydroelectric Project**

To the Parties Addressed:

On January 10, 2008, Eagle Crest Energy Company (Eagle Crest) filed with the Federal Energy Regulatory Commission (Commission) a Notice of Intent to file a license application, a request to use the Traditional Licensing Process, and a Pre-Application Document for the proposed 1,300- megawatt Eagle Mountain Pumped Project.⁸

The project would be located in two depleted mining pits in the Eagle Mountain Mine in Riverside County, California, near the town of Desert Center, California. The proposed project would occupy federal lands administered by the Bureau of Land Management (BLM) and private lands owned by Kaiser Eagle Mountain, LLC.

On June 16, 2008, Eagle Crest submitted a Draft License Application (DLA). The Commission has reviewed the DLA and provided comments along with many interested stakeholders. These comments can be viewed on the Commission's website at http://elibrary.FERC.gov/idmws/file_list.asp?accession_num=20081015-5009.

On October 17, 2008, Eagle Crest filed a request for approval of an early scoping process to coordinate both federal and California state environmental procedures. The Commission approved this request on October 29, 2008 and will hold early scoping to coordinate the Commission's National Environmental Policy Act (NEPA) with the State Water Resources Control Board's California Environmental Quality Act (CEQA).

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⁸ Previously, the project was given FERC Project No. 12509-001. Upon issuance of a new preliminary permit on August 13, 2008, the project was given FERC Project No. 13123-000. On March 4, 2008, the Commission approved Eagle Crest's request to use the TLP.

Based on the comments filed for the DLA and pursuant to NEPA, the Commission staff intends to prepare an Environmental Impact Statement for the project, which will be used by the Commission to determine whether, and under what conditions, to issue new hydropower licenses for the projects. To support and assist our environmental review, we are beginning the public scoping process to ensure that all pertinent issues are identified and analyzed, and that the environmental document is thorough and balanced.

On December 17, 2008, we issued Scoping Document (SD1) in which we disclosed our preliminary view of the scope of environmental issues associated with the Eagle Mountain Pumped Storage Hydroelectric Project. Based on the verbal comments that we received at the scoping meetings held on January 15 and 16, 2009, in Palm Desert, California, and written comments we received throughout the scoping process, we prepared the enclosed Scoping Document 2 (SD2). We appreciate the participation of governmental agencies, non-governmental organizations, and the general public in the scoping process. The enclosed SD2 for the project is intended to serve as a guide to the issues and alternatives to be addressed in the EIS. Key changes from SD1 to SD2 are identified in bold, italicized type.

SD2 is distributed to all entities listed on the Commission's official mailing list. SD2 is issued for informational use by all interested entities; no response is required. SD2 is also available from our Public Reference Room at (202) 502-8371. It also can be accessed online at <http://www.ferc.gov/docs-filing/elibrary>.

For any questions about the SD1, the scoping process, or how Commission staff will develop the EIS for this project, please contact Kim Nguyen at (202) 502-6105 or e-mail at kim.nguyen@ferc.gov. Any questions concerning CEQA, the water quality certification, and the California water rights process should be directed to Camilla Williams at (916) 327-4807 or email at CKWilliams@waterboards.ca.gov. Additional information about the Commission's licensing process and the Eagle Mountain Project may be obtained from our website, <http://www.ferc.gov>.

Enclosure: Scoping Document 2

cc: Mailing List
Public Files

13.5 – Scoping Document 2



NEPA SCOPING DOCUMENT 2

and

CEQA NOTICE OF PREPARATION

EAGLE MOUNTAIN PUMPED STORAGE HYDROELECTRIC PROJECT

CALIFORNIA

FERC PROJECT NO. 13123-000



State of California
Environmental Protection Agency
State Water Resources Control Board



Federal Energy Regulatory Commission
Office of Energy Projects
Division of Hydropower Licensing
Washington, DC

June 2009



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Figure 1. Location of the Eagle Mountain Pumped Storage Hydroelectric Project2

ACRONYMS AND ABBREVIATIONS

<i>Aqueduct</i>	<i>Colorado River Aqueduct</i>
BLM	U.S. Bureau of Land Management
<i>CCV</i>	<i>Citizens for the Chuckwalla Valley</i>
CEQA	California Environmental Quality Act
Commission	Federal Energy Regulatory Commission
<i>Districts</i>	<i>County Sanitation Districts of Los Angeles County</i>
DLA	draft license application
Eagle Crest	Eagle Crest Energy Company
<i>Eagle Mountain Project</i>	<i>Eagle Mountain Pumped Storage Hydroelectric Project</i>
EIR	environmental impact report
EIS	environmental impact statement
<i>FLA</i>	<i>final license application</i>
FPA	Federal Power Act
<i>Kaiser</i>	<i>Kaiser Eagle Mountain LLC</i>
<i>Metropolitan</i>	<i>Metropolitan Water District of Southern California</i>
MW	megawatt
<i>MWh</i>	<i>megawatt-hour</i>
NEPA	National Environmental Policy Act
NGO	non-governmental organization
<i>NPCA</i>	<i>National Parks Conservation Association</i>
PAD	pre-application document
project	Eagle Mountain Pumped Storage Hydroelectric Project
<i>REA notice</i>	<i>Ready for Environmental Analysis notice</i>
<i>Reclamation</i>	<i>U.S. Bureau of Reclamation</i>
<i>SD</i>	<i>scoping document</i>
<i>TLP</i>	<i>Traditional Licensing Process</i>
Water Board	State Water Resources Control Board

INTRODUCTION

The Federal Energy Regulatory Commission (Commission), under the authority of the Federal Power Act (FPA),⁹ may issue licenses for terms ranging from 30 to 50 years for the construction, operation, and maintenance of non-federal hydroelectric projects. On January 10, 2008, Eagle Crest Energy Company (Eagle Crest) filed a Notice of Intent to file a license application, a request to use the Traditional Licensing Process (TLP), and a Pre-Application Document (PAD) for the proposed 1,300-megawatt (MW) Eagle Mountain Pumped Project.¹⁰

The project would be located in two depleted mining pits in the Eagle Mountain Mine in Riverside County, California, near the town of Desert Center, California. See Figure 1. The proposed project would occupy federal lands administered by the U.S. Bureau of Land Management (BLM) and private lands owned by Kaiser Eagle Mountain, LLC.

Following the submission of the PAD, there was a 60-day comment period when interested stakeholders were invited to submit requests for additional studies. In addition, a joint meeting and site visit was held on April 9 and 10, 2008. Transcripts from the joint meeting are available on the Commission's website at www.ferc.gov.

On June 16, 2008, Eagle Crest submitted a draft license application (DLA) to the Commission. Comments on this DLA were filed by many interested stakeholders and can be viewed on the Commission's website at http://elibrary.FERC.gov/idmws/file_list.asp?accession_num=20081015-5009.

On September 26, 2008, Eagle Crest applied to the State Water Resources Control Board (Water Board) for water quality certification under section 401 of the Clean Water Act. For purposes of the California Environmental Quality Act (CEQA), the Water Board will be the California state lead agency for the preparation of an environmental impact report (EIR) for California public agency approvals relating to environmental impacts associated with the proposed licensing of the project. On October 15, 2008, the Water Board determined that the application met the requirements for a complete application and was acceptable for processing.

⁹ 16 U.S.C. §§ 791(a)-825(r) (2000).

¹⁰ Previously, the project was given FERC Project No. 12509-001. Upon issuance of a new preliminary permit on August 13, 2008, the project was given FERC Project No. 13123-000. On March 4, 2008, the Commission approved Eagle Crest's request to use the TLP.

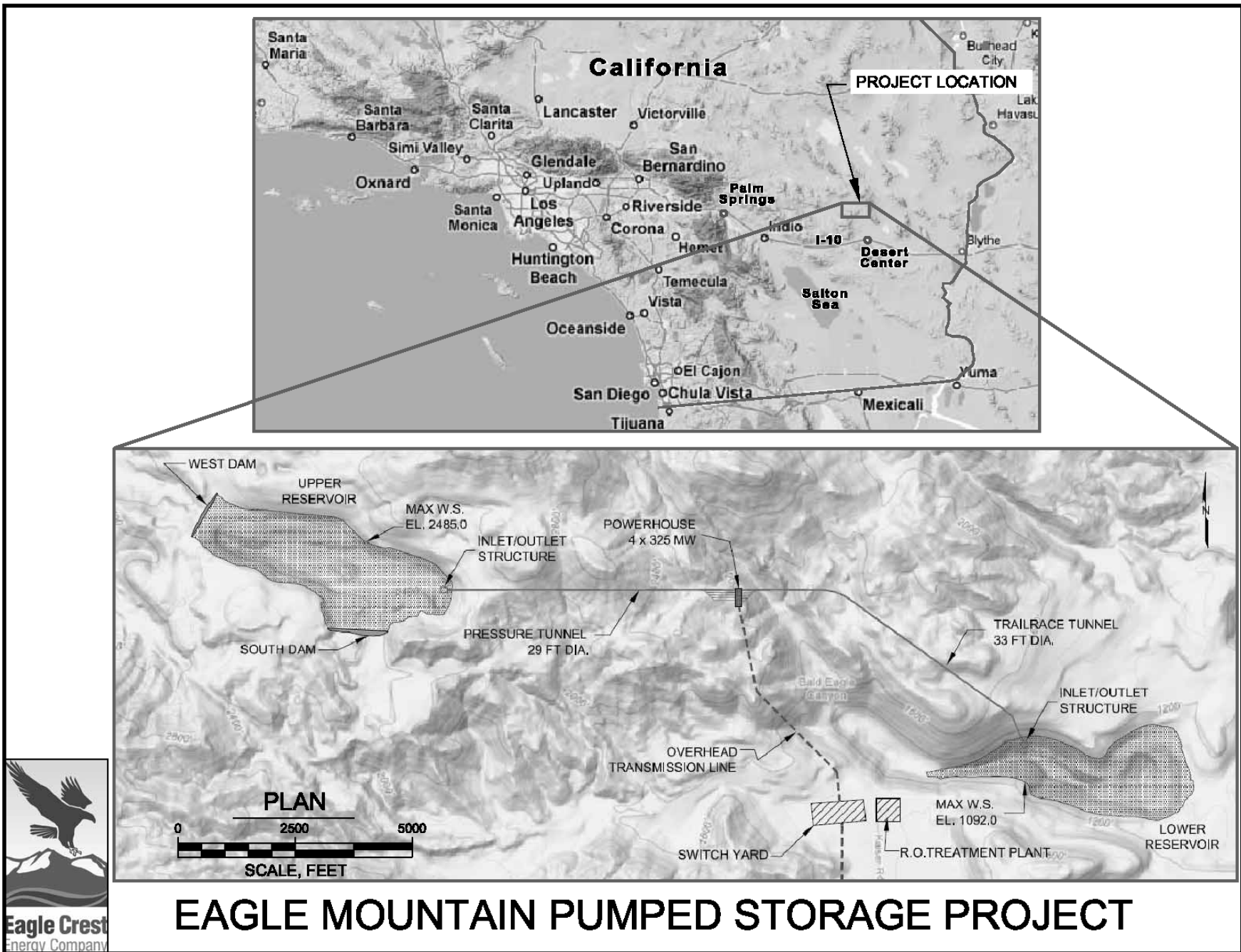


Figure 1. Location of the Eagle Mountain Pumped Storage Project (Source: Eagle Crest Energy Company, 2008).

The National Environmental Policy Act (NEPA) of 1969,¹¹ the Commission's regulations, and other applicable laws require that we independently evaluate the environmental effects of licensing the project as proposed, as well as consider reasonable alternatives to the proposed action. At this time, we intend to prepare a draft and final environmental impact statement (EIS) that describes and evaluates the probable impacts, including an assessment of the site-specific and cumulative effects, if any, of the proposed action and alternatives considered. This scoping process will help the Commission and Water Board staff to identify the pertinent issues for analysis in the EIS and EIR.

SCOPING

On October 29, 2008, the Commission approved Eagle Crest's October 17, 2008, request for an early scoping process to coordinate the federal and California state environmental review procedures.

2.1 Purpose of Scoping

Scoping is the process used to identify issues, concerns, and opportunities for enhancement or mitigation associated with a proposed action. The process should be conducted early in the planning stages of a project.

The purposes of the scoping process are to:

- invite participation of federal, state, and local resource agencies; Indian tribes; non-governmental organizations (NGOs); and other interested persons to help us identify significant environmental and socioeconomic issues related to the proposed action.
- determine the resource areas, depth of analysis, and significance of issues to be addressed in the EIS and EIR.
- identify how the project would or would not contribute to cumulative impacts in the project area.
- identify reasonable alternatives to the proposed action that should be evaluated in the EIS and EIR.
- solicit from participants available information on the resources at issue.

¹¹ National Environmental Policy Act of 1969, as amended (Pub. L. 91-190. 42 U.S.C. 4321-4347, January 1, 1970, as amended by Pub. L. 94-52, July 3, 1975, Pub. L. 94-83, August 9, 1975, and Pub. L. 97-258, §4(b), Sept. 13, 1982).

- determine the resource areas and potential issues that do not require detailed analysis during review of the project.

We issued Scoping Document 1 (SD1) for the project on December 17, 2008, to enable appropriate resource agencies, Indian tribes, and other interested parties to more effectively participate in and contribute to the scoping process. In SD1, we requested clarification of preliminary issues concerning the Eagle Mountain Project and identification of any new issues that need to be addressed in the EIS and EIR. We revised SD1 following the scoping meetings and after reviewing comments filed during the scoping comment period. SD2 presents our current view of issues and alternatives to be considered in the EIS and EIR. Additions to SD1 are shown in bold and italic type in this SD2.

2.2 Comments and Scoping Meetings

In addition to written comments solicited by SD1, we held two scoping meetings to identify potential issues associated with the Eagle Mountain Project. The notice of the scoping meetings was published in local newspapers and in the Federal Register. An evening scoping meeting was held on January 15, 2009, and a morning scoping meeting was held on January 16, 2009. A court reporter recorded comments made during the scoping meetings.

In addition to the comments received at the scoping meetings, the following entities filed written comments on the SD1:

<i>Entity</i>	<i>Date Filed</i>
<i>Metropolitan Water District of Southern California</i>	<i>February 10, 2009</i>
<i>Kaiser Eagle Mountain LLC</i>	<i>February 13, 2009</i>
<i>Citizens for the Chuckwalla Valley</i>	<i>February 16, 2009</i>
<i>National Parks Conservation Association</i>	<i>February 17, 2009</i>
<i>County Sanitation Districts of Los Angeles County</i>	<i>February 20, 2009</i>
<i>Riverside County Fire Department</i>	<i>March 5, 2009</i>
<i>U.S. Bureau of Reclamation</i>	<i>March 26, 2009</i>

All comments received are part of the Commission's official record for the project. Information in the official file is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, N.E., Room 2A, Washington, DC 20426, or by calling (202) 502-8371. Information also may be accessed through the Commission's eLibrary using the "Documents & Filings" link on the Commission's web page at <http://www.ferc.gov>. Call (202) 502-6652 for assistance.

2.3 Issues Raised During Scoping

The general concerns raised by participants in the scoping process are summarized below by subject area. Comments received at the scoping meetings are similar to those written comments submitted to the Commission during the comment period. The summary does not include every oral and written comment made during the scoping process. For instance, we do not address comments that are recommendations for schedule changes, or minor editorial corrections. We also have not included comments that are recommendations for license conditions. Such recommendations will be addressed when we request final terms, conditions, recommendations, and comments when we issue our Ready for Environmental Analysis (REA) notice.

Proposed Action and Alternatives

Comment: Kaiser Eagle Mountain LLC (Kaiser), the County Sanitation Districts of Los Angeles County (Districts), and Citizens for the Chuckwalla Valley (CCV) say that the applicant's description of the project is incomplete and lacking in specificity, such that adequate environmental review is not possible. Kaiser and the Districts, for instance, note lack of specificity on transmission line routes and on sources of water for filling and make-up, and the Districts cite lack of information about the project's seepage control, potable water, sewage, and storm water systems, including proposed best management practices during construction.

Response: We will review the project description contained in the final license application (FLA), when filed, and determine at that point whether additional project description information is required for our environmental analysis.

Information Adequacy

Comment: Kaiser and the Districts agree that all the studies listed in SDI section 3.1.3 are necessary, but argue that a great deal of additional analysis is required to provide the quality and quantity of information necessary to support an adequate evaluation of the project and its effects. Kaiser and the Districts further argue that issues of compatibility with the planned Eagle Mountain Landfill cannot be postponed, but must be addressed in the environmental analysis based on detailed information provided by the applicant. Specifically, the Districts request detailed three-dimensional groundwater flow modeling to identify likely reservoir and tunnel seepage patterns and to identify likely groundwater impacts from groundwater pumping. The Districts also request stability calculations and modeling for reservoir slopes, project dams, and landfill slopes, and along with CCV, they ask for a seismic study using current data and California Department of Water Resources-approved methodology.

Response: After the FLA is filed, we will issue a Notice of Application Tendered for Filing with the Commission and Soliciting Additional Study Requests, in response to which participants can provide recommendations for additional studies. We will review any recommendations we receive and also conduct our own review of the FLA and other information in the record in light of the issues identified during scoping. If we determine that information is lacking, we will request the applicant to provide the additional information. Once we have determined that sufficient information is available to evaluate the effects of the proposed project and alternatives on developmental and non-developmental resources, we will issue the REA notice and request final terms, conditions, recommendations, and comments.

Cumulative Effects

Comment: National Parks Conservation Association (NPCA) requests that the EIS and EIR address the potential cumulative impacts of the project in conjunction with the potential Eagle Mountain Landfill, including potential cumulative effects on the desert tortoise and biotic communities, wilderness values, and groundwater. Kaiser states that the effects of the project must be examined alongside its interaction with other effects in the region and in the upcoming years. The Districts insist that the environmental analysis clearly and completely describe the potential direct and cumulative effects to the design, construction, and operation of the landfill. The Districts point out that any simultaneity in the construction of the two projects would create potential additive traffic, air quality, noise, and biological impacts that would need to be described.

Response: We identify water resources, terrestrial resources, land use, recreation, and air quality as resources that could be cumulatively affected by the proposed project, and we have modified section 4.1.1 to include the Eagle Mountain Landfill among the reasonably foreseeable future actions that we will consider in the cumulative effects analysis.

Geology and Soils Resources

Comment: The Metropolitan Water District of Southern California (Metropolitan) recommends an assessment of the potential for Colorado River Aqueduct (Aqueduct) structural settlement due to hydrocompaction associated with potential rising groundwater levels from reservoir seepage. Also, Metropolitan recommends an assessment of the potential for Aqueduct settlement from subsidence due to groundwater pumping.

Response: We modified section 4.2.1 to specifically identify these potential effects.

Comment: NPCA requests that the EIS assess the potential for subsidence in the Pinto Basin of Joshua Tree National Park.

Response: *To the extent we determine that the project would affect groundwater levels in the Pinto Basin, we will assess the potential for subsidence in the basin.*

Comment: *CCV requests comprehensive seismicity studies, including the effect on project facilities such as reservoir liners and brine ponds of potential ground movements. CCV also questions how the project's reservoir liners will perform over time in the face of eroding pit slopes. Kaiser recommends that design ground motions should be established that reflect the site's geologic conditions and seismic setting. Kaiser notes that these are essential input for design of the project facilities and for the evaluation of geologic hazards, such as soil liquefaction potential, seismically induced settlement, and slope stability. Kaiser is concerned that there will likely be seepage from the proposed reservoirs, which would raise groundwater levels and possibly increase the potential for soil liquefaction and induce seismicity.*

Response: *Our assessment of project effects on geology and soil resources (section 4.2.1) will include analysis of potential geologic hazards, such as increased soil liquefaction, project-induced seismicity, and slope instability. California's Class II surface impoundment siting and construction requirements require that these issues be evaluated for waste discharges to land and are applicable to the project brine ponds.*

Water Resources

Comment: *The U.S. Bureau of Reclamation (Reclamation) explains that the Secretary of the Interior is required to monitor consumptive use of water extracted from the main stream of the Lower Colorado River, including groundwater. The project's proposed groundwater wells are within the boundary of the Lower Colorado River aquifer. Reclamation requests that the environmental analysis include a prediction of potential groundwater drawdown in relation to the accounting surface elevation of the project area so that Reclamation can determine if groundwater pumped for the project would be considered Colorado River water.*

Response: *We modified an existing Water Resources' issue to address this comment (see section 4.2.2).*

Comment: *NPCA states that the Pinto Basin aquifer within Joshua Tree National Park is hydrologically connected with the Chuckwalla Basin. Any drawdown effects in the Chuckwalla Basin could potentially affect groundwater resources in Joshua Tree National Park, potentially including subsidence. NPCA also comments that there is the potential for contamination from the project's residual ore bodies reaching the Pinto Basin aquifer. NPCA and CCV request that the geographic scope of the water resources analysis be expanded to include the Pinto Basin.*

Response: *We added an analysis of effects to the Pinto Basin under Geology and Soils Resources and Cumulative Effects.*

Comment: Metropolitan recommends assessment of groundwater-level effects in the vicinity of the Aqueduct.

Response: We expanded a Water Resources' issue bullet to address this comment (section 4.2.2).

Comment: Metropolitan recommends an assessment of the effects of groundwater pumping on aquifer water quality.

Response: We added this issue to section 4.2.2, Water Resources.

Comment: Metropolitan recommends that the water quality assessment include analysis of the effectiveness of the proposed reverse osmosis method.

Response: We will evaluate the benefits and costs of the applicant's proposed reverse osmosis system, along with the benefits and costs of any reasonable alternatives .

Comment: Kaiser believes that there is a high likelihood of seepage from the project that could affect surrounding land uses, water supply sources, and habitat areas, including potential brine pond leakage effects on groundwater quality. The Districts request reliable reservoir and tunnel seepage estimates, assessment of seepage control systems, and identification of pollutants that would be generated by the project. Metropolitan recommends that the water quality analysis include the potential for leaching of heavy metals from the site and any potential impacts on water supplies traveling through the Aqueduct. CCV asks how the integrity of the Chuckwalla Valley aquifer would be affected by leachate from the combination of the pumped storage project and the landfill. CCV comments that any leakage from the pumped storage project reservoirs could affect the performance of the landfill's leachate collection system.

Response: We will evaluate the potential for seepage from the project and effects of such seepage on adjacent land uses, habitat, and water quality, including heavy metals. This will be done on both a site-specific and a cumulative basis. We clarified in section 4.1.1 that we will consider the potential Eagle Mountain Landfill as a reasonably foreseeable action in the cumulative effects analysis. California's requirements for waste discharges to land include corrective action for potential impacts to groundwater quality and are applicable to the brine ponds.

Comment: CCV indicates that, in the event the project is supplied water from the Aqueduct, there is a relationship between that use and the potential development by Metropolitan of an Upper Chuckwalla Valley Water Storage Project. CCV states that development of the conjunctive use water storage project would potentially result in the deposition of pollutants.

Response: *Because we have no information in the record that indicates any direct relationship between the project water supply source and Metropolitan's potential water storage project, we will not assess this issue.*

Comment: *CCV recommends that the EIS address the potential colonization of the project reservoirs by aquatic organisms.*

Response: *We modified section 4.2.2 to include consideration of this potential effect.*

Terrestrial Resources

Comment: *NPCA and the Districts request that the EIS and EIR address the potential for the project reservoirs to affect opportunistic predators, such as coyotes, and their resultant prey species.*

Response: *We expanded the issue statement in section 4.2.4 to explicitly include effects on predator populations.*

Comment: *CCV suggests that any aquifer drawdown due to groundwater pumping would affect springs and the wildlife that use them.*

Response: *We modified section 4.2.2 to include groundwater pumping effects on springs, and we have added an issue statement in section 4.2.4 addressing the potential effects on wildlife.*

Comment: *CCV states that introducing the project reservoirs in an area where water is currently scarce will have significant impacts on the resources of Joshua Tree National Park. Similarly, Kaiser and NPCA recommend evaluation of the potential effects associated with the introduction of new water bodies in a desert setting. CCV further states that the EIS should address the colonization of the project reservoirs by birds.*

Response: *We identified the issue of introducing new surface water bodies in a desert environment (section 4.2.4), and we identified species potentially affected.*

Comment: *CCV requests an assessment of project facilities and operations on raven numbers.*

Response: *We added an issue statement in section 4.2.4 addressing this issue.*

Comment: *CCV expresses concern regarding the introduction of non-native vegetation via erosion control activities.*

Response: *We added an issue statement in section 4.2.4 addressing the potential spread of invasive species.*

Comment: *CCV recommends that project reservoirs and brine pond(s) be covered to prevent evaporation and to exclude birds and other species. Kaiser requests ecosystem analyses to identify adequate protection, mitigation, and enhancement measures for wildlife and wildlife habitat.*

Response: *We will evaluate, at a minimum, the measures proposed by the applicant and the recommended measures that are filed in response to our REA notice, as well as any additional measures identified by staff.*

Rare, Threatened, and Endangered Species

Comment: *NPCA requests that the EIS include an assessment of the potential effects on the desert tortoise due to any subsidence occurring in the Pinto Basin within Joshua Tree National Park.*

Response: *Our assessment of effects on the desert tortoise (section 4.2.5) will include the potential for effects in the Pinto Basin that may be associated with subsidence associated with groundwater pumping.*

Comment: *NPCA and CCV recommend that the environmental analysis address the potential for the project reservoirs to subsidize desert ravens, which could have effects on their prey, including desert tortoise.*

Response: *We revised section 4.2.4 to clarify that we will assess the project's effects on the raven population, and our assessment of potential effects on the desert tortoise will consider these and other predators (section 4.2.5).*

Comment: *The Districts suggest that the EIS and EIR disclose how the open reservoirs would affect the landfill's ability to comply with the biological opinion for the landfill.*

Response: *We revised section 4.2.5 to clarify that we will assess potential conflicts between the proposed project and the terms of Kaiser's incidental take statement for the Eagle Mountain Landfill Project.*

Recreation, Land Use, and Aesthetics

Comment: *Kaiser argues that the environmental analysis must look at the project's effects on existing and reasonably foreseeable adjacent land uses. Kaiser specifically mentions the planned Eagle Mountain Landfill, existing and planned energy facilities in the area, planned uses reflected in Riverside County's General Plan—Desert Center Area Land Use component, and current and potential future mining and mine reclamation activities at Eagle Mountain. Kaiser and the Districts express strong concern that the project and the landfill may be incompatible. The Districts list*

potential areas of incompatibility, including potential regulatory, construction and operational conflicts.

With regard to the existing Aqueduct, Metropolitan recommends that the land use assessment include potential effects of project equipment crossing the Aqueduct conduit during construction and operation, potential effects of the project on Metropolitan's facilities, properties, and rights-of way, potential effects to accessibility and use of existing Metropolitan facilities, and potential effects to Metropolitan's operations, including access for repair and maintenance. Metropolitan requests that any design plans for project facilities in the area of Metropolitan's facilities be submitted to Metropolitan for review and approval. Metropolitan also recommends that certain restrictions be imposed to safeguard Aqueduct facilities and operations.

Response: *We will address project-related effects on existing and reasonably foreseeable land uses in the project vicinity, on both a project-specific and cumulative basis, and will also evaluate growth-inducing impacts from the project. We expanded the issues list in section 4.2.6 accordingly, including areas of potential incompatibility between the proposed project and the landfill. If our analysis indicates that the project and landfill are not compatible, we will address the implications for solid waste disposal alternatives in other locations. In regard to Metropolitan's proposed restrictions for protection of the Aqueduct, we will evaluate, at a minimum, the measures proposed by the applicant and the recommendations that are filed in response to the REA notice, as well as any additional measures identified by staff based on the project record.*

Comment: *NPCA requests that the EIS address the potential for the project to degrade the wilderness values of Joshua Tree National Park, including potential degradation of dark night skies, natural soundscapes, and the visitor experience.*

Response: *We will assess the potential for project-related effects on the visitor experience and the park's wilderness values (sections 4.2.6 and 4.2.8).*

Socioeconomics

Comment: *CCV states that there will be adverse effects from depleted groundwater and requests assurance that adverse effects on Chuckwalla Valley groundwater users and Joshua Tree National Park will be avoided.*

Response: *We will address project-related effects on groundwater users (section 4.2.2), and we will assess any proposed and recommended measures to avoid or mitigate any adverse effects identified.*

Comment: *Riverside County Fire Department (RCFD) commented that the proposed project will have a cumulative adverse impact on the RCFD's ability to provide an*

acceptable level of service. RCFD states that the impacts include an increased number of emergency and public service calls due to the increased presence of traffic, structures and population. RCFD recommends that Eagle Crest participate in the Development Impact Fee Program as adopted by the Riverside County Board of Supervisors to mitigate a portion of these impacts.

Response: *We will evaluate mitigation measures, as defined by the County of Riverside, to determine if the impacts can be reduced to a level below significance.*

Developmental Resources

Comment: *NPCA states that the EIS and EIR should address the need for the project, specifically assessing whether there is potential for the project to operate in conjunction with wind energy sources. Kaiser argues that the environmental analysis must include critical examination of the need for the project and its impacts on existing energy infrastructure and energy resources.*

Response: *Our developmental analysis will evaluate the need for the power to be provided by the project and will include an analysis of the cost of producing power at the project in comparison to the costs of other potential sources. The project will also be evaluated for contributions to greenhouse gas emissions and how it will meet California's renewable portfolio standards for green energy. The costs of implementing the project, including design, permitting, construction, resource measures, and operation and maintenance, will be used to calculate a unit cost of power for comparison of alternatives.*

PROPOSED ACTION AND ALTERNATIVES

In accordance with NEPA and CEQA, our environmental analysis will consider the following alternatives, at a minimum: (1) the applicant's proposed action; (2) alternatives to the proposed action; and (3) no-action. CEQA requires that the levels of significance due to the proposed action be identified.

3.1 Eagle Crest Energy Company's Proposed Action

Eagle Crest is seeking an original license to construct and operate the Eagle Mountain Project. The Commission will consider whether, and under what conditions, to issue an original license for the project. The Water Board will consider whether, and under what conditions, to issue water quality certification for the project.

3.1.1 Description of Proposed Project Facilities

The proposed project would be a pumped storage project using two existing mining pits near the town of Eagle Mountain, California. Water would be pumped from

a lower reservoir to an upper reservoir during periods of low demand to generate peak energy during periods of high demand. The project would consist of the following facilities: (1) an upper dam and reservoir, (2) a lower dam and reservoir, (3) inlet/outlet structures, (4) water conveyance tunnels, (5) a vertical shaft, (6) surge control facilities, (7) an underground powerhouse, (8) a transmission line, (9) water supply facilities, (10) access roads, and (11) appurtenant facilities.

3.1.2 Proposed Project Operation

The project will use off-peak energy to pump water from the lower reservoir to the upper reservoir during periods of low electrical demand and generate valuable peak energy by passing the water from the upper to the lower reservoir through the generating units during periods of high electrical demand. The low demand periods are expected to be during weekday nights and throughout the weekend, and the high demand periods are expected to be in the daytime during week days, especially during the summer months. The project will provide an economical supply of peaking capacity, as well as load following, system regulation through spinning reserve, and immediately available standby generating capacity.

The proposed energy storage volume will permit operation of the project at full capacity for 9 hours each weekday, with 8 hours of pumping each weekday night and additional pumping during the weekend to fully recharge the upper reservoir. The amount of active storage in the upper reservoir will be 17,700 acre-feet, providing 18.5 hours of energy storage at the maximum generating discharge. Water stored in the upper reservoir will provide approximately 22,200 megawatt-hours (MWh) of on-peak generation.

3.2 Staff's Modification of the Proposed Action

The Commission and the Water Board staffs will consider various alternatives, including environmental measures not proposed by Eagle Crest. We will consider and assess all alternative recommendations for operational or facility modifications, as well as protection, mitigation, and enhancement measures identified by the Commission staff, the Water Board staff, the agencies, Indian tribes, NGOs, and the general public. To the extent that modifications would reduce power production from the project, the Commission and the Water Board staffs will evaluate the costs of providing an equivalent amount of fossil-fueled power generation, and the contributions of such generation to airborne pollution and greenhouse gas emissions.

3.3 No-Action Alternative

Under no-action, the Eagle Mountain Project would not be constructed. We use this alternative to establish baseline environmental conditions for comparison with other alternatives.

3.4 Alternatives Considered but Eliminated from Detailed Study

At present, we do not propose to eliminate any specific alternatives from detailed and comprehensive analyses in the EIS or EIR.

SCOPE OF CUMULATIVE ANALYSIS AND RESOURCE ISSUES

4.1 Cumulative Effects

According to the Council on Environmental Quality's regulations for implementing NEPA (40 CFR Section 1508.7), a cumulative effect is an impact on the environment resulting from the incremental impacts of the action when added to other past, present and reasonably foreseeable future actions, regardless of what agency or person undertakes such other actions. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time, including hydropower and other land and water development activities.

Under CEQA, a cumulative impact refers to two or more individual effects, which, when considered together, are considerable or which compound or increase other environmental impacts (Cal. Code Regs., tit. 14, § 15355).

4.1.1 Resources That Could Be Cumulatively Affected

After reviewing the *DLA* and written and oral comments on SD1, *we identify water resources, terrestrial resources* (including federally listed threatened and endangered species), *land use, recreation, and* air quality, as resources that could be cumulatively affected by the proposed project *and other past, present, and reasonably foreseeable actions. The latter could include residential and agricultural groundwater users, the Aqueduct, the proposed Eagle Mountain Landfill, proposed solar energy installations, and other actions that we identify during our analysis.*

4.1.2 Geographic Scope

The geographic scope of the analysis defines the physical limits or boundaries of the proposed action's effect on the resources. Because the proposed action would affect the resources differently, the geographic scope for each resource may vary.

The geographic scope for water resources would be the Chuckwalla Valley Aquifer *and potentially adjacent, hydrologically connected aquifers such as the Pinto Basin aquifer*. This geographic scope was selected because the groundwater to be used for this project, as well as other reasonably foreseeable projects, would be withdrawn from *the Chuckwalla Valley aquifer, and we may determine that groundwater-level effects may extend to adjacent basins*. The geographic scope for other resources would

be *that portion of* the Chuckwalla Valley and I-10 corridor *sufficient to encompass all project facilities, and construction and operation effects.*

4.1.3 Temporal Scope

The temporal scope of the cumulative effects analysis in the EIS and EIR will include a discussion of past, present, and future actions and their respective effects on each resource that could be cumulatively affected. Based on the potential term of an original license, the temporal scope will look 50 years into the future, concentrating on the effect on the resources from *existing and* reasonably foreseeable future actions. The historical discussion will be limited, by necessity, to the amount of available information for each resource.

4.2 Resource Issues

In this section, we present a list of environmental issues to be addressed in the EIS and EIR. *We identified these issues, which are listed by resource area, by reviewing the PAD, along with verbal and written comments on scoping.* For convenience, the issues have been listed by resource area. Those issues identified by an asterisk (*) will be analyzed for both cumulative and site-specific effects. We have concluded that a detailed analysis of fish and aquatic resources related to licensing the Eagle Mountain Project is not needed.

4.2.1 Geology and Soils Resources

- Effects of project construction, *filling, and operation* on geology and soil resources *in the project boundary, including assessment of potential geologic hazards such as soil liquefaction, project-induced seismicity, and slope instability.*
- Effects of project construction, *filling, and operation* on soil erosion and sedimentation *in the project area.*
- *Effect of project construction, filling, and operation on the potential for subsidence and hydrocompaction in the project area and associated Chuckwalla Valley groundwater basin, including potential effects in adjacent river basins (e.g., the Pinto Basin) and on the Aqueduct.*

4.2.2 Water Resources

- Effects of construction activities on water quality in the project area.*
- Effects of reservoir *and tunnel on* seepage *and* on groundwater levels *in the project area.**

- Effects of seepage from the reservoirs *and brine pond(s)* on groundwater quality *in the project area*.*
- Effects of groundwater pumping on *groundwater levels, including assessment of groundwater level changes in relation to: other groundwater users; local springs; the Aqueduct; and Reclamation's accounting surface elevation for monitoring use of Colorado River water*.*
- *Effects of groundwater pumping on groundwater quantity and quality in the project area*.*
- *Effects on long-term water quantity and quality in the reservoirs and brine ponds, including the potential for colonization by avian organisms*.

4.2.3 Aquatic Resources

- No issues associated with aquatic resources have been identified.

4.2.4 Terrestrial Resources

- Effects of the reservoirs as a rare water source in the desert environment on the attraction of waterfowl and bats, attraction of predators (e.g., coyotes, badger, and ravens), and establishment and composition of riparian communities.
- Effects of project construction (i.e., disturbance and habitat fragmentation) and operation (i.e., lighting, physical and noise disturbance, and migration barriers) on desert bighorn sheep migration patterns, foraging habitat, and breeding and lambing behavior; *including an assessment of* consequences to desert bighorn sheep populations in the area.*
- Potential effects of the project's reservoirs on deer, big horn sheep, and desert tortoise drowning in the reservoirs, *and effectiveness of fencing*.
- Effects of the brine ponds on birds, and measures to minimize adverse effects.
- Effects of project construction and operation, including, but not limited to, construction of the access roads, water pipeline, transmission line, powerhouse, brine ponds and reservoirs, staging areas, transmission line pulling areas, and waste spoil and disposal sites on vegetation.
- *Effects of changes in local springs on wildlife, including desert bighorn sheep*.*

- Effects of project construction and operation on the spread of invasive species including the consequences of the spread of noxious weeds on vegetation species composition and wildlife habitat values.
- Effects of project construction and operation on special status species, including BLM sensitive species and state threatened and endangered species.
- *Effects of project facilities and operations on raven populations.**

4.2.5 Rare, Threatened, and Endangered Species

- Effect of project construction and operation on federally threatened and endangered species: (1) desert tortoise and its critical habitat, (2) Coachella Valley milkvetch.*
- *Potential conflicts between the proposed project and the terms of Kaiser's incidental take statement for the Eagle Mountain Landfill Project.*

4.2.6 Recreation and Land Use

- Effects of project construction and operation on recreational use within the project area, including lands administered by the BLM for dispersed recreational use and, at the Joshua Tree National Park.
- Effects of project construction and operation on special designated areas, including BLM's Chuckwalla Valley Dune Thicket Area of Critical Environmental Concern, and Chuckwalla Critical Habitat Unit (an area designated by the U.S. Fish and Wildlife Service as desert tortoise habitat), *and federally designated wilderness areas within the Joshua Tree National Park.**
- Effects of project construction and operation on *Aqueduct other land uses, including future mineral development, and solar farms.**
- Effects of project construction and operation on the proposed Eagle Mountain Landfill and Recycling Center, *including assessment of potential areas of incompatibility between the proposed project and the landfill.**
- Effects of project-related desalinization ponds (from the reverse osmosis system) and associated removal of an estimated 2,500 tons of salt from the upper reservoir on land use.

4.2.7 Cultural Resources

- Effects of construction and operation of the proposed project on historic, archeological, and traditional resources that may be eligible for inclusion in the National Register of Historic Places.
- Effects of project's construction and operation on the project's defined area of potential effects.

4.2.8 Aesthetic Resources

- Effects of proposed project facilities on visitors who view the landscape (i.e., Riverside County has designated the section of Interstate 10 from Desert Center to Blythe as a scenic corridor).
- Effects of project construction *and operation* on visitors to the area, including visitors *to wilderness and non-wilderness areas within* the Joshua Tree National Park, *and effects on the park's wilderness values.*

4.2.9 Socioeconomics

- Effects of increased traffic and potential congestion on local roads due to *the combination of existing mining-related and landfill traffic* and project construction and operation.
- Effects of the proposed project on local, tribal, and regional economies.
- Effects of the proposed project on the Riverside County Fire Department's ability to provide an acceptable level of service.

4.2.10 Air Quality

- Effects of construction and operation of the project on air quality in the region.*
- Effects of the project on carbon production emissions.*

4.2.11 Developmental Resources

- Effects of the proposed project and alternatives, including any protection, mitigation, and enhancement measures, on economics of the project.

EIS PREPARATION SCHEDULE

At this time the Commission anticipates the need to prepare a draft and final EIS. The draft EIS will be sent to all persons and entities on the Commission’s service and mailing lists for the Eagle Mountain Project. The draft EIS will include our recommendations for operating procedures and environmental protection, mitigation, and enhancement measures that should be part of any license issued by the Commission. Recipients will have **60 days to review the draft EIS and file written comments with** the Commission. All comments filed with the Commission on the draft EIS will be considered, and as appropriate, incorporated into the analysis for the final EIS.

The major milestones, including those for preparing the EIS, are as follows:

Major Milestone	Target Date
Scoping meetings	January 2009
Comments on SD1	February 2009
Scoping Document 2	<i>June 2009</i>
APEA & License Application Filed	<i>To be determined</i>
Issue REA notice	<i>4 months from filing of license application</i>
Deadline for Filing Comments, Recommendations, and Agency Terms and Conditions/prescriptions	<i>60 days from issuance of REA notice</i>
Reply Comments from Applicant	<i>45 days from comments date</i>
Draft EIS issued	<i>7 months from reply comments</i>
Comments on the draft EIS	<i>60 days from issuance of draft EIS</i>
Final EIS issued	<i>7 months from comments on draft EIS</i>

If Commission staff determines that there is a need for additional information or additional studies, the issuance of the Ready for Environmental Analysis notice could be delayed. If this occurs, all subsequent milestones would be delayed by the time allowed for Eagle Crest to respond to the Commission’s request.

EIR PREPARATION SCHEDULE

At this time, the Water Board anticipates the need to prepare a draft and final EIR. The draft EIR will be made publically available for review and comment. The draft EIR will define the baseline environmental setting as the existing conditions, will include

findings for significant environmental impacts, and will provide an analysis of feasible mitigation or alternatives to avoid significant environmental impacts that should be part of the 401 water quality certification. Recipients will have 45 days to provide the Water Board with written comments on the draft EIR. All comments filed with the Water Board on the draft EIR will be considered, and as appropriate, incorporated into the analysis for the final EIR. The final EIR will be considered in any Water Board notice of determination and water quality certification.

The Water Board preliminary schedule for preparing the EIR and making a certification decision is as follows:

Action	Target Date
Request for water quality certification	September 2008
Water Board determination that application for water quality certification is complete	October 2008
Release Notice of Preparation	November 2008
Scoping Meetings	<i>January 2009</i>
Submit Applicant-Prepared EIR	<i>June 2009</i>
Draft EIR	<i>To be determined</i>
Comments on draft EIR	<i>45 days from issuance of draft EIR</i>
Final EIR	<i>2 months from comments on draft EIR</i>
Water Quality Certification	<i>January 2010</i>
Notice of Determination	<i>January 2010</i>

EIS OUTLINE

The preliminary outline for the Eagle Mountain Project EIS is as follows. The EIR will follow a similar outline, but with additional sections added to address specific requirements of CEQA, which will include identification of growth-inducing and climate change impacts, and levels of significant project impacts. The Water Board will adopt the mitigation measures or will adopt a statement of override.

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LIST OF COMPREHENSIVE PLANS

Section 10(a)(2) of the FPA requires us to consider whether or not, and under what conditions, licensing the project would be consistent with relevant comprehensive plans on the Commission's Comprehensive Plan List. Those plans currently listed on the Commission's Comprehensive Plan List which we consider to be relevant to this project are listed below. We ask agencies to review this list and to inform us of any changes (additions/subtractions) that are needed. If there are plans that should be added to the list, agencies should file the plans according to 18 CFR 2.19.

California

California Department of Parks and Recreation. 1998. Public opinions and attitudes on outdoor recreation in California. Sacramento, California. March 1998.

California Department of Parks and Recreation. 1980. Recreation outlook in Planning District 2. Sacramento, California. April 1980. 88 pp.

California Department of Parks and Recreation. 1980. Recreation outlook in Planning District 3. Sacramento, California. June 1980. 82 pp.

California Department of Parks and Recreation. 1994. California outdoor recreation plan (SCORP) - 1993. Sacramento, California. April 1994. 154 pp. and appendices.

California Department of Water Resources. 1983. The California water plan: projected use and available water supplies to 2010. Bulletin 160-83. Sacramento, California. December 1983. 268 pp. and attachments.

California Department of Water Resources. 1994. California water plan update. Bulletin 160-93. Sacramento, California. October 1994. Two volumes and executive summary.

California State Water Resources Control Board. 1995. Water quality control plan report. Sacramento, California. Nine volumes.

California - The Resources Agency. Department of Parks and Recreation. 1983. Recreation needs in California. Sacramento, California. March 1983. 39 pp. and appendices.

State Water Resources Control Board. 1999. Water Quality Control Plans and Policies Adopted as Part of the State Comprehensive Plan. April 1999.

United States

U.S. Fish and Wildlife Service. Undated. Fisheries USA: the recreational fisheries policy of the U.S. Fish and Wildlife Service. Washington, D.C.

U.S. Fish and Wildlife Service. Canadian Wildlife Service. 1986. North American waterfowl management plan. Department of the Interior. Environment Canada. May 1986.

National Park Service. 1982. The nationwide rivers inventory. Department of the Interior. Washington, D.C. January 1982.

U.S. Forest Service. 1986. Cleveland National Forest land and resources management plan. Department of Agriculture, Corona, California. February 1986.

LITERATURE CITED

Eagle Crest (Eagle Crest Energy Company). 2008. Eagle Mountain Pumped Storage Project draft license application. Eagle Crest Energy Company, Palm Desert, CA. June 16, 2008.

MAILING LIST

The list below is the Commission's official mailing list for the Eagle Mountain Project. If you want to receive future mailings for the Eagle Mountain Project and are not included in the list below, please send your request by email to efiling@ferc.gov or by mail to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Room 1A, Washington, DC 20426. All written and emailed requests to be added to the mailing list must clearly identify the following on the first page: Eagle Mountain Pumped Storage Hydroelectric Project No. 13123-000. You may use the same method if requesting removal from the mailing list shown below.

California Air Resources Board
PO Box 2815
Sacramento, CA 95812-2815

Anna Milloy
California Department of Fish and Game
Inland Deserts Region
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Sacramento, CA 94244

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78-078 Country Club Drive, Suite 109
Bermuda Dunes, CA 92203

California Department of Water Resources
Department of Safety of Dams
PO Box 942836
Sacramento, CA 94236-0001

California Dept. of Parks and Recreation
Chief
PO Box 942896
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California Fish & Game Comm.
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Los Angeles, CA 90013-1230

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State Capitol Building
Sacramento, CA 95814

California Public Utilities Commission
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Sacramento, CA 95825-1846

U.S. Bureau of Land Management
California State Office
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Diamond Bar, CA 91765***

13.6 – Transcript of Scoping Meeting

1 UNITED STATES OF AMERICA
2 FEDERAL ENERGY REGULATORY COMMISSION

3
4
5 TRANSCRIPT OF SCOPING MEETING
6 EAGLE CREST ENERGY COMPANY
7 PROJECT NUMBERS 13123-000 AND 12509-001

8
9
10 7:00 P.M.

11
12 THURSDAY, JANUARY 15, 2009

13
14 UNIVERSITY OF CALIFORNIA, RIVERSIDE
15 PALM DESERT GRADUATE CENTER
16 75-080 FRANK SINATRA DRIVE
17 PALM DESERT, CALIFORNIA 92211

18
19
20
21 ACE-FEDERAL REPORTERS, INC.

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26

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1 PALM DESERT, CA - THURSDAY, JANUARY 15, 2009 - 7:01 P.M.

2 --oOo--

3 MS. NGUYEN: Good evening. I'd like to welcome
4 all of you to the Federal Energy Regulatory Commission, or
5 "Commission" and the California State Water Resources
6 Control Board, or "Water Board" Joint Public Scoping Meeting
7 for the Eagle Mountain Pumped Storage Project.

8 My name is Kim Nguyen. I'm a civil engineer with
9 the Commission and project coordinator for the relicensing
10 -- for the licensing -- excuse me -- of this project.

11 I'd like to take care of some housekeeping items
12 before we get started. This meeting, as you can see, is
13 being transcribed or recorded by a court reporter, Mike
14 here. So to assist him in his report and to make sure that
15 we have a complete and detailed recording of this meeting,
16 please state your name, spell your last name before speaking
17 for the very first time so he can make sure he gets it into
18 the record, or come up to the mike. That would be a
19 preferred mode of communicating.

20 There are also registration forms on that side of
21 the room that you should also fill out if you're planning to
22 make comments today, and that will also be given to Mike
23 with his -- to help him with his recordkeeping.

24 Most of our presentation today is from Scoping
25 Document 1, which was issued last month, and I have extra
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1 copies of that, too, so if you'd like to follow along.

2 Now, let's get started with our agenda. First,
3 we'll have some introductions of my colleagues on the panel.

4 Then I'd like to give you a background of the
5 filing for the project.

6 Next we'll discuss the purpose of scoping and our
7 request for information.

8 Then we'll have a presentation by Mr. Jeff Harvey
9 of Eagle Crest Energy Company. He's going to give us a
10 brief description of their proposed project, including
11 project features and operations, as well as their proposed
12 environmental measures and studies.

13 After that, we'll discuss the scope of cumulative
14 effects of the project, followed by our preliminary list of
15 environmental issues and concerns.

16 Next, we'll go over the processing schedule for
17 the Commission's environmental impact statement, or EIS, and
18 the Water Board's environmental impact report, or EIR.

19 Last and most importantly, we will give all of
20 you an opportunity to give your comments.

21 With that, I'd like to start with the
22 introductions.

23 MS. WILLIAMS: I'm Camilla Williams. I work for
24 the State Water Resources Control Board. I'm the unit chief
25 for the Water Quality Certification Unit and the project

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1 coordinator.

2 MR. MURPHEY: And I am Paul Murphey. I work in
3 State Water Board's Division of Water Rights. I am an
4 engineering geologist.

5 MR. IVY: My name is Mark Ivy. I'm an outdoor
6 recreation planner for the Federal Energy Regulatory
7 Commission.

8 MR. TURNER: And I'm David Turner. I'm a
9 wildlife biologist for FERC.

10 MS. NGUYEN: Okay. Now some background.

11 On January 10th of last year, Eagle Crest filed a
12 pre-application document, or what we call a PAD, with the
13 Commission, and requested to use our traditional licensing
14 process, or TLP. I'm sorry for all the acronyms, but we're
15 from D.C.

16 On June the 16th of last year, they also filed a
17 draft license application, or an LA, with the Commission,
18 and the Commission and all the interested stakeholders filed
19 comments on that draft and that was filed in September of
20 2008.

21 Also in September, they filed with the Water
22 Board -- they applied with the Water Board for a water
23 quality certification under Section 401 of the Clean Water
24 Act.

25 On October 15th of last year, the Water Board
26

1 accepted their application for processing.

2 The purpose for scoping and why we're here. The
3 National Environmental Policy Act, or NEPA, the Commission's
4 regulations, and the California's Environmental Quality Act,
5 or CEQA, and other applicable laws require evaluation of
6 environmental effects of licensing hydropower projects.

7 At this time, we intend to prepare a draft and
8 final EIS that describes and evaluates the probable impact,
9 including an assessment of site-specific and cumulative
10 effects, if any, of the proposed project and alternatives.

11 The scoping process is part of NEPA and CEQA and
12 is used to help the Commission and Water Board to identify
13 pertinent issues for analysis in their EIS and EIR.

14 In scoping, we invite participation of federal,
15 state, local resource agencies, Indian tribes, non-
16 governmental organizations or NGOs, and the public to help
17 identify significant environmental and socioeconomic issues
18 related to the proposed project.

19 Scoping helps us determine resource areas, depth
20 of analysis, and significance of issues to be addressed in
21 our EIS and EIR.

22 Scoping can also identify how the project would
23 or would not contribute to cumulative effects in the project
24 area. It can identify reasonable alternatives to the
25 scoping action that should be evaluated. With scoping, we
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1 solicit from participants available information on the
2 resource and issues and determine the resource area and
3 potential issues that do not require detailed analysis.

4 Through scoping, we are asking for information
5 that will assist us in conducting an accurate and thorough
6 analysis. The type of information we request include, but
7 are certainly not limited to, information, qualitative data,
8 or professional opinions that may help refine the geographic
9 and scope of the analysis, identification of any information
10 from any other EAs, EIS, similar environmental studies that
11 are either previously, ongoing, or planned that are relevant
12 to the proposed project, any existing information and any
13 data that would help us describe past, present, and future
14 actions and the effects of the project on other
15 developmental activities in the area, information that would
16 help characterize the existing environment and conditions
17 and habitat, identification of any federal, state, local
18 resource plans, and any future project proposals that are
19 affected in the resource area; for example, the proposal for
20 the construction of a landfill, along with any
21 implementation schedules, documentation that proposed
22 project would or would not contribute to cumulative adverse
23 or beneficial effects of any of the resources, any
24 documentation showing why any resource should be excluded
25 from further consideration.

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1 This information and documentation can be given
2 orally or written today or they can also be mailed and filed
3 electronically with the Commission and Water Board.

4 Now we'll have a brief presentation from Eagle
5 Crest.

6 MR. HARVEY: Good evening. Thank you. I'm Jeff
7 Harvey. I'm representing Eagle Crest Energy. And just a
8 couple of slides here to go through the project description.

9 The project is a 1300 megawatt pumped storage
10 hydroelectric project. That is large! Boulder Dam is about
11 800 megawatts just by comparison, so this is a large
12 hydroelectric project. It is essential for integration of
13 renewable energy resources in California because it has the
14 ability to store particularly wind and also solar energy
15 that is generated during off-peak periods when there is no
16 demand and delivers that power back to the grid during
17 periods when demand is high and those same wind generation
18 sources are not available.

19 The reservoirs. The project consists of two
20 reservoirs -- the interconnecting tunnel pipeline and the
21 turbines. And the reservoirs are going to be developed in
22 two existing depleted mining pits at the old Eagle Mountain
23 Iron Mine site.

24 The only feature on the project will be those two
25 reservoirs and switchyard and transmission line from the
26

1 site.

2 The other features of the project, the
3 underground tunnel works, the turbines, and the underground
4 power connection to the surface switchyard are all deep
5 underground. And then the water supply system -- we'll be
6 developing a series of wells in the middle of the Chuckwalla
7 Valley. All of those wells will be on the surface but
8 they're very small and most people wouldn't recognize them
9 as a project feature. They will all be underground
10 pipelines extending into the lower reservoir site for
11 filling that low reservoir.

12 The entire project is off stream. It will be
13 filled with groundwater as the initial fill and then we'll
14 make up water. There's no stream; therefore, no aquatic
15 habitat, no wetlands, no fisheries. All of those kinds of
16 issues don't create recreational conflicts. Those are all
17 very unique features of this project relative to traditional
18 hydroelectric development.

19 And where is the pointer? This is a map view
20 showing the two reservoirs, the lower reservoir to be
21 developed in the eastern pit of the Eagle Mountain Mining
22 site, the upper reservoir and then the underground tunnel
23 works with the penstock dropping down to the powerhouse.
24 Four 325-megawatt reversible turbines there to generate
25 electricity, and then the water is stored in the low
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1 reservoir during off-peak periods. Energy used to pump that
2 water back up to fill the upper reservoir.

3 I've also shown here on the powerhouse the
4 underground transmission line to the surface switchyard and,
5 from that point, the surface -- there will be a 500-kilowatt
6 transmission line taking power out 12 miles to a new
7 switchyard on the north side of the I-10. I believe it
8 shows up on one of the next maps.

9 Another feature to point out here is the reverse
10 osmosis treatment system. Because of concerns that were
11 expressed previously by the State Water Resources Control
12 Board about salinity buildup in these reservoirs over time,
13 as water evaporates and the water input is concentrated, the
14 project added a reverse osmosis treatment system that is
15 intended to and designed to maintain the salinity in the
16 reservoirs at the same level as the input water is for all
17 the time. That will produce then -- as we take salt out of
18 the water to maintain salinity, that will produce a salt
19 residual that will go through the brine ponds and that's
20 where that will be collected.

21 The brine ponds also on this map -- this map is
22 only a couple of weeks old, but it's only in recent days in
23 our discussions with Metropolitan Water District they have
24 raised an issue about the brine ponds being so close to
25 their Colorado River Aqueduct and concerns that they might
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1 leak or that salt would be blown out and affect water in
2 their aqueduct.

3 In response to their concerns, we are relocating
4 this brine pond closer up here to where the -- where the
5 R.O. treatment plant is with one small change from what you
6 see on this map.

7 Another thing I would point out on this map,
8 we've got just for schematic purposes both the reservoirs
9 shown as if they were full. In fact, because of the way the
10 pumped storage works with the water being worked back and
11 forth between the two reservoirs, both of the reservoirs
12 will never be full at the same time. One will be full and
13 the other one will be in the inlet pool and then they will
14 alternate to where the other one is full and the remainder
15 is at the inlet pool.

16 Here is another map showing the regional view.
17 This is the I-10 corridor. This point right here is Eagle
18 Mountain Road about 55 miles due east of where we are right
19 now on the I-10 and to show the -- first of all, land
20 ownership is shown on this map. The purple is Joshua Tree
21 National Park. The beige tone is BLM land. The blue is
22 state lands. And then the white are private lands. Project
23 works are to be located here with the two reservoirs and
24 that just shows you on the previous diagram in the Eagle
25 Mountain Mine site transmission line coming out, down Eagle
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1 Mountain Road. We tried to co-locate it as much as possible
2 around the existing town site and along existing utility and
3 roadway corridors down to a new switchyard here on the north
4 side of the I-10.

5 Other features here are the water pipeline, the
6 -- out in this area, we have negotiations underway with
7 several property owners right now. In this general area, we
8 have multiple properties that we are negotiating to acquire
9 for development of project wells and those wells and a
10 collector pipeline brought down co-located again with the
11 State Route 177 to the existing Metropolitan Water District
12 transmission line, a 230K transmission line, and then
13 brought along that same corridor up to Kaiser Road and up to
14 the lower reservoir for the initial fill. The pipeline only
15 will go to the lower reservoir for input and then, from
16 there, water is pumped up to the upper reservoir through the
17 reversible turbines.

18 What else does this show on this map? I think
19 that's it.

20 MS. NGUYEN: I'm sorry, Jeff.

21 MR. HARVEY: Yes.

22 MS. NGUYEN: Before you go on, I see that you
23 have a transmission alternative, which is the dotted yellow,
24 --

25 MR. HARVEY: Thank you for bringing that up, Kim.

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1 MS. NGUYEN: -- and the preferred one, which is
2 the red. So can you give us an idea of why those two are
3 different?

4 MR. HARVEY: I appreciate that. In the draft
5 license application which was released in June, at that time
6 as we were working with transmission planning, the notion
7 was to bring the transmission line out parallel to the
8 existing MWD transmission line crossing the I-5 and picking
9 up the existing 500KV Palo Verde to Devers corridor and out
10 just about ten, 15 miles west of Blythe to a new substation
11 that is approved but not yet built, the Colorado River
12 Substation, part of the Southern California Edison system,
13 and that was the most logical connection point.

14 As we now have worked over the summer with the
15 California Independent System Operator, the agency
16 responsible for development and management of the
17 transmission grid in California, and with Southern
18 California Edison, the utility that operates most of this
19 transmission grid, they recommended that we locate the new
20 switchyard in this location instead of coming over here and
21 their reasoning was that there are a number of solar wind
22 projects in this area and that it would take steps,
23 therefore, to connect all of those to their own switchyard
24 and there are a number of -- a large number of solar
25 projects proposed in this area that will be all the capacity
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1 that this would -- this switchyard substation should have.

2 So for that reason, we have eliminated this route
3 in favor of the -- of the 12-mile route to the new
4 substation south of our site.

5 Profile view showing you the upper reservoir, the
6 upper reservoir tunnel to the vertical shaft and penstock
7 down to the powerhouse where the turbines are located and
8 then the tunnel out to the lower reservoir. This line is
9 the surface -- excuse me -- the ground surface contour and
10 the east pit or outer lower reservoir where water will be
11 filled. Water will be pumped in and up into the upper
12 reservoir where it will be stored and then during peak
13 energy demand on a daily basis, that water will be released
14 back down the reversible turbines generating electricity
15 rather than pumping water and brought back to the lower
16 reservoir.

17 General description of project operations is that
18 we generate electricity during periods of high energy demand
19 and pump water back during low energy demand.

20 The system is what we call a closed loop system,
21 meaning once you get the initial fill of water, there is no
22 new input of water. There's no diversion as, for example,
23 on a stream project. This is just working water back and
24 forth constantly between these two reservoirs. There is
25 some loss from evaporation. There is some loss from

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1 seepage. I'll talk in a minute about how we're addressing
2 particular seepage and to minimize that, but there is some
3 loss from seepage. Together, those losses will be accounted
4 for with annual makeup water. So we have 25,000 acre feet
5 for the initial fill that will happen over a period of two
6 to three years and then with our 2500 acre feet of annual
7 makeup water to account for those evaporation and seepage
8 losses.

9 I've already shown you on the diagram the
10 reversible turbines. They are deep underground. Nothing
11 will be seen at the surface of those, and they're reversible
12 to pump up during off-peak and to generate electricity
13 during peak.

14 And one key about this project is that there's a
15 lot of renewable energy the State of California has
16 mandated, with what we call renewable portfolio standards,
17 that we have 33 percent of our energy comes from renewable
18 sources by 2020 -- that's only 11 years from now. Those are
19 not reliable sources. Wind is great when the wind is
20 blowing. And solar is great on sunny days, and it doesn't
21 do much on the weekends. We can take that wind energy
22 that's being generated at night when there's no demand for
23 it and we can take that weekend solar power and use that
24 power to pump water back up into the upper reservoir where
25 that energy is then stored to produce hydroelectricity on
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1 demand, whatever is needed. We'd open a gate and during
2 peak energy periods produce electricity. So that is the
3 role that this project plays in helping with the
4 transmission grid operators and the utilities to help to
5 integrate those renewables and maintain a reliable energy
6 system in California.

7 Proposed environmental measures and studies. We
8 have actually a great number of studies that we have
9 undertaken and we have more that are underway right now and
10 we have several others that we have a scope developed for
11 but pending completion of this formal scoping process and
12 our determination of the whole range and the extent of what
13 those things should be that we are prepared to complete over
14 the next several months.

15 There are a number of features of the project
16 that we have built in in response to what we know are
17 environmental concerns. This project was -- went through
18 the FERC process in the '90s in an earlier iteration and a
19 lot of the same issues that we face today emerged at that
20 time, so that as we came back to this project after all the
21 uncertainty in the California energy markets in the '90s,
22 with electric restructuring and other things that happened,
23 we are now an integral part of California in making its
24 renewable standards -- we've been able to take the benefit
25 of all of those years of studies and at this site in
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1 particular we have the Eagle Mountain landfill, all of the
2 environmental studies that were done for that that would
3 help us understand environmental parameters. We also have a
4 number of large transmission projects that have been
5 proposed and several of which have been approved in the
6 exact same corridors and area that we are looking at, so
7 we're able to draw upon those to identify environmental
8 issues and to identify the kinds of measures that are used
9 to address those.

10 As a result, we have a wide range of features in
11 our project that are intended to address environmental
12 concerns.

13 First of all, on water quality, the big concerns
14 were the salinity buildup and -- of the reservoirs and how
15 that could contaminate the downstream aquifer. There were
16 also MWD's concerns about possible contamination of that
17 aquifer by, I mentioned a moment ago, the brine ponds
18 possibly affecting seepage as a factor of saturating soil
19 below the aqueduct and that saturation causing the soil to
20 settle, called hydrocompaction, that would cause the flow of
21 their aqueduct to be impaired. So those are the kinds of
22 concerns that they had brought up. All of those we have
23 addressed.

24 First of all, I already mentioned the reverse
25 osmosis system, the most important feature, tremendously
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1 expensive for most projects because you use a lot of energy
2 to force water through the membrane to get the reverse
3 osmosis treatment. In our case, we have 1500 feet of head
4 between the upper reservoir and the lower reservoir. We can
5 use that routing pressure to force water through those
6 membranes. We can treat that water. We don't have the
7 energy demand, therefore, so it makes it very feasible for
8 us to have the reverse osmosis treatment system and maintain
9 that water quality in order to prevent salinity buildup and
10 degradation of the water.

11 We also have a whole program of seepage control
12 both to address the State Water Resources Control Board's
13 concerns for groundwater quality, we had to address
14 Metropolitan Water District's concerns for an aqueduct, and
15 those include grout curtains in the reservoirs themselves to
16 minimize -- we use the fine materials that are in the mine
17 tailings around the site to actually create a barrier to
18 reduce the amount of seepage from the -- from the reservoirs
19 themselves, from the mine pits. We will have -- in some
20 places, we'll go in -- as we get to the final engineering
21 design, we'll go in and evaluate those pits and find where
22 there are cracks and fissures that we may need to fill first
23 with concrete before we do the grout curtains.

24 And then after those seepage control measures
25 within the reservoirs themselves, we also have a series of
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1 wells or one well upstream of each one of the reservoirs and
2 then a series of wells, maybe three, maybe five. That will
3 be determined as part of the studies that we have ongoing
4 and it will be determined in consultation with the State and
5 with Metropolitan.

6 We will have a set of wells that basically line
7 the front of the reservoir that we will use to detect
8 seepage water and to recover that water, to pump it back and
9 put it right back into the reservoirs. And, remember, it's
10 in our interest, too. The more water we lose, the more
11 water we have to pump back in and that's in the project
12 expense so it's as much as in our interest as it is in
13 environmental interests for us to control that seepage and
14 to maintain the water in the reservoirs.

15 Other water quality measures -- construction
16 management. We will have tunnel boring for the tunnels that
17 I showed you in the system. We'll have other earth-moving
18 that will create spoils piles that we'll have to manage
19 during the construction period. The location of those will
20 have to be decided so that we avoid desert washes and we
21 also have to manage them in a way that indeed no runoff from
22 those discharges sediments into jurisdictional waters of the
23 State and of the U.S. We will have -- we have that list of
24 best management practices that we will be presenting in the
25 environmental document.

26

1 Last but not least -- I think last -- is on our
2 transmission -- the water pipeline will be buried. That
3 will be a simple trench and then the water pipeline buried.
4 So the temporary impacts during construction will be managed
5 again using best management practices. For the transmission
6 line, the transmission line -- the towers are large.
7 They're about 130 feet tall, but they're really only four
8 big concrete footings. That's the total footprint on the
9 ground. And we have the ability -- the spacing on those is
10 usually around 5- to 800 feet. We have the ability to
11 adjust that somewhat to make sure we're not putting footings
12 right in desert washes and so we can avoid sensitive
13 cultural resources and sensitive biological resources and
14 the waterways by varying the spacing of our towers as we do
15 the final layout of them.

16 Am I missing other water measures? I think
17 that's most of them.

18 We also will have a monitoring program for
19 groundwater in the -- in the Chuckwalla Valley and for all
20 of those seepage waters, so we'll have regular data
21 collection so we can confirm that we are managing the water
22 quality at the level that the water quality is at in
23 surrounding waters right now.

24 One other thing, in the selection of our well
25 field, we have identified lands that we can locate wells
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1 that will be spaced about a mile apart. When a well starts
2 pulling groundwater, it makes a cone called a conar
3 depression out some distance from the well. We want to make
4 sure that those cones aren't overlapping with each other of
5 our own wells. We also want to make sure that our wells are
6 located distanced enough from other people's wells --
7 farmers and others that have wells out in the area -- so
8 that we're not interfering with the operations of their
9 wells with the going on of ours. So it's another one of the
10 water features that we've built into the project.

11 Sensitive species and cultural resources. We are
12 aware there are a number of state and federally listed and
13 protected species. There are a number of sensitive habitats
14 in our management plans and cultural resources are a very
15 important part of all of the Chuckwalla Valley. The mine
16 site itself is not sensitive, but obviously with the level
17 of excavation and disturbance that has occurred there, but
18 all of the lands around, that is an issue.

19 We have conducted surveys for both biology and
20 cultural resources of almost all the project features.
21 There are several more that we will be finishing this
22 spring, particularly of the new transmission line corridor
23 as we mentioned. We changed that alignment, so we need to
24 conduct spring surveys -- biological surveys need to get a
25 spring, cultural can be done without regard to season.

26

1 And we have that alignment now defined. We also
2 will have in the coming weeks as we finish negotiations on
3 our properties for wells, we'll be able to have surveys done
4 from the well sites along the water pipeline corridor and
5 into Eagle Mountain.

6 So those are the others. We understand that we
7 will have to mitigate for desert tortoise habitats and that
8 we may have to adjust footprints on some of our staging
9 areas, some of our routing in response to cultural and
10 biological resources. Those are very standard practices and
11 -- as has been done for other projects and other
12 transmission projects that I mentioned.

13 So those are the measures that we are proposing
14 there.

15 One of the other analyses that we are
16 undertaking, there is a landfill that has gone through a
17 whole environmental permitting process. It is now, as we
18 understand it, pending outcome of litigation as to whether
19 or not that landfill project will go forward or not. The
20 landfill owners have -- have raised questions about whether
21 or not our project is compatible with theirs and believe
22 that we may interfere with their landfill operations, so we
23 have undertaken an analysis to show our project features and
24 how we construct our project relative to how they would
25 operate and utilize their landfill and the timing that we'll
26

1 need to construct versus the timing of when they would
2 initiate their landfill. So all of that will be part of the
3 analyses that goes into the EIR and EIS to demonstrate
4 legally conclusively that our project is entirely compatible
5 and is not mutually exclusive with the landfill project.

6 Other resource issues that we addressed in the
7 EIS and EIR that we've either developed a scope on or
8 undertaken some traffic during construction. It's a
9 temporary impact. It's not a long-term impact of the
10 project but it's still one of the things we looked at, air
11 quality and air emissions during construction, noise of
12 construction. Most of where we are is very remote. The
13 roads into the site from I-10 don't go through urban areas.
14 This should be a pretty straightforward analysis, but
15 they'll be done.

16 State of California has also recently offered
17 changes to its California Environmental Quality Act
18 Guidelines that require now analyses of a project's
19 contribution to greenhouse gases and global climate change,
20 and that will be another one of the analyses that we
21 develop. This project began as a hydroelectric project.
22 Minimal issues for that. We will show a net benefit in
23 terms of how we integrate renewable energy sources, but the
24 analysis will be done and documentation needs to be
25 included.

26

1 Ginger, help me out. Am I missing anything
2 critical or is that the list?

3 Another one of the analyses that has to be done
4 that we've undertaken already for some, obviously, as I
5 pointed out, you're not going to see any of this project
6 unless you're flying over. You'll see the reservoirs. You
7 will see the transmission line and we do have an aesthetic
8 analysis particularly focused on that transmission corridor.

9 Any others? I think that's it. So that's where
10 we are in terms of studies and environmental features that
11 we've built into the project.

12 And, Kim, is this back to you for scope of
13 cumulative effects?

14 MS. NGUYEN: Yes.

15 MR. HARVEY: Very good. Thank you.

16 MS. NGUYEN: Next on the agenda, we would like to
17 discuss the scope of the cumulative effects. Based on our
18 preliminary analysis of the draft license application, we
19 have identified water resources, desert big horn sheep, and
20 desert tortoise, land use, and air quality as a resource
21 that could be cumulatively affected by the proposed project,
22 in combination with other activities in the Colorado River
23 Basin.

24 At this time, we also propose that the geographic
25 scope for water resources to be the Chuckwalla Valley

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1 Aquifer, the geographic scope for the big -- desert big horn
2 sheep and the desert tortoise and land use and air quality
3 would be the Chuckwalla Valley and the I-10 corridor east to
4 Blythe, California.

5 For temporal scope, the temporal scope of our
6 cumulative effects will include a discussion of past,
7 present, and future actions and their respective effects on
8 each of these resources.

9 Based on the potential term of an original
10 license, the temporal scope will look at a range from 30 to
11 50 years into the future.

12 At this time, we'd like to -- we have identified
13 the following resources that may be affected by this
14 project, and I'd like to go over the first four -- geology
15 and soils, aquatics, cultural, and developmental -- and then
16 my colleagues, too, on the panel will discuss the rest.

17 For geology and soils, we'd like to look at the
18 effects of the project construction on geology and soil
19 resources of the area, obviously, and the effects of the
20 project construction on soil erosion and sedimentation.

21 For aquatics, as Jeff had said, there are no
22 issues associated with aquatic resources at this time.

23 For cultural resources, any effects on
24 construction and operation of the project on historic,
25 archaeological, and traditional resources that may be

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1 eligible for inclusion in the National Register of Historic
2 Places.

3 The effects of the project construction and
4 operation on the project's defined area of potential
5 effects.

6 As far as developmental resources go, we always
7 look at the effects of the proposed project and the
8 alternatives, including any protection, mitigation, and
9 enhancement measures on the economics of the project.

10 We'll turn it over to Paul.

11 MR. MURPHEY: Yes. For the water quality and
12 water quantity effects, we will be looking at the effect of
13 the reservoir seepage on groundwater levels. We also looked
14 at the effects of groundwater pumping on the groundwater
15 users in the Chuckwalla Valley Aquifer. That would include
16 agriculture users in that aquifer.

17 We also will be looking at the effects of pumping
18 on the regional groundwater levels not only in the
19 Chuckwalla Valley Aquifer but also the joining of Pinto
20 Basin Aquifer, which is in Joshua Tree National Park.

21 We also look at the seepage from the reservoirs
22 on groundwater quality and the effects of the brine ponds on
23 groundwater quality, potential seepage from the brine ponds.

24 We will also look at the long-term water quality
25 in the reservoirs and the effects of the construction
26

1 activity on the water quality in the project area.

2 As for the air quality effects, we will be
3 looking at construction and operation of the project on air
4 quality in the region and also the effects of the project on
5 carbon production emission as well.

6 And for the terrestrial, I believe Mark -- oh,
7 no, not Mark.

8 MR. TURNER: We're going to be looking at a
9 number of resources, and I don't know if you've got the
10 scoping document in front of you but, rather than read it to
11 you, I'm just going to kind of summarize it. But on page 13
12 and 14 are the issues that we've been talking about, as well
13 as all these others that we've kind of reprinted for you or
14 kind of regurgitated.

15 But as all of you recognize, and this is
16 interjecting a new water system into basically a dry desert,
17 so it carries with it certain effects, and we're going to be
18 looking at how those new resources are affecting wildlife
19 and the vegetation and the critters that are inhabiting that
20 reach -- inhabiting that area of the desert.

21 We're going to be looking at how project
22 construction effects, including -- in terms of disturbance,
23 lighting, and all those other factors may be affecting
24 desert big horn sheep and other critters like deer and the
25 desert tortoise.

26

1 And there's some effects associated or been some
2 concerns raised with drowning associated with the project
3 reservoirs on desert big horn and deer and desert tortoise
4 as well.

5 The brine ponds themselves, as they develop
6 salinity, can represent some rather unique issues for
7 migratory birds, their attraction associated with that and
8 the salinity of those can actually be kind of harmful to
9 birds, so we are looking at those effects.

10 We'll be looking at the effects of project
11 construction and operation of all the other aspects of the
12 construction, including access roads and water pipeline and
13 the powerhouse and sewage disposal on vegetation and other
14 wildlife, as I said.

15 Any time you introduce construction and human
16 activity, you have the chance of spreading noxious weeds, so
17 we're going to be looking at those potential effects and
18 what measures might be used to minimize those effects.

19 And then we're going to be looking at -- and, in
20 particular, we're going to be looking at any special status
21 species associated with BLM or the State of California.

22 And we also have some obligations under the
23 Endangered Species Act to ensure that our actions don't
24 jeopardize the continued existence of federally-listed
25 species. And, in this case, we've identified the desert
26

1 tortoise and the Coachella Valley milkvetch as two species
2 that have been identified as potentially occurring in the
3 area and need to be addressed.

4 And, with that, I'll turn recreation and land use
5 over to Mark.

6 MR. IVY: Okay. Well, the recreation and land
7 use issues, so we are going to be assessing, first, looking
8 at how the project construction and operation are going to
9 impact recreational use of both the Joshua Tree National
10 Park or National Monument -- sorry--

11 MR. SABALA: National Park.

12 MR. IVY: It is National Park? Okay. Good. Get
13 that straight. That's an important distinction. Okay.
14 National Park, and the BLM.

15 And both of those have designated wilderness
16 areas in them, so we want to look at the impact of people
17 that are using those areas.

18 We also want to look at project construction
19 operation on the Chuckwalla Valley June Thicket area, a
20 critical environmental concern, as well as the Chuckwalla
21 Critical Habitat Unit.

22 Additionally, we'll be looking at the effects of
23 project construction and operation on other land uses,
24 including future mineral developments and there's about a
25 15,000-acre solar farm that has been proposed in the area.

26

1 Additionally, there's an effect of project
2 construction and operation on the proposed Eagle Mountain
3 Landfill and Recycling Center, which was also discussed
4 earlier, and the effects on the project related to
5 desalinization ponds and associated removal of an estimated
6 2,500 tons of salt from the upper reservoir on land use in
7 the area.

8 Additionally, I'm looking at aesthetic resources.
9 We'll look at the effects of the project facilities on
10 visitors who can view the landscape, like Riverside County
11 has designated the section of Interstate 10 from Desert
12 Center to Blythe as a scenic corridor, so how will this
13 project affect that scenic corridor?

14 The effects of project construction and
15 associated noise on visitors to the area.

16 And the final area we'll look at is
17 socioeconomics. That's the effects of increased traffic and
18 potential congestion on local roads due to existing mining-
19 related traffic and project construction and operation, as
20 well as the effects of the proposed project on local,
21 tribal, and regional economies.

22 MS. NGUYEN: Okay. Next on our agenda is our
23 tentative EIS preparation schedule and, as you can see,
24 after the comments that we'll get from here and tomorrow's
25 meeting, we probably most likely will issue a scoping
26

1 document, too, in March.

2 Also in March, the Applicant's going to be filing
3 their license application and, with that, an APEA, which is
4 an applicant-prepared EA, and then once they file that, we
5 issue what's called a ready for EA notice if the application
6 and the APEA has everything that we need to -- this is --
7 June 2009 is our way of saying, Okay, we have everything we
8 need and we're ready to do our analysis.

9 And then in August of next year -- this year --
10 we'll get comments, recommendations, and terms and
11 conditions from all the local agencies, local, state, and
12 federal agencies.

13 And then the Applicant has a time period to reply
14 to those comments.

15 And our draft EIS is tentatively scheduled to be
16 issued in July 2010, followed by a comment period then, and
17 then a final due out in April of 2010.

18 MR. TURNER: While we've kind of -- while Kim's
19 talked about that in terms of receiving comments on the --
20 in response to the REA notice from agencies, that also
21 includes the public and anybody else that wants to comment
22 on the application, and we'll be considering those.

23 There's a couple different places here that you
24 need to be aware in terms of commenting, and that is now in
25 terms of letting us know what your issues are, what things
26

1 we need to be considering, have we missed anything in
2 particular.

3 The REA notice, once the application comes in, is
4 again saying, We think we have everything we need. Now,
5 again -- once again, please tell us what you have based on
6 your review of their application, what you think still needs
7 to be addressed or your recommended measures for dealing
8 with those issues.

9 We'll prepare a draft environmental impact
10 statement. You get your chance then again to review our
11 analysis and our recommendations that we provide to the
12 Commission on how that we might license this project or not
13 license this project.

14 And we'll produce a final EIS that basically
15 takes all those comments into consideration and puts forth
16 our recommendations to the Commission. The Commission
17 ultimately makes that decision in terms of whether or not to
18 license a project, and the Commission is, most of you guys
19 probably do know, is a five-member board appointed by the
20 President representing both parties and they are the ones
21 that actually issue the license. Staff reviews this and
22 produces an environmental assessment or impact statement
23 that talks about -- under NEPA, it talks about the
24 environmental effects and makes recommendations to the
25 Commission. So, with that, they make their decision on the
26

1 license.

2 MS. WILLIAMS: With respect to the state
3 schedule, we're hoping -- the request for water quality
4 certification was made back in September and we evaluated
5 the preliminary request and decided that we could proceed
6 with processing.

7 We identified some preliminary areas of concern
8 and that's -- that included construction management as well
9 as water supply, water quality issues. A lot of those
10 mitigation measures had already been put forward.

11 So as we are moving forward with the water
12 quality certification process, we have -- it is -- the state
13 law and regulations require that we meet all the
14 requirements of the California Environmental Quality Act
15 and, as state lead agency, we are going to not only be
16 concerned with potential impacts to the groundwater, to any
17 potential surface water impacts, but also biological,
18 cultural, and related issues.

19 We are hoping -- we are working to -- on this
20 project and we're hoping to focus on this this year and get
21 out the -- the Applicant-prepared EIR will be submitted in
22 March. And then what we are planning to do as a state
23 agency, we are going to proceed forward, if everything stays
24 on schedule, with the draft EIR and, at the same time,
25 prepare a draft water quality certification and all of our
26

1 mitigation measures and conditions for protection will be in
2 that draft EIR and what we're going to do is take the public
3 review process that's required by CEQA and circulate the
4 draft EIR at the same time -- or circulate the draft water
5 quality certification along with the draft EIR so that any
6 of the interested parties and any of the other agencies can
7 look at it and provide us comment.

8 And as the Commission had stated, that that is
9 going to be a key opportunity for the public to make their
10 concerns known to us as well as agencies or NGOs, non-
11 governmental organizations, on that draft EIR and draft
12 water quality certification. And as lead agency, that's
13 really, really critical for us to get your input on that, so
14 we encourage you at that time to let us know what your
15 concerns are.

16 And then once we get that process and evaluate,
17 we have under the California Environmental Quality Act time
18 limitations and we have to respond to comments in order to
19 prepare the final EIR.

20 The regulations associated with the Water Quality
21 Certification Program require that we have a final CEQA
22 document before we issue a draft -- a final water quality
23 certification. So that's why we want to have the final EIR
24 go forward, at the same time the water quality
25 certification. We can't -- we could do the water quality
26

1 certification later but, again, I'm stressing the fact that
2 we want to take advantage of this public process under CEQA
3 to fine tune our water quality certification and we're
4 hoping that we can get all this done this September.

5 MS. NGUYEN: As Dave has already mentioned, this
6 is a good opportunity for you to provide comments. And if
7 you would like to do them in writing, they must be filed
8 with us no later than February the 16th and this is the
9 address and it's also in the Scoping Document 1. And just
10 to make sure you have the project name and number on --
11 clearly identified on the first page of this filing.

12 So February the 16th is the next big due date for
13 comments on the scoping document.

14 And now to the meat of the meeting, why we're
15 here. We're here to get your comments. We're here to
16 collect data to help us in our analysis. So I'd like to
17 open it up to comments from all of you, please.

18 MR. SABALA: May I ask a question?

19 MR. TURNER: Can you come up to the microphone?

20 MS. NGUYEN: Is that okay or can I give you a
21 cordless mike?

22 MS. CHIRIACO-RUSCHE: I can come right now.

23 MS. NGUYEN: Okay. Great. Thank you.

24 MR. TURNER: If you can come up to the
25 microphone. It goes straight into the dictaphone there, so

26

1 it would be great. It's a pain, but it gets part of the
2 record.

3 MS. CHIRIACO-RUSCHE: No. It's fine.

4 MS. NGUYEN: Thank you for accommodating.

5 MS. CHIRIACO-RUSCHE: Let's see. You want my
6 name spelled. It's Margit Chiriaco-Rusche, M-a-r-g-i-t,
7 C-h-i-r-i-a-c-o, R-u-s-c-h-e, and that's it.

8 Okay. And I'm from the Chiriaco Summit area. I
9 serve on the Chiriaco Summit County Water Board. And I want
10 to address this project as a concerned citizen for the area.
11 It sounds to me like it is a good means for alternative
12 energy, but is it really.

13 I haven't heard anything that this project, which
14 is proposed for Kaiser Mine, are they working with Kaiser
15 Mine? Is there an agreement? I haven't heard anything
16 about that. If not, how can you just come in and use their
17 property?

18 I know that for many years, there's been a
19 landfill planned for the mine. How are these projects
20 compatible? Trash and water don't seem to me like they
21 really go together. And how much water will it really take?
22 In California, water is gold. It's the liquid gold of
23 California, and no one knows it better than we that live in
24 the desert.

25 To me, it seems that the wells that they intend
26

1 to draw from will deplete the Chuckwalla Valley reservoirs
2 of water. It doesn't seem to make a lot of sense to take
3 water to make electricity in that way whereby they may be
4 depleting the water and producing energy at this time that
5 they could produce other -- in other ways in other areas.
6 We have lots of sun, there's lots of sun for solar out
7 there. It isn't just a weekend kind of thing. We have sun
8 every day of the year in our desert.

9 And I'm curious about how much power it would
10 take in fact if this were a viable project to pump the water
11 and will the product, the end product, actually be more or
12 less than what the cost is to pump. I feel like maybe --
13 maybe there is going to be -- that it won't be cost-
14 effective to do that.

15 It seems to me like you'll be pumping for a long
16 time just to fill the pits. How long would that be? Those
17 are huge pits. Is it possible that you will -- that they
18 will use more electricity than is created by the project?
19 And that's a very big concern.

20 Has an environmental engineering study been done?
21 What happens if one of the dams breaks in the area? Have
22 the potential consequences really, really been studied?

23 And that's just my concerns as just a concerned
24 citizen in the area. We've been watching some of this for a
25 long time. We have a small well at Chiriaco, too, that's
26

1 impacted. We know, too, that there were a lot of wells
2 drilled in the Valley between our place and Desert Center by
3 MWD. We know that didn't turn out to be a very viable thing
4 to do in terms of creating the underground aquifer or maybe,
5 you know -- maybe it is. I don't really know a lot about
6 that.

7 But there are I think serious concerns for the
8 water in our area and it seems to me like it's a very, very
9 big project if they're comparing it to Boulder Dam in terms
10 of energy. And I just -- it just seems a little bit off the
11 wall to me as -- I'm just an ordinary citizen, though, and
12 I'm not an engineer, but I need to ask those questions and I
13 hope that you will take those and study them and also the
14 idea that is Kaiser involved in this. I haven't heard
15 anything about that.

16 So I'd like that cleared up as well. Thank you.

17 MR. TURNER: Thank you.

18 MS. NGUYEN: Thank you very much.

19 MR. TURNER: You had a comment? You want to come
20 up?

21 MR. SABALA: I actually had a question before I
22 get up --

23 MR. TURNER: Can you come up to the microphone.

24 MR. SABALA: Pardon me?

25 MR. TURNER: Can you come up to the microphone.

26

1 MR. SABALA: Oh, sure. Might as well. It was
2 mentioned that this was a 1300 megawatt production facility.
3 After you subtract the energy it takes to pump the water up,
4 what is the net production of electricity?

5 MR. HARVEY: The 1300 megawatt rating is the
6 maximum amount of electricity to be generated at one time if
7 all four --

8 THE REPORTER: Can I get your name?

9 MR. SABALA: I'm sorry. Luke Sabala, S-a-b-a-l-
10 a.

11 THE REPORTER: Great. Thank you.

12 MR. SABALA: And I'm a physical scientist at
13 Joshua Tree National Park.

14 MR. HARVEY: The 1300 megawatt rating for the
15 project is the maximum amount of energy that can be
16 generated when all four of the turbines are in full spinning
17 mode 325 megawatts each. The comparison with Boulder Dam
18 was only to give that total amount of power generation
19 versus Boulder. In fact, Boulder might produce more energy.
20 It's up and running more often than this project is going to
21 be used. This project will be operating only about half the
22 day and then pumping back the other half of the day.

23 The pumped backup energy does require more energy
24 to pump water back than is produced. But the difference is
25 that you're taking energy that's in the system as baseload
26

1 that isn't being used and as off-peak renewable energy
2 that's wind turbines that are spinning or weekend solar
3 power -- I know the sun shines all the time -- we would not
4 be able to use any of the daytime weekday solar power
5 generated -- excuse me -- to pump our water back because it
6 wouldn't generate electricity at the same time. So I didn't
7 mean to say that there wasn't solar power during the week.
8 There is. It's just not that would be available to us. So
9 it's the difference in being able to make that energy that
10 otherwise is not useful to the system, make it useful to the
11 system. And then we'll also explain that you are using more
12 energy for the pump-back, but there is a price differential
13 on the peak versus off-peak. More important than that,
14 though -- that's not what is the role of this project --
15 there are four features of this project relative to
16 operation of the grid and of the generation utility system
17 that are essential to the performance of how we operate it
18 and what the project is compensating for and those are
19 called load following, spinning reserve, voltage regulation,
20 and black start, and those are features in an operating
21 system that as load demand goes up, utility systems has to
22 dispatch more power to meet that load. And there has to be
23 power plants that are online and ready to go or at least
24 ready to go. They can immediately be dispatched to follow
25 that load curve and can immediately be ramped down as that
26

1 load curve declines in off-peak periods. And many of those
2 are passed off in what's called spinning reserves. They're
3 up and ready to go so that when -- and get paid for that
4 spinning reserve. So you've got wind being generated, so
5 you have to have backup power. You have to have power
6 that's -- that's the way it gets paid for.

7 And then particularly wind but other parts of the
8 system, there's a flux in the air you can generate into the
9 system and you have to -- that's not the way that we want
10 our lights to be on. It's not the way we need our hospitals
11 to operate. We want consistent, clean -- our industries are
12 absolutely dependent upon that; for example, semiconductors
13 have to have not just energy but a certain frequency. So
14 there is voltage regulation that has to be done, and that's
15 another feature of this project.

16 By the way, if the whole system goes dark and you
17 lose -- power plants go offline, power plants need power to
18 turn back on. This plant, with water stored in that
19 reservoir, we open a gate and we're generating electricity
20 and we can recharge that system and, from black conditions,
21 help restart the system.

22 Those are all utility functions as well as
23 ancillary services that ratepayers pay for for utilities in
24 the California Independent System Operator to manage the
25 energy generation and transmission system.

26

1 MR. SABALA: Okay. Thank you.

2 MR. HARVEY: Sorry. It was too long an answer,
3 but it is a complicated question.

4 MR. SABALA: It's okay.

5 MS. NGUYEN: Before you go on, this is Kim
6 Nguyen. Let me follow up on that. Maybe you can tell us
7 how much energy is used to pump?

8 MR. HARVEY: About 1600 megawatts for pumping
9 backup versus 1300 at full generation.

10 MR. SABALA: Thank you.

11 MR. HARVEY: So about an 82 percent deficiency.

12 MR. SABALA: Okay. Well, my purpose here today
13 is to express the Park Service concern that should be
14 addressed through the NEPA and CEQA process and should show
15 up in the EIR and EIS reports.

16 One of our main concerns is with the hydraulic
17 conductivity between the Pinto Basin and the Chuckwalla
18 Aquifer from where you'll be drawing the groundwater. We'd
19 like to see some real actual estimates as to how much
20 groundwater you calculate to be in the Chuckwalla Valley.
21 There is a USGS open file report that was produced I believe
22 last year that was a gravity survey for which we, the Park
23 Service, were part of, and that is a public file report now.

24 That report actually characterizes the basin
25 geometry of Chuckwalla and the Pinto Basin. Using that with
26

1 potentiometric surface in the wells that you have already
2 throughout Chuckwalla, we'd like to see some actual
3 estimates as to what you anticipate to be the volume of
4 groundwater that's down there in Chuckwalla.

5 From that, we believe you should be able to try
6 and develop some kind of a water budget, recharge versus
7 drawdown and not just drawdown from the pumped storage
8 project but drawdown also from current use out there in the
9 reservoir or from the homeowners that live out there.

10 Also understand that you've already mentioned
11 that there's going to be some consumptive loss through
12 evaporation and seepage. What we're concerned is, is that
13 consumptive loss going to exceed the rate of recharge and,
14 if it is, there's going to be a net loss. And if there's a
15 net loss, you're going to deplete that source.

16 We're concerned about subsidence because we are
17 in hydraulic communication. And whatever happens in the way
18 of adverse impacts in Chuckwalla may be mirrored in the
19 Pinto Basin within our border.

20 A lot of this stuff was already covered earlier
21 and I know it's already going to be addressed.

22 We're also concerned with the leachate. Prior to
23 tonight's meeting, I had an opportunity to look at a geology
24 map from 1958, pre-excavation map of the area, and there are
25 some minerals of concern that could produce acid mine

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1 drainage. We're concerned about that. We know that's
2 already going to be addressed.

3 Also understand that there's mitigations already
4 in place that you're going to employ to prevent that
5 seepage. My concern is what if those mitigations fail. You
6 know, what would be the adverse impacts if they do fail and
7 this is something that needs to be addressed and brought out
8 in this document.

9 The last concern that we have also which is going
10 to be addressed has to do with large body of water adjacent
11 to our park. We're also concerned with desert tortoise.
12 They are listed -- federally listed on a T&E. We're
13 concerned with drawing migratory birds, gulls and ravens,
14 and what that's going to do to our population. I know
15 that's already going to be addressed, but we just want to
16 officially state that.

17 Thank you.

18 MR. TURNER: Is that -- those reports and stuff
19 publicly available that you talked about?

20 MR. SABALA: The open file report? Are you
21 talking about USGS open file report?

22 MS. NGUYEN: Yes.

23 MR. SABALA: Yes, it is.

24 MR. TURNER: Okay.

25 MS. NGUYEN: Anyone else?

26

1 (No response.)

2 I have a couple questions. Going back to the --
3 our comments on the draft, I was wondering if Crest Energy
4 -- did I say that right?

5 MR. HARVEY: Eagle Crest Energy.

6 MS. NGUYEN: Eagle Crest Energy -- excuse me --
7 could give us an update on a more definitive proposal or
8 agreement on filling -- the initial filling of the water
9 supply?

10 MR. HARVEY: In general, we have taken all of
11 your comments and have inventoried those and we have
12 assignments for each one of those to be addressed in detail.
13 Your specific question is about water?

14 MS. NGUYEN: The initial fill and I would assume,
15 from our site visit today, that you're definitely going with
16 the wells; correct?

17 MR. HARVEY: Thank you for clarifying. Yes. In
18 the -- at the time in June, we developed and issued the
19 draft license application in an issue to development of
20 water from groundwater and wells. We were in discussion
21 with some parties and had discussions with Metropolitan
22 Water District about the potential to develop a surface
23 water purchase or exchange in which we would acquire water
24 that could be delivered to Metropolitan and, in exchange, we
25 would take delivery of the water from the Colorado River

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1 Aqueduct surface water.

2 Those kind of exchanges have been done in
3 California. There are very large water transfers, but they
4 are very complicated transactions. And as we were talking
5 to Metropolitan, particularly in this drought period and
6 water shortage, it did not appear that there was any kind of
7 a surface water deal that was feasible for us to put forward
8 at this time. And, with that, we've withdrawn that -- that
9 element from our present planning proposal so that all that
10 we have before you in terms of our project description and
11 proposal is the use of groundwater for Chuckwalla for the
12 additional fill for the makeup part. We understand that if
13 some surface water arrangement does become feasible, that we
14 would need to come back and file an addendum or do some --
15 if it's after licensing, there would have to be an amendment
16 to the license. We understand that if that happens, it's at
17 some point in the future. Right now, there is nothing like
18 that. We don't have any plans for that and so we've
19 withdrawn that from our proposal for the time being.

20 MS. NGUYEN: And then my second question is
21 following up, maybe you can give us also an update on what
22 Margit touched about, is the agreement with Kaiser and the
23 landfill project.

24 MR. HARVEY: There is no agreement with Kaiser.
25 Under the Federal Power Act, Eagle Crest Energy has filed

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1 for a preliminary permit, filed and received. That permit
2 gives Eagle Crest Energy sole opportunity to study the site
3 for its uses of power generation project. And if the
4 Federal Energy Regulatory Commission grants a license for
5 that project, the Applicant would be able to -- Eagle Crest
6 Energy would be entitled to acquire that property. Our
7 preference would be as a negotiated acquisition with the
8 Federal Power Act and we also would have the ability to
9 acquire the property through federal eminent domain
10 proceedings as well.

11 So that is how the transaction goes there. We do
12 want to work with the landfill. We are right now conducting
13 analysis as part of our supporting analysis for your
14 environmental process showing the compatibility between our
15 project and the landfill and the areas where there are
16 incompatibilities, how we can solve that. For example, if
17 both projects are being constructed at the same time, what
18 do we do for construction management and traffic management.

19 If there are areas where there is overlap, we
20 actually have already relocated our surface switchyard where
21 the power comes from the powerhouse out to the surface. We
22 have moved that to avoid some conflicts with the potential
23 landfill operation. And there are other features like that
24 that we would look at as well.

25 So that's where we are right now with the
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1 landfill. We had some very recent communication with the --
2 with Kaiser Ventures about how and whether we could access
3 their property and they have specified with a payment of a
4 daily fee of \$5,000 and then some other provisions for
5 security and for insurance that they would allow very
6 specifically defined access to the site.

7 And that has just happened within the last week
8 and we will continue that dialogue with them and determine
9 at what point that we would like to negotiate further with
10 them about that.

11 MS. NGUYEN: Can you give us a little bit of
12 description of the project boundary and as far as land
13 rights goes as far as the project features is concerned on
14 whose land those project features -- your project features
15 are located?

16 MR. HARVEY: The reservoirs are on the private
17 property owned by Kaiser Ventures and as are the underground
18 work -- the tunnel, the shafts, and penstock and the
19 underground powerhouse and turbines and the underground
20 works for transmitting the power from the turbines out to
21 the surface switchyard. And any combination of private
22 lands and primarily for the transmission corridor are lands
23 that are owned by the Bureau of Land Management, which we
24 understand we have to get a special use permit. We have met
25 with and opened with a discussion -- I believe the Bureau of
26

1 Land Management will be here tomorrow and we have talked
2 with them and we are going to go forward with a pre-
3 application meeting for the special use permit and they have
4 a fee process that we need to compensate them for their --
5 for their involvement. They understand that FERC is the
6 lead agency. They are not the lead agency. And they -- in
7 the last ten years, they have been working on transmission
8 projects almost constantly. So they're very familiar with
9 how they will handle that.

10 The water -- properties for water wells are all
11 private properties. And I believe a combination of some
12 private land but primarily Bureau of Land Management lands
13 to bring the water pipeline parallel to roadway and then
14 parallel with the Metropolitan Water District's transmission
15 corridor to get into the site.

16 MS. NGUYEN: Thank you.

17 MR. HARVEY: May I just address one other
18 question by the National Park Service?

19 MS. NGUYEN: Sure.

20 MR. HARVEY: The comment was about conducting a
21 hydrogeologic investigation that included a transmissivity
22 analysis, an understanding of the USGS open file report and
23 a water budget and accounting for not only our project and
24 the Chuckwalla Aquifer project but also as a cumulative
25 effect of not only residential water use but farm water use,
26

1 the prisons, and at the eastern end of the Chuckwalla Basin
2 the landfill would be a water use in the area, and that we
3 are conducting that analysis. We have already undertaken
4 considerable analysis in that direction and we are now
5 completing that and we have taken into consideration all of
6 those points. All of those will be part of what we do
7 present in our final hydrogeologic investigation.

8 So just to note that for the record, that we do
9 agree with them. We do understand those are the issues and
10 that is what we're prepared to report.

11 MS. WILLIAMS: I'd also like to point out that
12 any analysis of the Chuckwalla Aquifer, we have to look at
13 the boundary conditions, so that would include the interface
14 with an adjacent basin such as the Pinto Basin, so we are
15 aware of that and so we would absolutely want to have that
16 considered.

17 MR. HARVEY: Metropolitan Water District raised
18 the same concerns and our analysis does extend to the Pinto
19 Basin and including their Hayfield Project Addition, and we
20 also considered how our project is related to the Colorado
21 River and the Bureau of Reclamation with its new accounting
22 surface policy and where we are relative to that.

23 MS. WILLIAMS: Thank you.

24 MR. TURNER: I've got a question. In developing
25 that analysis, have you involved the boards or any other
26

1 entity in how you've approached that analysis in terms of
2 the methods?

3 MR. HARVEY: We have not yet fully. We have had
4 additional discussion with Ms. Williams about what we were
5 doing and about our discussions with the Metropolitan Water
6 District relative to their concerns. We are also fully
7 cognizant of the very similar concerns that were raised by
8 the Board in the late 1990s. So we have that as guidance.
9 And we've just talked with Ms. Williams today about having a
10 follow-up meeting with the Board to make an initial
11 presentation of where we are in that investigation and where
12 we intend to go, why we're using certain methods and why
13 Metropolitan has agreed with us about the use of certain
14 methods. You mentioned modeling methods, for example,
15 versus mathematically analytical methods and so we are eager
16 to have that meeting and to either have your concurrence or
17 have a discussion about what needs to be done to satisfy the
18 State's concerns and issues.

19 MR. TURNER: Okay.

20 MS. NGUYEN: Any other comments, questions?

21 (No response.)

22 MR. TURNER: Don't be shy.

23 (No response.)

24 MS. NGUYEN: Hearing none, we're adjourned.

25 Thank you very much again for coming and we appreciate the
26

1 opportunity to meet with you.

2 (Whereupon, at 8:12 p.m., the scoping meeting was
3 adjourned.)

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UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

TRANSCRIPT OF SCOPING MEETING
EAGLE CREST ENERGY COMPANY
PROJECT NUMBERS 13123-000 AND 12509-001

9:00 A.M.

FRIDAY, JANUARY 16, 2009

UNIVERSITY OF CALIFORNIA, RIVERSIDE
PALM DESERT GRADUATE CENTER
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PARTICIPANTS

Presenters:

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Project Coordinator and
Civil Engineer

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Wildlife Biologist

MARK IVY

Outdoor Recreation Planner

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1 PALM DESERT, CA - FRIDAY, JANUARY 16, 2009 - 9:05 A.M.

2 --oOo--

3 MS. NGUYEN: Merrill, can you hear me?

4 MR. HATHAWAY: Yes, ma'am.

5 MS. NGUYEN: Okay. Great. Thanks. Let me know
6 if you can't and we'll try to speak up.

7 And I was wondering if maybe since we have a
8 smaller group than was anticipated, if you maybe, Jan, want
9 to move up or you -- just to help Mike out a little bit.

10 UNIDENTIFIED SPEAKER: We both have vision
11 problems, so --

12 UNIDENTIFIED SPEAKER: We can move on that side.

13 MS. NGUYEN: That would be great. Thank you so
14 much.

15 Welcome to the Federal Energy Regulatory
16 Commission and the California State Water Resources Control
17 Board's Joint Public Scoping Meeting for the Eagle Mountain
18 Pumped Storage Project.

19 My name is Kim Nguyen. I'm a civil engineer with
20 the Commission and also the project coordinator for this
21 project.

22 Before we get started, this meeting is being
23 recorded, as you can tell by our court reporter. So to help
24 him, Mike, make a complete record of the meeting today, if
25 you could just speak up when you speak for the first time,

26

1 spell your name and your affiliation, and that would help
2 him make a complete record to be part in part of the record
3 for the project.

4 There's also registration forms and our scoping
5 document on this side of the room, if you'd like to follow
6 along. Most of our presentations will be coming from the
7 scoping document. And the registration will also help Mike
8 with his record.

9 First I'd like to go through the agenda a little
10 bit. And since we have Merrill Hathaway, who's counsel from
11 the Office of General Counsel on the phone with us, and he's
12 going to be here just the first hour, we'd like to change
13 the agenda around a little bit and maybe get some of the
14 issues, the legal issues, the policy issues out of the way
15 before we get into the meat of the meeting and discuss the
16 detailed resource issue, if you don't mind.

17 So, with that, I'm going to start with
18 introductions and then go through the background a little
19 bit and then go into any legal and policy questions that you
20 might have for Merrill before we let him go and then
21 continue with the rest of our agenda, which is talking about
22 the request for information, the description of the project,
23 the scope of cumulative effects, and then our schedules.

24 So, with that, let me start with some
25 introductions.

26

1 MS. WILLIAMS: Camilla Williams, Divisional Water
2 Rights, State Water Resources Control Board, unit chief of
3 the Water Quality Certification Unit and project
4 coordinator.

5 MR. IVY: Mark Ivy. Outdoor recreation planner
6 for FERC.

7 MR. TURNER: David Turner. Wildlife biologist
8 for FERC.

9 MR. MURPHEY: Paul Murphey, State Water Resources
10 Control Board, Division of Water Rights. I am an
11 engineering geologist.

12 MS. NGUYEN: Okay. Now for some background
13 information.

14 On January 10th of 2008, Eagle Crest filed a pre-
15 application document, or a PAD, with the Commission, and
16 requested to use our traditional licensing process.

17 On June 16th of 2008, they also filed a draft
18 license application with the Commission, and the Commission
19 and interested stakeholders filed comments on that draft and
20 that was filed in September of 2008.

21 Also in September, Eagle Crest applied to the
22 Water Board for a water quality certification under Section
23 401 of the Clean Water Act.

24 On October 15th of last year, the Water Board
25 accepted their application and it's now processing it.

26

1 The purpose of scoping and why we're here. The
2 National Environmental Policy Act, or NEPA, and the
3 Commission's regulation, along with the California
4 Environmental Quality Act, or CEQA, and other applicable
5 laws require an evaluation of environmental effects of
6 licensing hydropower projects.

7 So at this time, we intend to prepare a draft and
8 final EIS, or environmental impact statement, that describes
9 and evaluates the probable impacts, including an assessment
10 of site-specific and cumulative effects, if any, of the
11 proposed project.

12 The scoping process is part of NEPA and CEQA and
13 is used to help the Commission and the Water Board identify
14 pertinent issues for analysis in their EIS and EIR.

15 In scoping, we invite participation of federal,
16 state, local resource agencies, Indian tribes, non-
17 governmental organizations or NGOs, and the public to help
18 identify significant environmental and socioeconomic issues
19 related to the proposed action.

20 Scoping helps us determine the resource area, the
21 depth of analysis, and significant issues to be addressed.

22 Scoping can also identify how the project would
23 or would not contribute to cumulative effects of the impact
24 in the area. It can identify reasonable alternatives to the
25 proposed action that should be evaluated. With scoping, we
26

1 solicit from participants available information on resources
2 at issue and determine the resource area and potential
3 issues that do not require detailed analysis.

4 Through scoping, we are asking for information
5 that will help us, like I said, conduct an accurate and
6 thorough analysis. The type of information we're looking
7 for include, but are certainly not limited to, information,
8 quantitative data, professional opinions that may help
9 define the scope, identification of any information from any
10 other EAs, EIS, or similar environmental studies that are
11 that are relevant to the proposed project, any existing
12 information and data that would help us describe the past,
13 present, and future actions and the effects of the project
14 on those developments, information that would help us
15 characterize the existing environment and habitat in the
16 area, any federal, state, local resource plans, and any
17 future project proposals that might be affected in the
18 resource area; for example, the proposal of the landfill,
19 documentation that the proposed project would or would not
20 contribute to cumulative adverse effects on any of the
21 resources, documentation showing why any resource should be
22 excluded from further analysis.

23 This information can be given to us today orally
24 or it can be filed written or electronically with the
25 Commission and the Water Board.

26

1 We'd like to have a brief discussion of the
2 project area by Eagle Crest at this time.

3 MR. HARVEY: Good morning. I'm Jeff Harvey. I'm
4 the owner's representative for Eagle Crest. Thanks for
5 coming today.

6 Just a brief overview of what the project
7 actually includes. The project is a 1300 megawatt pumped
8 storage hydroelectric project. It is essential as part of
9 of storing energy and integrating renewable resources into
10 California's utility system, generation and transmission
11 system.

12 It is unique in that it will be developed in
13 completed mining pits, the two reservoirs. There are
14 multiple features of the project -- two reservoirs, the
15 generation of the turbines, and there are tunnels connecting
16 those, transmission out from the site and into the site to
17 power the pumpback systems and then a well field and water
18 lines. Those are the basic features.

19 The reservoirs are to be developed in the mining
20 pits that are located at the Historic Mine site at Eagle
21 Mountain. And at the surface -- most of the features will
22 be subsurface. The wells will be at the surface but not as
23 prominent features. Subsurface will be the pipelines from
24 the wells to the lower reservoir, the -- all of the tunnel
25 works -- and I'll show you the diagram in a moment -- are
26

1 underground and the powerhouse and turbines are underground,
2 and then the transmission line out to the surface.

3 So at the surface, what you will see will be the
4 two reservoirs, the transmission line, which is about ten to
5 12 miles from the Eagle Mountain site south to just north of
6 the I-10 corridor, and then the reverse osmosis water
7 treatment system that I'll talk about and the brine ponds
8 that are associated that will also be at the surface. Even
9 those will only be seen as a flyover feature. The
10 transmission line will be the only thing you can see as you
11 were driving around out at the property.

12 Very unique to this project for hydroelectric
13 development, no streams; therefore, no fisheries, no fish
14 bypass flows, no aquatic habitat, no wetlands. So we really
15 have a unique environment for development of a hydroelectric
16 project here.

17 This shows the map view of the mountain itself
18 and of the two reservoirs. The upper reservoir, which is to
19 be developed at the central pit of the mine site, will
20 include two dams to augment that pit to be able to take the
21 full capacity and 25,000 acre feet of water.

22 The lower pit, in the east pit as the mine refers
23 to it, the lower reservoir, is of adequate capacity right
24 now, does not need any supplemental dams. That will be
25 connected by underground tunnel works, the powerhouse, and
26

1 then up the shaft and tunnel works to the upper reservoir.
2 And what happens here is we'll have an initial fill from the
3 well field. That water, 25,000 acre feet, over about two,
4 three years to fill will fill the lower reservoir. Then
5 that will be pumped up to the upper reservoir during off-
6 peak energy periods. That energy stored for peak energy
7 demand periods is dropped back down through four reversible
8 turbines, 325 megawatts each, for a total of 1300 megawatts
9 to produce electricity and water, then return to a
10 reservoir. So you really have an operation here where once
11 you get the working fluid, water in is working fluid, the
12 reservoirs will operate back and forth as you're in either
13 pumpback mode or in generation mode.

14 From the powerhouse here, the electrical
15 transmission equipment also underground to a surface
16 switchyard and that switchyard then, the 500KV transmission
17 line, which will also be a surface feature, extending, as
18 I'll show you on a map here to the I-10 corridor. The other
19 feature here, in response to concerns that were expressed by
20 the State Water Resources Control Board about water quality
21 over the long term of the reservoirs, we do have evaporative
22 losses from the reservoirs that would concentrate salts
23 ultimately, that we have added a reverse osmosis treatment
24 system to the -- to the project that will maintain the
25 reservoirs at the same salinity as the input groundwater and
26

1 that will produce a brine salt residual and that will go to
2 brine ponds as shown here.

3 Since -- this is only in the last couple of
4 weeks, but we have made an adjustment in very recent
5 discussions with Metropolitan Water District. They have
6 expressed concerns about the location of the brine ponds
7 relative to their Colorado River Aqueduct that delivers
8 water from the Colorado River into the Los Angeles Basin,
9 and so we are relocating the brine ponds from adjacent to
10 their aqueduct over to a location probably here. It's going
11 to be relocated. And they have multiple concerns -- seepage
12 and what that might do to their aqueduct and wind-blown salt
13 affecting quality of water in their aqueduct. We will be
14 maintaining the brine ponds in a wet condition so it won't
15 have a wind-blown problem. But to ensure them that we
16 wouldn't have any issues with their aqueduct, we are going
17 to relocate that.

18 Any features to point out there?

19 (Pause.)

20 On the map view here again, here's the Eagle
21 Mountain site. The lower reservoir and the upper reservoir,
22 transmission line out. Here's the 500KV line that comes out
23 around the present town of -- town site of Eagle Mountain
24 across the Metropolitan Water District's Pumping Plant, and
25 then down along the Eagle Mountain co-located with the Eagle
26

1 Mountain Roadway to a new switchyard at the I-10 corridor.

2 In the draft license application that was
3 circulated in June of 2008, we did show a different
4 transmission corridor. Based upon our initial transmission
5 planning, the original project showed transmission coming
6 out and going 90 miles to the Devers Substation. That was
7 years ago. The transmission has changed in this region and
8 we originally thought that we were going to take our
9 transmission out parallel with the Metropolitan Water
10 District's 230KV line, cross the I-10 corridor, pick up the
11 Devers Palo Verde corridor, 500KV corridor, and then come
12 down to a new substation approved but not yet built for
13 Southern California Edison, the Colorado River Substation.
14 That alternative or that corridor has now been abandoned in
15 favor of this route to the I-10 based upon our discussions
16 with the California Independent System Operator, the Cal
17 ISO, which is the operator of the transmission grid in
18 California, and Southern California Edison, the primary
19 utility that actually owns this portion of the transmission
20 grid. And they recommended based on the number -- there's
21 tens of thousands of acres of solar projects proposed in
22 this region. There's also the Blythe Energy Project, the
23 1,000 megawatts total once the second phase gets built, and
24 they recommended they had enough power at this switchyard
25 already, they -- based on the number of solar projects in
26

1 this location and our project, they wanted to build a new
2 switchyard here for our interconnection to the regional
3 transmission grid.

4 So that is a change from what was shown in the
5 draft license application and it will be shown going forward
6 in our environmental documents.

7 We also input to the project -- we have a well
8 field that will be developed out in the Chuckwalla Basin
9 here along the 177 corridor. I don't have specific
10 properties. We have numerous properties that we are in
11 negotiations with right now. We're very close to finalizing
12 those arrangements. But because we don't have them
13 finalized, I'm not going to point to specific parcels. I
14 can tell you that in this area, there are -- we will develop
15 numerous parcels for wells. Those wells will be connected
16 by pipelines that will be brought -- co-located again with
17 the roadway corridor, brought down to the existing
18 Metropolitan Water District's 230KV transmission line, so
19 along that same utility corridor bring our water pipeline up
20 to Kaiser Road and where it will also be co-located then
21 with the road and then into the lower pit. The water lines
22 only need to go to the lower pit. Once you get water into
23 the lower pit, the pumpback is through the reversible
24 turbines up to the upper reservoir.

25 Anything else here?

26

1 Oh, one other thing to show you here is the land
2 ownership in the area. The purple is the Joshua Tree
3 National Park. The yellow is Bureau of Land Management.
4 Blue are state lands. White are private lands. So we do
5 have a combination of private lands that we will acquire,
6 BLM lands that we will need to obtain a special use permit
7 for use of, private lands that we're acquiring here,
8 Metropolitan -- well, I don't think we're actually going to
9 be in their right-of-way, so perhaps not Metropolitan but
10 private lands and Bureau of Land Management lands to acquire
11 rights-of-way for the water pipeline in.

12 In a profile view, this line representing the
13 ground surface, this is the lower reservoir, the upper
14 reservoir, and the pressure tunnels that connect those two
15 reservoirs with the powerhouse in between, the powerhouse
16 containing four 325 megawatt turbines, reversible turbines,
17 so we have the initial fill of water, 25,000 acre feet, as I
18 said. That water then pumped up for storage into the upper
19 reservoir during off-peak periods. During peak energy
20 demand periods, that water dropped back down to generate
21 electricity and then water returned and stored in the lower
22 reservoir. Just back and forth on a daily basis with
23 pumpback in evenings and weekend periods. Generation
24 primarily daytime weekdays.

25 As I've said, the primary operations are peak
26

1 power generation on demand and off-peak power pumpback. Our
2 role here in California's energy picture is to be able to
3 capture renewable energy that is produced, for example,
4 solar over the weekends during off-peak periods and wind
5 which is prominent at night and weekends but is not reliable
6 for generation during peak periods. We're able to capture
7 that power and other residual power in the transmission grid
8 and pumpback water, store it for use during peak demand
9 periods, and make that renewable energy reliable and
10 dispatchable source of power. And this is -- the California
11 Independent System Operator has identified storage projects
12 like this as essential to their ability to integrate
13 renewables in the system and particularly at the level that
14 California has called for, renewable portfolio standards of
15 33 percent by 2020, 11 years from now. Our present
16 renewable portfolio is about nine percent, so we're talking
17 about nearly quadrupling the amount of renewable energy that
18 we put into our generation mix in the next 11 years and
19 renewable sources that are not reliable, that cannot be
20 depended on for reliable dispatch. They have to be backed
21 up with other fossil fuel or nuclear power or with storage
22 in hydro of this type.

23 It is a closed loop system, meaning that once we
24 have the initial fill of water, we simply work that water
25 back and forth. We do have seepage and evaporation,
26

1 particularly evaporation losses, and those we will have
2 annual makeup water for, about 2500 acre feet of annual
3 makeup water.

4 Our proposed environmental measures and studies.
5 We have a number of environmental features that we have
6 built into the project. This project was originally
7 proposed in the early '90s, went through various permitting
8 stages. And because of market conditions, electric --
9 restructuring of the electric utility industry, various
10 reasons in California's energy markets, the project did not
11 go forward at that time and is now an essential part of
12 California's renewable portfolio standards.

13 The most important thing to understand in that
14 context, though, is that because we have been through
15 multiple permitting stages, we have been through a lot of
16 studies. We understand what all of the issues are,
17 environmental issues. We've also been apprised, through
18 other environmental documents that have been prepared for
19 Eagle Mountain, for the landfill project, for other
20 transmission projects in the region, so we have a wealth of
21 information that we've been able to draw upon and that --
22 we've also had extended conversations and consultations with
23 State Water Resources Control Board, with FERC, with U.S.
24 Fish and Wildlife Service, with the tribes, and the State
25 Historic Preservation Office, with Bureau of Land
26

1 Management, so that we have now incorporated into our
2 project numerous environmental features intended to address
3 those environmental issues as we've understood them, and we
4 understood that -- we understand that out of this process,
5 we may have other issues to address as well.

6 But those features that are built in right now --
7 first of all, is location of this project in this depleted
8 mine site. This is not a pristine environment. It is a
9 site that has been subject to very extensive mining and the
10 reservoir locations themselves are in disturbed habitat
11 areas and disturbed environmental areas.

12 We also have co-located all of our linear
13 features -- our transmission line, our well field and water
14 lines -- with existing roadway and utility corridors, trying
15 to minimize the impacts. We're not just going cross-country
16 or through native habitat areas that don't already have some
17 level of human modification and disturbance.

18 We've also tried to minimize the linears and,
19 fortunately in our work with the ISO and Southern California
20 Edison, we've been able to reduce our transmission, for
21 example, from originally 90 miles and then 50 miles down to
22 12 miles now. So we've reduced our footprint on the land
23 for those linears.

24 Relative to water, we have a number of features
25 for water supply. We have developed our well field and the
26

1 properties that we're talking about have spacing of wells
2 that are about a mile apart. That's our goal, is to be
3 about a mile. It doesn't have to be exactly a mile, but in
4 that area, so that our cone of depression, our drawdown of
5 the local water table from individual wells does not overlap
6 with -- our own wells -- doesn't overlap with anybody else's
7 wells either so we prevent interference with anybody else's
8 water supply.

9 We also have water quality monitoring at all of
10 our wells and of course we'll be doing that at the
11 reservoirs and at the monitoring wells around the
12 reservoirs, and a number of measures to control seepage from
13 our reservoirs. A concern that was raised by the State
14 Water Resources Control Board with regard to potential water
15 quality degradation in the down gradient aquifer and also
16 raised by Metropolitan Water District as a concern for
17 potential contamination of water in their aqueduct.

18 One other feature for Metropolitan Water District
19 was not just water quality degradation but that seepage from
20 the reservoirs could cause saturation of ground near their
21 aqueduct that would result in sediments settling out, a
22 process called hydrocompaction, that could interfere with
23 the proper function of the aqueduct and its flow pad.

24 So in response to all those things, we have built
25 in seepage control measures that start with the reservoirs
26

1 themselves, with -- once we get to final engineering design,
2 we will investigate for where there are fissures and cracks
3 that we can fill with concrete or grout and then grout
4 curtains for the reservoirs using the fine sediments from
5 tailings that are on the mine site and perhaps even using
6 concrete face, particularly on the lower reservoir where
7 there is contact between the bedrock and the valley
8 alluvium. On the upper reservoir, we have -- we're really
9 in solid bedrock. But at that point, we may, based on final
10 engineering design, put a concrete face to prevent seepage
11 into that alluvium layer.

12 We also have a series of wells, wells that will
13 be upstream of each one of the reservoirs -- one well
14 upstream of each reservoir for baseline control and then a
15 picket fence, if you will, of wells below each reservoir to
16 monitor for seepage losses and to recover those seepage
17 losses, to pumpback and recover those -- that seepage water
18 into our reservoirs. It's in our interest, beyond the
19 concerns of the agencies, to not have seepage losses. It
20 costs a lot of money to pump that water into the -- into the
21 lower reservoir to start with. As much of that water as we
22 can keep and maintain as a working fluid, we will have to do
23 that. So -- so we have those seepage control for water and
24 for water quality.

25 We also have, in response to concerns -- I
26

1 mentioned earlier about the RO systems -- concerns that have
2 been brought up by the State Board. We have a reverse
3 osmosis water treatment system to maintain the reservoirs
4 and the salinity in those reservoirs. That would normally
5 be an enormously expensive proposition because of the energy
6 required to push water through the membranes in an RO
7 system. We have 1500 feet of elevation difference between
8 the upper reservoir and lower reservoir. We're going to use
9 gravity as our source of energy to push that water through.
10 So we can do this in a very feasible way and treat that
11 water.

12 The brine pond that will be associated with that
13 RO system is a double-lined brine pond to prevent leakage.
14 It also has a leak detection drain system and a recovery
15 pumpback. We'll have monitoring wells downstream of the
16 brine pond as well to ensure that we don't have leakage and,
17 to the extent that anything ever does leak, that we capture
18 it and pump it back.

19 Other environmental features of the project, we
20 have conducted extensive biological surveys and surveys for
21 cultural resources. We have done records search and worked
22 from existing documentation on the mine site itself. We
23 have conducted ground surveys of all of the linear features.
24 This spring, we have additional surveys to conduct for the
25 changes that I indicated. We originally surveyed for the
26

1 transmission line from Eagle Mountain to the area near
2 Blythe. We will now conduct surveys of this new alignment
3 from Eagle Mountain down the 12-mile corridor down to the I-
4 10. And we will have -- once we finalize our selection of
5 properties for the well field, we will have both biological
6 and cultural surveys done for the well field locations and
7 the corridors bringing water from the well field into Eagle
8 Mountain.

9 We understand that we will have mitigation for
10 desert tortoise. We also understand that there are concerns
11 about big horn sheep at the reservoirs, possible animals
12 being attracted to the water source of the reservoirs, and
13 that we will have wildlife fencing to prevent access to the
14 reservoirs. And, finally, we do have a cultural resources
15 consultant that's been engaged in the project and has been
16 conducting these surveys for us. They also have been in
17 contact with the tribes and with the State Historic
18 Preservation officer and have initiated the tribal
19 consultation and historic consultation processes that we
20 need to engage in.

21 Am I missing anything? Those are the primary
22 features.

23 Oh, other studies that we are conducting, a part
24 of what's been asked. So in addition to those ongoing
25 investigations, we have an investigation of hydrogeology
26

1 that is ongoing and nearly completed that includes the
2 effects of our wells on other local wells, that includes the
3 effects of our wells on the regional aquifer, and that
4 includes the effects of our wells and our water use in
5 relation to all other water users in the region, including
6 the Chuckwalla prisons, all of the agricultural users, the
7 landfill project, and all the residential users out there.
8 So a comprehensive hydrogeologic investigation that has been
9 developed in consultation with Metropolitan Water District
10 and now will be completed in consultation with the State
11 Water Resources Control Board as well.

12 We are also conducting an analysis. There is a
13 landfill project that has undergone extensive environmental
14 permitting on the Eagle Mountain site. The owners of that
15 project have raised concerns about the compatibility of our
16 project with their project and, in response, we have
17 conducted an investigation and will be reporting as part of
18 this environmental review process on how our projects can be
19 compatible and that we do not believe that the projects are
20 mutually exclusive in any way, that they are compatible
21 projects, and we will document how we believe that that fits
22 together.

23 Other resource issues that will be addressed in
24 the EIS and EIR, air quality, noise, traffic. For the
25 California Environmental Quality Act, a requirement starting
26

1 in 2008 that all projects consider their relation to air
2 emissions and greenhouse gases relative to global climate
3 change. That analysis will also be presented.

4 An analysis of -- well, those are the main ones
5 -- air, noise, traffic, greenhouse gases. Those are the
6 primary issues that we are -- that we have studies underway
7 right now and are going to be presenting for use in the EIS
8 and EIR.

9 Anything else that I should add? Very good.
10 I'll turn it back to you.

11 Thank you very much.

12 MS. NGUYEN: Thank you, Jeff. The next item on
13 our agenda is a discussion on the scope of the cumulative
14 effects of the project.

15 Based on our preliminary analysis of the draft
16 license application, we have identified water resources, the
17 desert big horn sheep and desert tortoise, land use, and air
18 quality as resources that could be cumulatively affected by
19 the proposed project.

20 At this time, the proposed geographic scope for
21 water resources is the Chuckwalla Valley Aquifer. The
22 geographic scope cumulative effects on the big sheep horn --
23 desert big horn sheep and desert tortoise and land use and
24 air quality would be the Chuckwalla Valley and the I-10
25 corridor to Blythe, California.

26

1 For temporal scope, we will look at a 30 to 50
2 year into the future, concentrating on the effects of -- to
3 the resources from reasonable and foreseeable future
4 actions.

5 And in the interest of time, we would like to --
6 before we get into the resource -- the detailed resource
7 issue discussion, we'd like to see if there are any comments
8 or questions from Merrill about Office of General Counsel in
9 D.C. So I'd like to open it up at this time for those
10 policy and procedural questions and comments.

11 (No response.)

12 Merrill, do you have any questions for us?

13 MR. HATHAWAY: No. I don't think so. I mean,
14 the only thing I would say, just to respond to everybody,
15 that we're still in the pre-filing stage. Under the
16 Commission's rules, since this is now a traditional
17 licensing process, there is no proceeding. There are no
18 parties yet. We know that we anticipate that there will be
19 -- there may very well be a contested proceeding, but we
20 would have to cross that bridge when it arrives.

21 And so, basically, I would just urge everybody --
22 and I think there's a legal concern -- that if the Applicant
23 finally decides, and it's its choice, to file a license
24 application, a condition at that time would initiate the
25 proceeding, would invite interventions and participation by
26

1 everybody and that any licensing decision, particularly to
2 go forward with the project, to approve it, could only be
3 based on substantial evidence.

4 So if there isn't substantial evidence in the
5 record of the proceeding, then the project cannot be
6 licensed. Otherwise, it would have to fulfill the standards
7 of the Federal Power Act.

8 So hopefully, even though this is not an
9 alternative licensing process, really this pre-filing
10 scoping is in a spirit of trying to get more collaboration
11 and cooperation. So I think I would urge everybody to just
12 be aware they can have a consensus on the issue so that we
13 wouldn't have a proceeding where people are fighting over
14 every job submittal because I don't think that's in
15 everybody's interest. So to try to help us anticipate, to
16 produce an adequate record for decision, I think it would be
17 in everybody's best interests. So that's all I have to say.

18 MS. NGUYEN: Anything else?

19 (No response.)

20 Okay. Then let's go into the resource
21 discussion. From our agenda, you can see that I'm going to
22 talk about geology and soils, aquatics, cultural, and the
23 developmental resources, and then my colleagues will take
24 over the rest of the other resource area.

25 At this time, for geology and soils, we'd like to
26

1 look at the effects of the project construction and
2 operation on geology and soil resources, obviously, and then
3 soil erosion and sedimentation.

4 As Jeff had said, for aquatic resources, we see
5 no issues at this time since it is a closed system.

6 For cultural resources, the effects of the
7 project, construction and operation, on any historical,
8 archaeological, and traditional resources that may be
9 eligible for inclusion in the National Register of Historic
10 Places.

11 The effects of the project on the area -- the
12 defined area of potential effects.

13 For developmental resources, we look at the
14 effects of the proposed project and any of its alternatives,
15 including protection, mitigation, and enhancement measures
16 on the economics of the project.

17 Now we get into water quality and quantity and
18 air quality from Paul.

19 MR. MURPHEY: Yes. For resources issues
20 concerning water quality and water quantity, we will look at
21 potential seepage from both of the mine pits, the former
22 mine pits, and how that affects the groundwater, and as well
23 as potential seepage from the brine ponds.

24 We will also look at the effects of the
25 Chuckwalla Valley Aquifer from the pumping of the
26

1 groundwater, not only the local effects on other groundwater
2 users but also the regional effects on water levels not only
3 in the Chuckwalla Valley Aquifer but nearby aquifers, mostly
4 the Pinto Basin Aquifer, which is up in Joshua Tree National
5 Park.

6 And also with that evaluation, we will look at
7 the potential subsidence and how that may effect Met's water
8 conveyance system.

9 We will also look at the long-term effect of the
10 water quality, but that will pretty much be addressed with
11 the reverse osmosis.

12 And also during construction activities, any
13 potential effects that construction activities will have on
14 the water quality of the project.

15 And that's pretty much it for the water quality.

16 For the air quality, mostly that will be -- we
17 will look at the effects during construction on the air
18 quality in the area. The long-term air quality effects will
19 be evaluated -- mostly there's a concern with the brine
20 ponds if they go dry, there might be some air quality
21 concerns there, so we will look at that.

22 With that, Dave.

23 MR. TURNER: We put together -- just kind of the
24 background, we put together these issues based on the
25 consultation record that was in the draft application and
26

1 what we gleaned from consultation record that's been on file
2 with the Commission.

3 So we're really looking for your input on whether
4 we've missed issues or not. Some of these issues we've
5 identified are -- as Kim had said earlier -- are not issues.
6 So please feel free to interject in this conversation. We'd
7 like to make this more free-flow. So please feel free to
8 interject these comments and let us know if we're missing
9 something.

10 From the terrestrial resources perspective, we're
11 going to be looking at how these reservoirs, which are
12 basically an uncommon type of resource now, basically having
13 a huge lake out in the middle of the desert, is going to be
14 affecting the attraction and other -- attraction and other
15 means -- the wildlife in the area, water fowl, bats, some of
16 the predators that are particularly -- may target some of
17 the more sensitive resources like desert tortoise.

18 We're going to be looking at the effects of
19 construction such as disturbance and habitat fragmentation
20 and lighting and those kinds of things on desert big horn
21 sheep, their foraging habitat and patterns.

22 We're going to be looking at the -- how --
23 whether or not the project is going to represent an
24 attraction to deer, big horn sheep, and desert tortoise, and
25 whether those reservoirs may represent a drowning hazard or
26

1 something in terms of getting trapped in there.

2 The brine ponds could also represent another
3 attraction and we're going to be looking at the measures
4 that could be done to reduce that attraction.

5 We're going to look into how the project might be
6 affecting surrounding vegetation as well as wildlife and how
7 that might result in the spread of noxious weeds and what
8 measures could be done to minimize that spread.

9 And we're also going to be looking at some very
10 sensitive species for the purposes of BLM, their sensitive
11 species and the State's threatened endangered species.

12 The Commission also has an obligation under the
13 Endangered Species Act to ensure that its actions don't
14 jeopardize the continued existence of federally-recognized
15 and federally-listed species, and the two that have been
16 identified here are the desert tortoise and the Coachella
17 Valley milkvetch, so we're going to be looking at how
18 construction and operation may be affected in these species.

19 Any comments, questions?

20 MR. COOK: So you get a Section 7 consultation?

21 THE REPORTER: Can you state your name, please?

22 MR. COOK: Terry Cook with Kaiser.

23 MR. TURNER: Say that again.

24 MR. COOK: You will be getting a consultation
25 with the U.S. Fish and Wildlife?

26

1 MR. TURNER: We will -- once the application is
2 filed with the Commission and we've undergone our analysis
3 and review of that, we'll complete an environmental impact
4 statement, a draft of that. We'll use that to initiate any
5 formal consultations with the Fish and Wildlife Service as
6 may be necessary to deal with these two species.

7 MR. COOK: So you're not doing it up front?
8 You're just doing it in connection after the initial
9 studies?

10 MR. TURNER: The action that we take is going to
11 be defined on staff's recommendations. So if we -- while we
12 are in coordination with the Fish and Wildlife Service early
13 on to make sure we're gathering the information they need to
14 try and undertake that consultation and identify any
15 measures that might minimize that effect to get maybe a
16 Board consultation, but I kind of doubt that, given some of
17 the habitat, based on that, we'll define what we're
18 proposing to be included in the license. That would be the
19 action that we consult on. So, by necessity, it actually
20 occurs after the application is filed. But we're still
21 consulting with the Fish and Wildlife Service, early
22 consultation on these other impacts.

23 I guess I just kind of want to let one thing --
24 oh, I'm sorry.

25 MR. DYOK: Wayne Dyok, a consultant for Buchhurst
26

1 (ph) Energy. Maybe we could, you know, mention FERC's
2 process for the non-federal designee for purposes of
3 consultation and status of that.

4 MR. TURNER: Good point, Wayne. We have
5 designated Eagle Crest as our non-federal rep for that
6 informal part of that consultation to talk with the Fish and
7 Wildlife Service to find the measures that will help
8 minimize the effects and include that in the application.
9 So they have been designated.

10 With regard to the cumulative effects on the
11 desert tortoise, we defined a area that included the I-10
12 corridor down to Blythe. That was in large part based on
13 the earlier transmission corridor. I suspect unless we get
14 comments to the contrary, we're going to be refining that
15 analysis to withdraw that down now that we have a much
16 different and shorter corridor, transmission line corridor.

17 And if nobody has anything else, we'll turn it
18 over to Mark for recreation.

19 MR. IVY: Okay. First off, I was going to say
20 there's a couple of you that came in late and we do have
21 copies of the scoping document up here in front if you want
22 to grab one. You can go through with us. We have the
23 detailed comments in there.

24 So first I was going to cover the recreation and
25 land use potential impacts. We're studying the effects of
26

1 project construction and operation on several issues, first
2 being recreational use within the project area, including
3 lands administered by BLM for disbursed recreation use and
4 the Joshua Tree National Park.

5 Also looking at the effects on special designated
6 areas, including BLM Chuckwalla Valley Dune Thicket area, a
7 critical environmental concern, and the Chuckwalla Critical
8 Habitat Unit, and I'm on page 14 if you're trying to follow
9 along.

10 Additionally, we're looking at the effects of
11 project construction operation on other land uses, including
12 future mineral developments and a potential solar farm in
13 the area.

14 And the effects of project construction and
15 operation on the proposed Eagle Mountain Landfill and
16 Recycling Center.

17 And then the last point in the recreation land
18 use is the effects of the desalinization ponds that will be
19 developed and the removal of 2,500 tons of salt from the
20 upper reservoir on land use.

21 Any questions or comments on the recreation land
22 use item?

23 (No response.)

24 Okay. Next we'll move on to aesthetics. And
25 under aesthetic resources -- now on page 15 -- the effects

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1 of proposed project facilities on visitors who view the
2 landscape. Dave was just talking about Riverside County has
3 designated Interstate 10 from Desert Center to Blythe as a
4 scenic corridor and so, again, that may be narrowed in scope
5 if we're only looking at that 12-mile transmission line.

6 The effects of project construction and
7 associated noise on visitors to the area, including Joshua
8 Tree National Park. And there are designated wilderness
9 areas nearby and so we'll be looking at the potential impact
10 on those visitors.

11 Any questions or comments on the aesthetics that
12 we've identified? And also please let us know if we're
13 missing anything.

14 (No response.)

15 Okay. The next piece is socioeconomic. We're
16 looking at the effects of increased traffic and potential
17 congestion on local roads due to existing mining-related
18 traffic and project construction and operation, and the
19 effects of the proposed project on local, tribal, and
20 regional economies.

21 Any questions or comments on those?

22 (No response.)

23 Okay. Thank you.

24 MS. NGUYEN: Okay. Next thing we have on our
25 agenda is a discussion of our tentative EIS preparation

26

1 schedule and, as you can see, we'll probably issue a scoping
2 document, too, sometime in February, next month -- well, two
3 months -- March, sorry -- March -- and then the next big
4 filing we expect from the Applicant is their APEA, or
5 applicant-prepared EA, and the license application,
6 obviously, also to be filed in March.

7 And as you can see also by the schedule, we plan
8 to issue two EISs, a draft and a final, with a comment
9 period in between there for all of you and -- as well as any
10 resource agency.

11 And there's also a detailed EIS schedule, an SD-
12 1, if you're interested in getting the month-to-month
13 schedule, but this is our tentative scheduled at this time.

14 MR. BENNETT: Excuse me. I notice the draft EIS
15 is going to be issued in July 2010 but you're issuing new
16 findings before that, in April 2010 according to your
17 schedule.

18 MS. NGUYEN: That should be 2009. Thank you very
19 much.

20 THE REPORTER: Can you state your name?

21 MR. BENNETT: My name is Mike Bennett. I'm with
22 the Bureau of Land Management.

23 THE REPORTER: Thank you.

24 MR. TURNER: For the record, it's July 2009 for a
25 draft EIS.

26

1 MS. GILLIN: I'm Ginger Gillin with GEI
2 Consultants. The discussion about the schedule, could we
3 just clarify exactly what the dates are because I'm not sure
4 I'm quite following what has been said.

5 MS. NGUYEN: Yeah. It should be April 2011.
6 Okay. We'll go through it.

7 Scoping Document 2, March of 2009.

8 The APEA and the license application filed March
9 2009.

10 Issue ready for environmental analysis notice
11 June 2009.

12 The deadline for filing comments,
13 recommendations, and agency terms and conditions, August
14 2009. And this is also just comments from interested
15 stakeholders. It's definitely not limited to just the
16 agencies, so please be aware of that.

17 The reply comments to the terms and conditions
18 from the Applicant due December 2009.

19 A draft EIS issued July 2010.

20 The comments on the draft, September 2010.

21 And the final EIS issued April 2011.

22 MS. WILLIAMS: Okay. I'd like to -- this is Cam
23 Williams, State Water Resources Control Board. I'd like to
24 briefly go over the tentative schedule on the State side.

25 And the application for water quality
26

1 certification came in in September of this past year, and
2 the following month we accepted it for processing.

3 The other key dates coming up is that the --
4 we're going to go forward with an Applicant-prepared EIR
5 next month, in March of 2009, and then the most important
6 date that the public and non-governmental agencies and other
7 agencies should be aware of is May of 2009 we're tentatively
8 proposing to release the draft EIR and the draft water
9 quality certification.

10 And the State Water Resources Control Board has
11 decided to use the CEQA public process to release the draft
12 water quality certification to provide the opportunity to
13 the public, to agencies, to non-governmental agencies --
14 organizations to see if there's anything that we may have
15 missed in our conditions, in our certification to make sure
16 that it is adequately protective of water quality. And that
17 will be the key opportunity for these other entities to
18 provide the comments.

19 So I would strongly encourage that you stay wired
20 into our schedule, you know. We're going to try to be
21 aggressive and stick with that, but please provide us
22 comment because we have the opportunity to put in conditions
23 that will be incorporated into the FERC license that are
24 protective of different aspects of the environment.

25 Once we receive comments, under CEQA we've got to
26

1 provide comments, and so we'll be pretty busy responding to
2 comments for the record and then the final, which will be
3 incorporated into the final EIR, and any changes that we
4 think we need for conditioning in the water quality
5 certification and that would follow in September of 2009.

6 And that's our schedule, tentatively.

7 MR. TURNER: This is David Turner again. I was
8 going to say this is really your opportunity to tell us if
9 we've missed any issues. It's important to understand so
10 that we understand what kind of record we need to develop to
11 make an adequate licensing decision, so it's critical for
12 you guys to review the information, let us know if there's
13 things we still need to be considering that we've missed,
14 things we've been characterizing that really aren't issues
15 so that we don't waste folks' time and money and energy to
16 develop information to deal with those.

17 And there's a number of opportunities to tell us
18 and you'd be providing the opportunities to tell us. As Kim
19 went through, there's -- right now, it's the scoping, which
20 is the main point. Once we get the application in and we're
21 ready to proceed with our analysis, we'll issue an REA
22 notice. That's another point in time you need to be
23 watching. Give us your comments and recommendations on how
24 you think the project should be licensed or not. We'll
25 issue an EIS that does our analysis and makes
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1 recommendations to the Commission about how it should be
2 licensed. You get a chance to review that, tell us where we
3 missed the boat again. And we'll consider those comments in
4 our final recommendations to the Commission on its licensing
5 decision.

6 So there's a number of opportunities to provide
7 us input, but we're starting early here to try to make sure
8 we have the issues and the information we need to identify
9 and to process this application.

10 MR. BENNETT: This is Mike Bennett with Bureau of
11 Land Management. One of the key issues is the -- is the
12 right-of-way grant. And actually I just talked to Jeff just
13 a little bit this morning. Jeff will be meeting with the
14 BLM Palm Springs, the old office, to basically discuss the
15 grant and also the EIS requirements right there with our
16 staff and that -- including a DWMA, the grant, and various
17 other issues related to the tortoise.

18 So we have not had that meeting as of yet. We
19 just anticipate in having that within the next few weeks.
20 They're moving offices, so it's one of those type of
21 situations, but I think that once we have a chance to sit
22 down with Jeff and his staff, we would like to get back to
23 you and, if we need any other refinements, any other issues,
24 that we would like to bring forth in the EIS.

25 Thank you.

26

1 MR. HARVEY: And if I might just clarify. The
2 DWMA that was referred to is an acronym, D-W-M-A, Desert
3 Wildlife Management Area, and pertains particularly to
4 desert tortoise, does it not, in our area?

5 MR. BENNETT: Yeah.

6 MR. HARVEY: And I believe -- right, the area
7 that our transmission line corridor goes across is -- does
8 cross through the Desert Wildlife Management Area that he's
9 described.

10 MR. TURNER: Under the current alignment, it
11 still does?

12 MR. HARVEY: That's correct.

13 MR. TURNER: Okay. When --

14 MR. HARVEY: To a much lesser extent than it did,
15 but it does.

16 MR. TURNER: It does. When are you planning to
17 talk?

18 MR. HARVEY: We've actually been trying to set a
19 meeting with BLM for two months. They have been very busy
20 with South Coast Air Quality Management District issues and
21 now, with their move -- I've talked to John Kalish, the
22 director of the local office, and of course to Mike as well,
23 so it will be within the next few weeks we would hope to
24 have that meeting.

25 When is your move complete, Mike?

26

1 MR. BENNETT: We're supposedly hopefully out of
2 that office by the end of -- end of this month, so it will
3 probably be the first week of February we should be -- we
4 should be over. Well, I'll get together with you when I get
5 back and talk to the -- talk to staff because I need my
6 biologist and everything, culture folks and all that, too.

7 MR. HARVEY: Excellent. As we've indicated,
8 we're eager to have that pre-application meeting with the
9 Bureau.

10 MR. TURNER: As Kim will probably point out in
11 the next slide, the comment date for scoping input is really
12 February 16th for us, so we can incorporate those issues to
13 the extent you can. This thing's moving along pretty
14 quickly, but that doesn't mean that it's completely set in
15 granite. As things crop up and information is developed
16 between you guys, please just put it in on the record and we
17 can continue to develop it as the application goes along.
18 But we'd like to get at least the issues defined at this
19 point, so if you get a chance to file by that February 16th
20 date, it would be great, in terms of filing your comments
21 and your concerns about the BLM process.

22 MS. NGUYEN: And if you need -- this is Kim
23 Nguyen. If you need an extension, just file a letter with
24 us saying that you need one and we'll probably give it to
25 you, so --

26

1 MR. HATHAWAY: Kim, this is Merrill. I've got to
2 bow out, okay? Goodbye to everybody.

3 MS. NGUYEN: Thank you, Merrill.

4 MR. HATHAWAY: Okay.

5 MS. NGUYEN: Anything else?

6 MR. COOK: Taking comments now?

7 MS. NGUYEN: Yes, please.

8 MR. COOK: All right. I'm Terry Cook. I'm the
9 vice president of Kaiser Eagle Mountain, LLC and of Mine
10 Reclamation, LLC, so I'm speaking on behalf of both
11 companies, just so you're aware. And I'm sure you're aware
12 of Kaiser and our Mine Reclamation at this point, given the
13 history of the project.

14 As you know, Kaiser owns or controls the Eagle
15 Mountain site. We own or control approximately 10,000 acres
16 out there. And Mine Reclamation is the developer of the
17 landfill project out at that site. Those lands are
18 essential to the Eagle Crest Proposed Pumped Storage
19 Project. But those lands aren't for sale and Eagle Crest
20 currently does not have access to the site. And, obviously,
21 the grant of a preliminary permit by FERC does not grant
22 them access to the site.

23 And as I'm sure you're aware by now, the Eagle
24 Mountain Landfill Project consists of about 6400 acres of
25 that site and it is under contract to be sold to the Los
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1 Angeles County Sanitation District.

2 Obviously, there's been a lot of time and money
3 invested on that project. Approximately \$80 million has
4 been invested in that project and I've been in Kaiser for 15
5 years and it's been longer than my lifetime at Kaiser in
6 that particular project.

7 The Bureau of Land Management and the Riverside
8 County produced a joint EIS/EIR and that administrative
9 record is over 50,000 pages. It includes a 900-page draft
10 EIR/EIS and a 1600-page final EIR/EIS. And as I'll discuss
11 in more detail below, we believe that the project is
12 completely incompatible with the landfill project.

13 I want to commend the Commission and State Water
14 Board because you've addressed a lot of the items we think
15 are going to need to be addressed. So my comments are
16 really going to be more general in nature. Obviously, I'm
17 going to put a detailed comment letter by the deadline or,
18 if we need an extension, we'll request an extension.

19 But I think it's valuable to put in context this
20 particular project. As you've heard, ECEC, which is the
21 acronym for Eagle Crest Energy Company, first became
22 interested in the pumped storage project probably around
23 1989, 1990. They filed a first preliminary permit with FERC
24 in 1991. FERC -- or ECEC is now in its fourth or fifth
25 preliminary permit -- I've lost track -- so this project's
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1 been kicking around for nearly 20 years. So I -- I myself
2 need to step back and we think everyone needs to step back
3 and say, Is this project really a viable project or has this
4 preliminary process been used and perhaps, frankly, abused,
5 as a placeholder for something in the future?

6 Kaiser's intervened in the FERC process and has
7 made past filings in expressing its questions and concerns
8 regarding the past proposed pumped storage project and will
9 continue to do so. There are a lot of questions and
10 concerns, many of which you've already identified,
11 concerning the environmental matters, resource matters,
12 economic matters, engineering matters, compatibility of the
13 project to the landfill that remain unanswered and have
14 remained unanswered for years.

15 You know, it's been -- it's also interesting to
16 note to me that I don't believe a pumped storage project has
17 been built in the United States in over 25 years. The
18 reason is the economics just simply don't work. And I don't
19 think they'll work again here in California.

20 In addition, I want to point out that ECEC really
21 hasn't sought to forward off its proposal through a
22 collaborative process, at least with Kaiser and the Los
23 Angeles County Sanitation District to date. There may be
24 historical reasons for that and we respect Mr. Lowe, but
25 has not been an effort on that. For example, FERC's visit,
26

1 we weren't even asked about a possible site visit and so we
2 had to say no to that on short notice.

3 So I want this opportunity to at least make a few
4 general comments and correct a few things that perhaps have
5 been said and -- just a few things.

6 First of all, who's from Washington, D.C.? If I
7 postpone this meeting now till Monday, you'd be stuck here
8 over the weekend. That would be a shame but, you know,
9 that's just one comment I would make.

10 Just so you know, we do have a number of concerns
11 and there are really five general categories:
12 Incompatibility with the landfill, huge, huge item;
13 development resource impacts; water resource impacts;
14 wildlife impacts; cumulative impacts, and we have a number
15 of miscellaneous other concerns, and of course we'll detail
16 those in our comment letter.

17 First, incompatibility with the landfill. As has
18 been discussed in previous comments, the design,
19 construction, and operation of ECEC's proposed project is
20 incompatible or incompatible with the landfill's approved
21 design operation. It was interesting to note in the meeting
22 last night, Mr. Harvey acknowledged that already some of the
23 facilities are being -- at least some of the ancillary are
24 being changed because of conflicts in the landfill project.
25 Just today, he mentioned that the possibility of using the

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1 fine tailings for possible grouting, if I understood him
2 correctly, for the -- for the reservoirs, but those fine
3 tailings are already dedicated for landfill liner, which is
4 what? -- ten feet thick, at least?

5 MS. COOK: Twelve.

6 MR. COOK: Ten to 12 feet thick. So resources
7 they plan on using already conflict with the landfill, even
8 a minor issue such as that, which really isn't minor because
9 of the problems involved.

10 So we believe it is incompatible. As Mr. Harvey
11 said, we believe it's compatible. We've been waiting for
12 the studies that have been promised to show that it is
13 compatible, so those have to wait and see. But based on the
14 information provided to date, it is not currently
15 compatible.

16 Additionally, one just has to step back and say,
17 Does this make common sense? One must ask -- why would you
18 put all this water next to all this municipal solid waste.
19 Generally, solid waste and water do not mix. With seepage
20 and other concerns, it just doesn't make sense. But those
21 are issues which will be prudently analyzed, I'm sure, and
22 I'm sure we'll have extensive comments on the analyses that
23 are performed.

24 Also, adverse impacts on the development process
25 is another key concern. It must be recognized that while
26

1 ECEC's trying to fly under the banner that this is a green
2 project, it really is not a green project. I don't think it
3 -- I don't think it meets the current standards for
4 renewable projects in the State of California. And so
5 they're obviously going to have to study very closely the
6 need for the project and how it fits into the power grid and
7 how it is related to other projects, solar projects, the
8 LEAPS Project, which is the Lake Elsinore Advanced Pumping
9 Storage Project, which is very far along in the process,
10 which is another pumped storage project. But the fact is
11 that ECEC acknowledges that this project will use more
12 energy. It tries to explain itself that this is off-peak
13 power, but yet there has to be studies to see if that really
14 is available, sources of that off-peak power.

15 Again, they try to fly the banner that it's a
16 green project but it might use wind power, which is
17 generally available at night. And yet they failed to
18 identify the sources of that wind power and other green
19 power sources that would be used to power that project.
20 More likely than not, off-peak power will be generated often
21 by fossil fueling, fossil burning emission plants. So the
22 sources of off-peak power and the project's impact on
23 greenhouse gases must be reviewed, which is one of the items
24 that's already been mentioned in the scoping sessions.

25 So the impact on capacity and liability to the
26

1 local and regional transmission systems is required.

2 In addition, the financial analysis will be
3 necessary to look at the project economics relative to the
4 other alternative sources, the need for such projects. And
5 I think you can find abundance of information already in
6 proposed pumped storage projects that they don't pinch a lot
7 unless there's subsidized rate-making involved.

8 Obviously, the next major impact is water
9 resources impacts, which has been talked about a lot but --
10 and I don't need to belabor the point -- and it's difficult
11 to analyze these impacts with the lack of information and
12 the failure to have an adequate project description. We
13 keep getting promises they may be here, they may be there.
14 One of the critical things that is lacking here is an
15 adequate and complete project description because comments
16 are required on what a complete project description is. So
17 they really haven't identified the exact location of
18 sources, where they hope things -- and things, frankly, keep
19 changing, such as the transmission line. That's to be
20 expected, but we have to have a set project that we can
21 focus upon.

22 So groundwater. In their draft application, they
23 acknowledge that groundwater supply hasn't really been
24 identified. They hope to be able to acquire suitable lands
25 for purchase and so forth.

26

1 In addition, I want to highlight -- which was
2 mentioned last night -- the proposed rule of the Bureau of
3 Reclamation. This in itself may be a fatal flaw to the
4 project, the Bureau of Reclamation rule and the impact of
5 water in the Chuckwalla Basin on some of these wells. So
6 that will have to be something that's certainly analyzed and
7 I would suggest it be done quickly because that could be
8 ultimately a very fatal flaw.

9 So the questions are: Is there sufficient water?
10 It's clear there will be necessary water fill to continually
11 refill the reservoirs and obviously that's going to be --
12 the impacts to local supplies will have to be studied,
13 assuming that can be done.

14 The project also has risk of seepage, subsidence,
15 in other related water land use projects in the area,
16 particularly impacts to Metropolitan's Colorado River
17 Aqueduct is primary concern, as well as the greener
18 Chuckwalla Valley and Groundwater Basin.

19 There's obviously the wildlife and habitat
20 concerns. It struck me with interest the proposed schedule
21 for the EIS/EIR. They are very aggressive and I think,
22 frankly, are unduly optimistic. And just from practical
23 experience in dealing with the landfill project, for
24 instance, we were required to do two years of biological
25 monitoring before we could release the EIR/EIS for the

26

1 desert big horn sheep. So just as a practical point, you
2 might want to get those things locked up first because there
3 could be some very long lead time if the agencies make you
4 do required monitoring so you can have accurate description
5 of the impacts and possible mitigation.

6 So ours was what? -- two years? -- two years
7 required lead time on some of these issues. So that's not
8 being critical. It's just being realistic on what may be
9 required.

10 Obviously, the biological studies will have to
11 study the habitat, the entire project, including the areas
12 surrounding the water wells, the route of the transmission
13 lines, such as the BLM has discussed, the route of the water
14 line and it also has to look at migration corridors as well
15 as habitat which would be very critical, particularly for
16 the desert tortoise.

17 Obviously, it's already been mentioned that the
18 introduction of a large body of water in the desert produces
19 some unique study challenges and some unique questions and
20 impacts. You also need to address the areas of potential
21 attraction of predators, putrefaction, putrefaction of the
22 introduction of nutrients in an otherwise rendered
23 environment which the water was produced, the new artificial
24 wetland habitats, impacts to migratory water fowl, which has
25 already been mentioned, the cumulative and -- and the

26

1 cumulative biodiversity impacts.

2 The brine ponds have been mentioned. Those could
3 truly be an attractive and deadly nuisance to migratory
4 water fowl.

5 So, obviously, all these mitigation measures will
6 need to be discussed in detail, and we understand that
7 situation.

8 Overall cumulative impacts. Obviously, the
9 conflict with the landfill would be a cumulative impact. If
10 for some reason FERC should decide there's a preference of
11 this project over the landfill project, obviously a
12 cumulative impact analysis would need to examine where
13 municipal waste would go if not to Eagle Mountain, which is
14 a cumulative impact which has not been mentioned today.

15 Beyond a study, the cumulative impacts associated
16 with the landfill, ECEC should study the cumulative impacts
17 associated with the other planned projects, including a
18 substantial number of solar projects in the area which I
19 think was mentioned today.

20 There are, as the BLM knows, thousands and
21 thousands of acres proposed for solar projects.

22 There are some other matters that should be
23 considered. Obviously, there will be significant
24 acquisition of service damages associated with the
25 acquisition of the Eagle Mountain property and business

26

1 interests, whether owned by Kaiser and/or the Los Angeles
2 County Sanitation District. I'm not even sure how ECEC can
3 prepare an adequate application without access to the site.

4 And then excessive alternatives, they also must
5 scrutinize the project's economics and have real costs
6 associated with the project, the acquisition of the fee
7 ownership as opposed to the very inadequate assumed amounts
8 currently in the financial projections.

9 There's a few other things that came up in the
10 course of what I've heard. Again, I want to point out we
11 need an accurate and complete project description. Things
12 keep changing, and I understand they do change. But we
13 can't be too heavy on this. And so we need to have a
14 complete and accurate --

15 It was mentioned that the mines were depleted.
16 That is incorrect. There's plenty of iron ore there. The
17 steel mill went out of business for lots of reasons but it
18 wasn't for the lack of iron ore. So one of the resource
19 impacts you need to look at is the impact on the mineral
20 resources. The State has a Section 36 mineral interest up
21 there. That all has to be looked at.

22 In addition, Kaiser on just a portion of the
23 property has 158 million tons of rock that's basically sort
24 of been stockpiled and you need to determine what access
25 will be limited to that resource. Kaiser does have mining
26

1 operations out there in shipping the rock and reclamation
2 activities. So all those impacts will need to be analyzed.

3 It's going to be a very long road for the
4 project. Again, I question whether it's currently really a
5 viable project. We believe it truly is incompatible with
6 the landfill, so we'll anxiously await the studies that
7 we've been waiting for for 20 years to see that it is
8 compatible, supposedly.

9 But we believe that there are inconsistencies
10 with the project and some fatal flaws in the project.

11 Let's see. What else? That's it for the moment.
12 As you would expect, we'll have an extensive comment letter
13 which we'll file.

14 MR. TURNER: I've got a couple follow-up
15 questions.

16 MR. COOK: Okay.

17 MR. TURNER: You've raised a number of real
18 legitimate concerns that I think we've captured in our
19 scoping document.

20 MR. COOK: I think many you have. Yes.

21 MR. TURNER: Please let us know what we didn't.
22 One, you make a good point about adding information based on
23 site access. The Commission will be making decisions based
24 on what we have before us. We obviously don't have the
25 authority under the preliminary permit to require or give
26

1 the rights to an applicant to go out and gather data where
2 they don't have access to those lands.

3 So that's just kind of a head's up. If they
4 can't do it, we'll do -- we'll have to base our analysis and
5 our decisions based on the information before us.

6 MR. COOK: Well, I understand that.

7 MR. TURNER: And so if they don't have access,
8 the -- part of your questions may be simply that it's based
9 on less than perfect information.

10 MR. COOK: Well, it may be based on inaccurate
11 information; for instance, some of the (indiscernible) back
12 here don't accurately reflect the situation. They're more
13 than 20 years old, 30 years old.

14 MR. TURNER: I would encourage you if that's the
15 case and there's more information on which you want us to
16 base that decision, put that in the record for the
17 Commission to consider.

18 MR. COOK: We'll supply it.

19 MR. TURNER: The other question I have is you
20 suggested that you still have mining operations ongoing
21 there or in the sense of the stockpile; did I understand
22 that?

23 MR. COOK: Yeah. We ship rock from there. It's
24 not huge quantities, given the market and the collapse of
25 the building market, given the distance from the market but,
26

1 yes, shipment of rock occurs.

2 Now, when I say "mining," there's no active iron
3 ore mining where there's blasting and stuff. No. But the
4 shipment of rock is considered mining and we have
5 reclamation activities.

6 MR. TURNER: And those stockpiles are relative to
7 this project and to the landfill are where?

8 MR. COOK: They're all throughout -- they're all
9 throughout the site.

10 MR. IVY: Is that the tailings?

11 MR. COOK: Well, a lot of it is the overburden
12 that was excavated. So, for instance -- for instance, I
13 know we had an independent evaluation and stuff that's not
14 part of the landfill project. There was 158 million tons
15 above surface that's just sitting there. And there's
16 potentially huge rock activity. For instance, if there's
17 ever a Salton Sea restoration project, you know, we already
18 asked if they had potentially 20 million tons of rock.

19 So the potential there and how it may impact
20 other projects is huge, potentially. I don't know the
21 answer to that.

22 MR. TURNER: I guess I'm trying to envision where
23 is that information source that the Commission would be able
24 to --

25 MR. COOK: We'll provide it.

26

1 MR. TURNER: You'll provide it in the sense of
2 how that fits into the schedule for the landfill and your
3 operations there and --

4 MR. COOK: We'll do the best we can. The problem
5 is, again, we need a specific project description on what's
6 going to impact and how the operations may impact on access.

7 MR. TURNER: But can you not provide us the
8 information on where your plans are going for that area?

9 MR. COOK: For which area?

10 MR. TURNER: For the landfill, for the --

11 MR. COOK: Oh, yeah. I mean, like I said,
12 there's already a 50,000-page administrative record on the
13 landfill.

14 MR. TURNER: I guess -- I understand what you're
15 saying. You needed to understand how to comment. But if
16 you don't get it in a timely fashion -- the information I'm
17 encouraging you provide the Commission is to say, Here is
18 where we have all of the stockpiles. Here's where we
19 envision extracting that if and when we need to use those
20 stockpiles. So we can see it out --

21 MR. COOK: It often depends on the market, the
22 type of rock desired, if it's rip-rap, what size, where,
23 cost of transportation. It's kind of up in the air. So it
24 would be really helpful to have a project description, their
25 activity, to kind of know where we're going to be precluded
26

1 from.

2 I guess on the site visit, they mentioned the
3 railroad was abandoned yesterday. That's not correct. The
4 railroad's not fully usable because of a flood. But the
5 railroad is still used. In fact, we have a locomotive up
6 there that we do a lot of repairs and things like that, so
7 -- yes?

8 MS. WILLIAMS: We'd like to ask you a question
9 about your concerns about the addition of water in the
10 surrounding two reservoirs with the landfill cells being in
11 the center and what exactly would be your concern with the
12 seepage? My position, looking at this as a hydrogeologist,
13 and being familiar with Title 27 requirements and having
14 worked at landfills, is I understand what the state requires
15 for protection of groundwater seepage losses. And that's a
16 concern if we're going to be putting water in abandoned mine
17 pits. But one of the mitigation measures that we're
18 insisting on is an extraction well gallery on the down
19 gradient side that would collect any potential seepage. And
20 if that being the case, with the landfill cells being in the
21 center, any -- if the double liner leachate collection
22 system that's required for the landfill fails, and I'm not
23 exactly familiar with whether there's an extraction well
24 field required for the landfill, but certainly there's an
25 opportunity for a marriage there if you put two extraction
26

1 well fields.

2 So, you know, I really don't understand from a
3 technical perspective what would be the concern there if
4 you've got an extraction well field down gradient.

5 MR. COOK: Well, I'm not an engineer. I'm not an
6 engineer. We have to get the engineers out there.

7 MS. WILLIAMS: Okay. But I'm just -- I just
8 wanted to point this out to you, sir, as, you know, it's an
9 issue for you.

10 MR. COOK: Yeah.

11 MS. WILLIAMS: And I'm just saying at first
12 glance I don't understand it.

13 MR. COOK: Well, part of the concern was the
14 seepage from the side slopes and the stability of the slide
15 slopes on the line, not necessarily -- that's one of the big
16 concerns.

17 MS. WILLIAMS: You're talking the fractured --

18 MR. COOK: Right.

19 MS. WILLIAMS: -- fractured bedrock more so than
20 seepage from the lower reservoir which we're, you know, very
21 concerned about into the alluvium where the groundwater
22 supply is.

23 MR. COOK: Correct. Correct.

24 MS. WILLIAMS: Okay.

25 MR. COOK: If it's in the lower reservoir, it's
26

1 generally past. But in the upper reservoir, it's not. It's
2 right in between there.

3 MS. WILLIAMS: Right. Okay.

4 MR. COOK: So -- but I -- trust me, we have lots
5 of people we pay thousands of dollars to that will look at
6 it.

7 MS. WILLIAMS: Oh, I understand. But that would
8 help, you know, in your comments just to be really explicit
9 about the -- that incompatibility of the water with the
10 landfill going in and potential seepage losses because I
11 wasn't quite understanding.

12 MR. COOK: Let me ask you: Will this transcript
13 be available?

14 MS. NGUYEN: Yes.

15 MR. TURNER: It will.

16 MR. COOK: How soon?

17 MS. NGUYEN: Well, if you'd like to purchase it
18 from them, as soon as Mike gets done transcribing or
19 recording. But for our purposes, I mean, once they're done
20 with that, we at FERC have -- get a copy, a first look at
21 it, go over it, see if we have any corrections to be made,
22 and then it gets filed.

23 MR. TURNER: It's usually in about --

24 MS. NGUYEN: Two weeks I would say.

25 MR. TURNER: Yeah, two weeks, ten days, two
26

1 weeks.

2 MS. NGUYEN: Right. But if you want it before
3 then, --

4 MR. COOK: Two weeks? So before the comment
5 period is over, obviously.

6 MS. NGUYEN: Yes.

7 MR. COOK: Okay. That's probably good enough.
8 One other thing I want to mention, that all the addresses
9 you're using for us, you have an incorrect suite number. It
10 should be Suite 480 and not 850. Unfortunately, our mail
11 does not often get there with an incorrect suite number
12 because there's no such suite number anymore, so if you
13 could just make a note of that and make that correction to
14 all the mailings.

15 MS. NGUYEN: Address from within the scoping
16 document is from our official service list. So if that's
17 incorrect, then I -- I mean, I suggest --

18 MR. COOK: It is.

19 MS. NGUYEN: I suggest you e-mail our FERC
20 Subscription people, and I can get you the e-mail address
21 for that, and just tell them to make that correction.
22 Because that has to officially be done by you.

23 MR. COOK: Okay. We haven't been there for like
24 six or seven years.

25 MR. HARVEY: May I address two comments?
26

1 MS. NGUYEN: Yes.

2 MR. HARVEY: One, the adequacy of -- or our
3 access to the site that was discussed. It is true we do not
4 presently have access to the portion of the project that
5 includes the reservoirs and of course the underground works
6 we would have never had access to anyway. So we're really
7 talking about the reservoirs.

8 We have had access to those sites in the early
9 '90s and there were investigations that were done that we
10 were still able to draw upon that were utilized here.

11 We also have a wealth of information,
12 environmental information, based on the environmental
13 investigations that were done for the landfill and all of
14 that documentation we've been able to draw upon, and of
15 course we're able to use current aerial photography to
16 augment and verify our understanding about that site. Those
17 sites are also not sensitive for wildlife or for cultural
18 resources. So in terms of getting people out on the ground
19 to look at those reservoirs sites, specifically we
20 understand about big horn sheep and we understand about
21 ravens and other things being attracted to the water bodies,
22 but those aren't things that you need to go out and scour
23 the existing mining pits to make analysis of.

24 So while we don't have access to those sites, we
25 certainly have a complete ability to do the environmental
26

1 assessment of the issues that will pertain to cultural and
2 biological resources for those sites and we have a very
3 reasonable understanding of geology and the structures that
4 we're dealing with out there to get us through the license
5 process and then at final engineering, of course, we'll have
6 to go out and determine where we have fissures and cracks
7 and what we need to do for grouting and seepage control.
8 But those analyses can be done right now without having
9 access to the site with the wealth of information that is
10 already available.

11 And the second thing I'd like to ask if -- Mr.
12 Cook mentioned that 20 years ago and the landfill has been
13 in process for 20 years as well, it would help us very much
14 in our finalizing our analysis of compatibility between our
15 project and their project to understand what is the status
16 of the landfill and what is the -- and whatever bonding
17 activities, as you requested, and, for example, what is the
18 timing that they would expect to start development of the
19 landfill and to actually be placing solid waste there, what
20 kind of phases and maybe what are the initial preparation
21 actions that go along with that timing so that -- what we
22 want to understand if the landfill is going to begin
23 development concurrent with our timing or that we're
24 envisioning for construction of our project, then that's
25 part of what we need to figure out for compatibility. If
26

1 they're five years or two years or however many years after
2 or before, then that affects our analysis of compatibility
3 as well. So it would help us very much to understand the
4 current status of the landfill and what kind of timing for
5 development of that.

6 MR. COOK: I can answer part of that question.
7 The other part of the question needs to be responded to by
8 the Los Angeles County Sanitation District because they will
9 be the owner and the operator of the landfill so it will be
10 up to them on timing as to construction.

11 The only thing I can relate to you is the
12 Mesquite Landfill Project, which they also purchased, and
13 they, once they purchase it, begin immediate construction to
14 do that. It was like two or three years of construction. I
15 think it's now open, not for rail haul, but I believe it's
16 open for trash. So that's something you'll have to direct
17 to them since we're not going to be the builder of the
18 landfill project. Los Angeles County Sanitation District
19 is.

20 And as far as the status, we're in litigation
21 before the Ninth Circuit Court of Appeals. The landfill
22 project has received all of its permits, received all of its
23 federal approvals, received all of its state and local
24 approvals. It was challenged at the state level under the
25 CEQA. That went to the California Court of Appeals, which
26

1 we were successful in overturning the lower court. The
2 lower district court, federal district court, found against
3 us on the BLM portion of the land exchange. We had our
4 hearing on December 6th of 2007, so we're awaiting a
5 decision at any time. Frankly, we're very optimistic about
6 it, if you were at the court hearing, from what the judges
7 said about the -- about the case.

8 So that's where it's at. It's been in litigation
9 for 15 years, longer, and this will probably be about the
10 final case, but we're confident that it will be resolved in
11 our favor.

12 And once that proceeds, there will be a closing
13 with the Los Angeles County Sanitation District and then
14 they will own the property and -- and the experience with
15 Mesquite was they began construction immediately once they
16 closed on it.

17 MS. NGUYEN: I'm sorry. What was that?

18 MR. COOK: They -- it's my understanding they
19 immediately began construction on the project, which I've
20 heard they spent over a hundred million dollars in preparing
21 the site. You probably know more than I do about that, so
22 --

23 MS. WILLIAMS: Only via the Regional Board.

24 MR. COOK: Okay.

25 MS. WILLIAMS: It was a big price tag. And I
26

1 just want to confirm my experience that it does take a
2 couple years to build the cells to the line or leachate
3 collection system. But once that's in place, then they can
4 immediately start receiving the --

5 MR. HARVEY: May me ask one final point of
6 clarification? Mr. Cook, you indicated that the landfill
7 project is fully permitted. It's my understanding, and
8 perhaps my confusion, that all of those permits are
9 contingent upon the landfill so that none of those permits
10 are actually final and that some of those permits had dates
11 on them that have now passed. Is that correct or is that
12 confusion with what I'm reading in the record?

13 MR. COOK: A little bit of confusion. All the
14 permits were granted. All those are being renewed. The
15 only one that I know of that may have lapsed that there's a
16 question where you need one now is a 404 permit. All the
17 air permits and everything else is renewed. But, because of
18 the current status of the landfill litigation, they're not
19 invalid but they're in effect held in abeyance because you
20 don't have a project until the litigation's resolved.

21 MR. HARVEY: Thank you.

22 MS. NGUYEN: Anything else?

23 MR. DYOK: I'm wondering if we can ask the BLM
24 representative where they are on the programmatic EIS for
25 the solar projects as we're going to be looking at the
26

1 cumulative impacts. If we could get a sense on the status
2 of that?

3 MR. BENNETT: The programmatic is being -- it's
4 been scoped and it's with the state and with the electric
5 consultant. California, for the sake of basically all the
6 solar projects we've got, we're still figuring out what to
7 do because right now, as has been mentioned, I've got
8 127,000 acres under applications from Desert Center to
9 Blythe and all the other field offices we have in Southern
10 California -- I guess it's pretty close to half a million --
11 so we have a lot of work to do yet to get these things
12 going.

13 MS. NGUYEN: Is there anything else? I have one
14 comment I'd like to put on the record, and this is from the
15 representative from the Fish and Wildlife Service on our
16 site visit yesterday. And I'm helping out here, Jeff,
17 because I know we discussed this at our site visit that I
18 think we were possibly going to look into tapping into the
19 existing transmission line possibly for the new transmission
20 line corridor because there's an existing transmission line
21 there, but there might be an engineering issue associated
22 with that; is that correct?

23 MR. HARVEY: It's correct that the question was
24 raised by the representative -- I don't remember Tanika's
25 last name -- but the representative from U.S. Fish and
26

1 Wildlife Service whether or not we could tie our
2 transmission lines to the existing Metropolitan Water
3 District 230KV towers and simply run our transmission out
4 that way. I explained to her that just by engineering
5 design, those 230 kilovolt towers are holding all of the
6 wires that they can hold and that we have a much larger
7 transmission, 500 kilovolt transmission system, that
8 actually takes us another route in addition. So there would
9 be no way to simply tie our wires onto their towers
10 structurally. It would be wonderful if it could happen but
11 that's not the way it works, unfortunately. We have to have
12 our own towers for -- and we also need to have the full
13 amount of power. Our transmission lines are going to be
14 fully committed for our project's needs for generation out
15 and for pumpback power in.

16 So, unfortunately, there is not an opportunity
17 for us to share those towers in engineering design. Thank
18 you.

19 MR. IVY: I'd like to add to that. There's a
20 further question she asked about if you could build a new
21 tower in the same spot since you have to build new towers
22 anyway. That might be able to accommodate both.

23 MR. HARVEY: Good point. That was her follow-up
24 question, was could we simply replace Metropolitan Water
25 District's towers with our towers and put their wires on our
26

1 towers and that we would still only have one line. Again,
2 not really feasible from an engineering standpoint. For one
3 reason, again, the route that their line takes is to go into
4 the Julian Hine Substation, their Hayfield Pumping Station,
5 and then on to the Devers Substation here in the north end
6 of the wind farm. Our transmission route is very different
7 to interconnect to the regional grid as the system has to
8 function.

9 And the other factor is that those lines are in
10 use -- the Metropolitan Water District's lines are in use
11 and the only way you'd be able to construct our towers and
12 put their lines there would be to put their towers -- their
13 lines, excuse me -- for some period of time out of use and
14 interrupt their service and they rely upon that as a
15 constant need, not something that's interruptable power, so,
16 again, from an engineering standpoint, just not a feasible
17 solution.

18 But we wish it was. It would make our lives
19 easier to have -- to be able to double up on someone else's
20 system like that.

21 MR. IVY: Thank you.

22 MS. NGUYEN: So I guess the only parallel is that
23 it's existing line for a while and not the entire 12-mile
24 corridor?

25 MR. HARVEY: A very short section. In fact, then
26

1 we cross them and we follow the roadway corridor rather than
2 their transmission corridor. That's correct.

3 MS. NGUYEN: Thank you.

4 MR. HARVEY: Thank you.

5 MS. NGUYEN: Anything else from BLM?

6 (No response.)

7 Hearing nothing else, I guess that's it for us.
8 We'll adjourn the meeting and I'd like to thank you again
9 for coming and for participating and we look forward to
10 getting your comments and going forward. Thank you again.

11 MR. HARVEY: Thank you.

12 (Whereupon, at 10:36 a.m., the scoping meeting
13 was adjourned.)

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13.7 – Comments Received During Scoping Comment Period



IN REPLY REFER TO:

SCAO-1500
ENV-7.00

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United States Department of the Interior

BUREAU OF RECLAMATION
Southern California Area Office
27708 Jefferson Ave., Suite 202
Temecula, CA 92590-2628



MAR 17 2009

2009 MAR 24 A 9:53

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

Ms. Camilla Williams
Division of Water Rights
State Water Resources Control Board
1001 I Street, 14th Floor
Sacramento, CA 95814

Subject: Eagle Mountain Pumped Storage Project (P-13123-000), Riverside County,
CA Comments on Scoping Document 1 (ER 09/06)

Dear Honorable Bose and Ms. Williams:

Bureau of Reclamation (Reclamation) staff have reviewed the subject scoping document. The following comments are provided for the purpose of providing informal technical assistance to the Federal Energy Regulatory Commission, and do not represent the views and comments of the Department of the Interior.

- a. Control Number: ER 09/06, FERC No. 13123-000
- b. Introduction: The applicant proposes to create a 1,300 MW pumped-storage hydro-electric generating facility using a former hard rock quarry site at Eagle Mountain, Riverside County, California. Water for the project would be supplied by groundwater wells in the Chuckwalla basin. The initial fill may require 25,000 acre-feet over a 2-year period, with 2,500 acre-feet per year thereafter to offset evaporation and percolation losses.
- c. General comments: The proposed groundwater wells are within the boundary of the Colorado River aquifer as defined by U.S. Geological Survey Water Resources Investigations Report Number 94-4005. Reclamation may have jurisdiction over the groundwater pursuant to a proposed rule published July 16, 2008 (73 Federal Register 40915-40932).
- d. Detailed Comments: The Secretary of the Interior, acting through Reclamation, is responsible for managing beneficial use of Colorado River water under a legal framework known collectively as "the Law of the River" and, in effect, is the Water Master for the Colorado River.

The Consolidated Decree of the United States Supreme Court in *Arizona v. California*, 547 U.S. 150 (2006) requires the Secretary to provide complete, detailed, and accurate records of consumptive use of water extracted from the mainstream of the Lower Colorado River, including groundwater.

The Chuckwalla basin is within the accounting surface portion of the Lower Colorado River aquifer. The accounting surface elevation in the area of the project is currently defined at 238 to 240 feet above mean sea level, vertical datum of 1929, and represents the water table of the river aquifer that would exist if the only source of water to the aquifer were the river. The elevation values of the accounting surface were recently updated in U.S Geological Survey Scientific Investigations Report 2008-5113 available at <http://pubs.usgs.gov/sir/2008/5113/>.

The following criteria will be applied to determine whether wells within the accounting surface portion of the river aquifer will be considered to consume Colorado River water:

- Water pumped from wells within the flood plain is presumed to be river water.
- Wells in the aquifer outside the flood plain boundary with a static (non-pumping) water level less than or indistinguishable from the accounting surface are presumed to yield water that will be replaced by water from the river.
- Wells with a static level above the accounting surface are presumed to yield water that will be replaced by precipitation and inflow from tributary valleys.

e. Summary comments: The scoping document indicates that project effects to groundwater resources will be evaluated in an Environmental Impact Statement/Report. It would be helpful if this evaluation includes a prediction of potential groundwater draw-down in relation to the revised accounting surface elevation.

FERC and the applicant should coordinate with Reclamation to ensure that wells used to fill the reservoir and make up for losses are included in Reclamation's inventory of wells, including the location and static water elevation for each well. This information is necessary for Reclamation to determine if groundwater pumped for the project should be counted against California's State apportionment of Colorado River water at any point during the lifetime of the project.

Reclamation staff are prepared to provide consultative advice regarding our programs, facilities and mission relevant to the proposed hydro-electric preliminary permit. For additional information in the following areas, please contact:

- Environmental: Doug McPherson (Southern California Area Office), (951) 695-5310,
- Water accounting requirements or accounting surface information: Ruth Thayer (Boulder Canyon Operations Office, Water Conservation and Accounting), (702) 293-8426 .
- FERC Coordinator: Donald Bryce (Boulder Canyon Operations Office), (702) 293-8102.

Subject: Eagle Mountain Pumped Storage Project (P-13123-000), Riverside County,
CA Comments on Scoping Document 1 (ER 09/06)

3

Thank you for the opportunity to review this project

Sincerely,

A handwritten signature in black ink, appearing to read 'D. McPherson', with a long horizontal flourish extending to the right.

Douglas S. McPherson
Environmental Protection Specialist

cc: LC-1000, 84-50000

Mr. Shawn Alam
Office of Environmental Policy and Compliance
1849 C Street, NW – MS 2462 – MIB
Washington, D.C. 20240

**MWD**

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

Executive Office

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January 15, 2009

Via E-mail & Regular Mail

Ms. Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E., Room 1A
Washington, D.C. 20426

Dear Ms. Bose:

**Eagle Mountain Pumped Storage Hydroelectric Project,
Project No. 13123-000 – California. Comments on Scoping Document 1**

The Metropolitan Water District of Southern California (Metropolitan) received a copy of the Scoping Document 1 and Notice of Preparation for a Draft Environmental Impact Report (Draft EIR/EIS) for the Eagle Mountain Pumped Storage Hydroelectric project, Project No. 13123-000 (Project). The California State Water Resources Control Board is acting as the Lead Agency under the California Environmental Quality Act and the Federal Energy Regulatory Commission (FERC) is acting as the Lead Agency under the National Environmental Policy Act for this Project, collectively "Agencies." The Agencies prepared the Draft EIR/EIS to utilize two existing mining pits to pump and store water to generate power during periods of high demand on federal land near the town of Desert Center, within San Bernardino County. This letter contains Metropolitan's response to the public notice as a potentially affected public agency.

Metropolitan is a cooperative of 26 cities and water agencies charged with providing a reliable supply of high quality drinking water to 18 million people in six counties in Southern California. One of Metropolitan's major water supplies is the Colorado River that is delivered through the Colorado River Aqueduct (CRA). The CRA consists of tunnels, open canals, and buried pipelines. CRA-related facilities also include pumping plants, above and below ground reservoirs and aquifers, access and patrol roads, communication facilities, and residential housing sites. The CRA, which can deliver up to 1.2 million acre-feet of water annually, extends 242 miles from the Colorado River, through the Mojave Desert and into the Los Angeles basin. The CRA commenced delivery of Colorado River water in 1941.

Eagle Crest Energy Company (ECEC) has contacted Metropolitan regarding this proposed Project, and we appreciate these efforts and look forward to continued coordination on this Project. Metropolitan previously provided comments to the FERC for ECEC's Licensing Process, Project No. 12509 and No. P-13123, in comment letters dated February 11 and

Ms. Kimberly D. Bose
Page 2
January 16, 2009

September 15, 2008, respectively, copies of which are enclosed for reference. Our letters identified Metropolitan's concerns regarding the project's potential impact upon the CRA including water quality, groundwater level, hydrocompaction, and structural impacts. We request that the Agencies evaluate impacts of the proposed Project to Metropolitan's existing facilities that occur within the project's boundaries and propose mitigation measures where appropriate.

Specific comments on potential environmental issues for consideration and incorporation into the Draft EIR/EIS are listed below.

Water Supply Alternative Issue

1. The public notice states that water used to fill the reservoirs may be supplied from and would be transferred through the CRA. As stated in prior comment letters, Metropolitan has reached no agreement whatsoever to enable the project to use CRA facilities for water conveyance.

Water Quality Issues

Due to the Project's close proximity to the CRA, Metropolitan has concerns regarding some of the proposed facilities regards to water quality protection. These facilities include the location(s) of wells for groundwater supply, location of brine pond, and other unlisted appurtenant facilities. Project facilities described in the public notice which may potentially have an adverse impact on the water quality of the CRA (or affect other source water management efforts) include the following:

1. The public notice does not specify the locations of the proposed groundwater supply wells. The Draft EIR/EIS should identify and discuss in further details about the proposed wells and their impacts on groundwater quality. In addition, detailed analyses should be conducted on the impacts of pumping and aquifer water quality.

2. Existing groundwater in the vicinity of the Eagle Mountain Project contains several constituents of concern, including total dissolved solids, nitrates, arsenic, and hexavalent chromium. The Draft EIR/EIS should assess the viability of the reverse osmosis method selected and potential treatment alternatives. Additional analysis also should take place to assess potential leaching of heavy metals from the site and any potential impacts on water supplies traveling through the CRA.

Groundwater Levels, Hydrocompaction, and Structural Impacts to the CRA

1. The Draft EIR/EIS should provide sufficient data to indicate how much groundwater levels may rise from reservoir seepage to evaluate potential structural CRA settlement due to hydrocompaction. This analysis should take into account the extremely low tolerance of the

Ms. Kimberly D. Bose

Page 3

January 16, 2009

CRA for elevation changes. In addition, the Draft EIR/EIS should also identify potential mitigation measures and evaluate the effectiveness of these measures to the CRA.

2. The Draft EIR/EIS should identify the location of the proposed groundwater supply wells and provide sufficient information to assess the likely potential for subsidence and CRA settlement based on groundwater pumping. A detailed analysis regarding the potential for subsidence should be performed.

3. The Draft EIR/EIS should provide a comprehensive water level analysis. This analysis should include a detailed impacts analysis and hydrographs of projected groundwater levels in the vicinity of the CRA. Metropolitan believes that the water level impacts are greater than indicated and are concerned with potential for land subsidence as a result of groundwater withdrawal.

Land Use Issues

Metropolitan is concerned that locating the reservoirs and related storage/pumping facilities near or across the CRA could have a negative impact on Metropolitan's operations, facilities, and right-of-ways. Metropolitan owns extensive property in fee and easement along the CRA and its related facilities. Metropolitan provides the following specific comments on its concerns regarding potential impacts on its facilities and rights-of-way for the Agencies' consideration and incorporation into the Draft EIR/EIS:

1. Metropolitan's CRA conduit was not designed for AASHTO H-20 loading in this area, and any vehicle crossings should be restricted to the existing paved roadways which have protective slabs in place to distribute this loading away from the pipeline. Any vehicle or equipment which would likely cross the conduit as part of the construction operation of the proposed project will need to be reviewed and approved by Metropolitan prior to traversing the CRA.

2. Metropolitan requests that the Draft EIR/EIS acknowledge that neither private nor public entities currently have any entitlements to build over Metropolitan's fee-owned rights-of-way or properties.

3. Metropolitan's facilities and fee-owned or permanent easement rights-of-way should be considered in planning and in the Draft EIR/EIS, and the Project should avoid potential impacts that may occur due to implementation of the Project.

4. Any new facilities arising out of the Project should not impact accessibility to existing facilities or impede the use of existing facilities, including the CRA system, as shown on the map.

5. Development associated with the proposed Project must not restrict any of Metropolitan's day-to-day operations and/or access to its facilities.

Ms. Kimberly D. Bose

Page 4

January 16, 2009

6. Metropolitan must be allowed to maintain its rights-of-way and requires unobstructed access to our facilities and properties at all times in order to repair and maintain our system.

7. In order to avoid potential conflicts with Metropolitan's rights-of-way, Metropolitan requires that any design plans for any activity in the area of Metropolitan's pipelines or facilities be submitted for our review and written approval. Approval of the Project where it could impact Metropolitan's property should be contingent on Metropolitan's approval of design plans for the Project.

8. Detailed prints of drawings of Metropolitan's pipelines and rights-of-way may be obtained by calling Metropolitan's Substructures Information Line at (213) 217-6564.

9. To assist in preparing plans that are compatible with Metropolitan's facilities, easements, and properties, we have enclosed a copy of the "Guidelines for Developments in the Area of Facilities, Fee Properties, and/or Easements of The Metropolitan Water District of Southern California."

10. All submitted designs or plans must clearly identify Metropolitan's facilities and rights-of-way.

Other Issues

1. The Draft EIR/EIS need to identify Metropolitan as an agency whose approval is required.

We recommend the Agencies coordinate with Real Property Development and Management Team, Substructures Team, and others, to facilitate your planning process. Other proposed and future facilities and groundwater supply wells identified should involve all Teams to provide the maximum assistance.

We appreciate the opportunity to provide input to your planning process and we look forward to receiving the Draft EIR and EIS on this Project. If we can be of further assistance, please contact Mr. Mathew Hacker at (213) 217-6756.

Very truly yours,



Foc
Delaine W. Shane
Manager, Environmental Planning Team

BSM/bsm

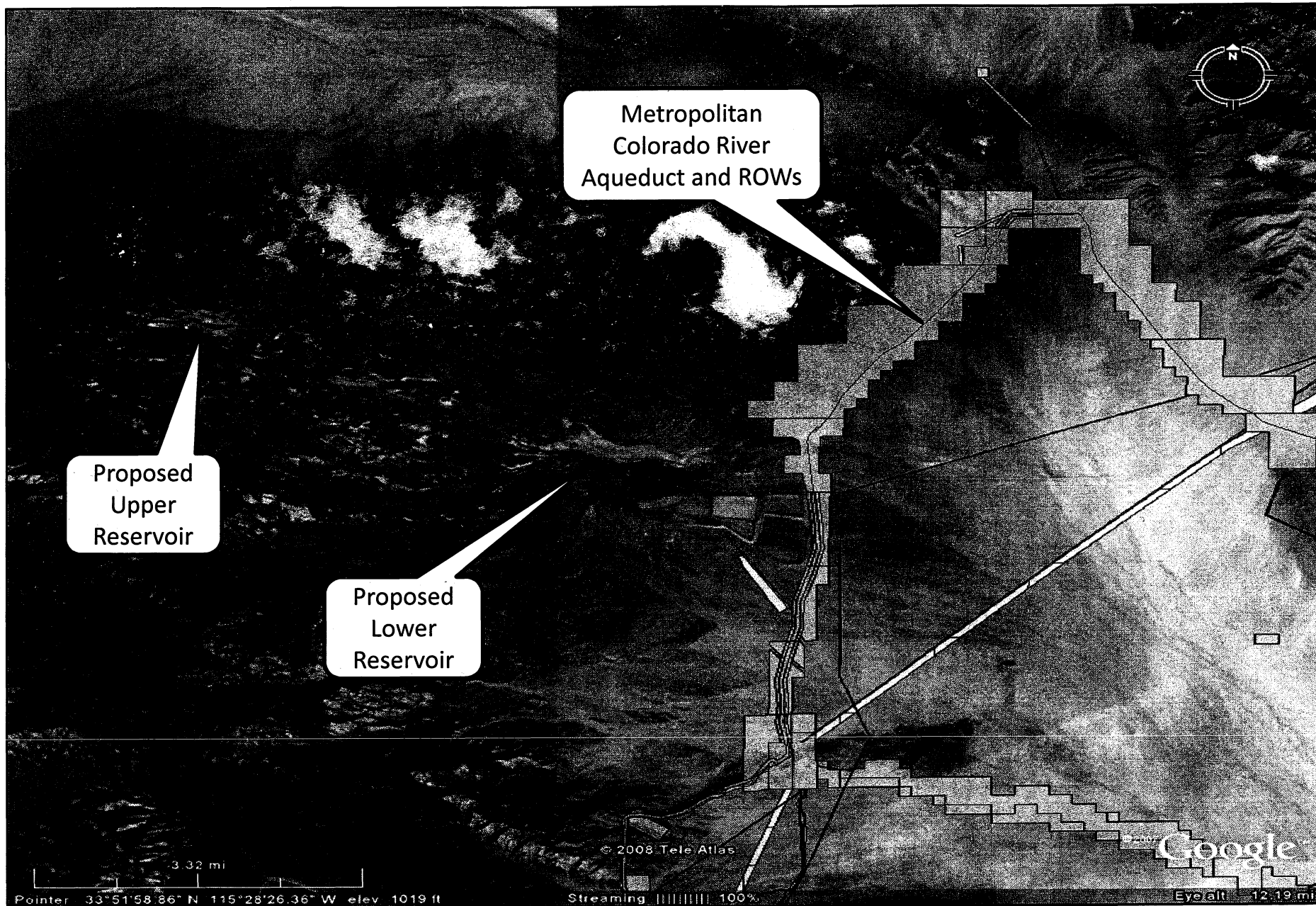
(Public Folder/EPU/Letters/12-JAN-09A.doc - Kimberly Bose, FERC, Eagle Mountain Pumped Storage Hydroelectric)

Ms. Kimberly D. Bose
Page 5
January 16, 2009

Enclosure: February 11, 2008 Letter
September 15, 2008 Letter

cc: Mr. Art Lowe
Eagle Crest Energy Company
P.O. Box 2155
Palm Desert, CA 92261

The Metropolitan Water District of Southern California
and Eagle Mountain Pumped Storage Project, Eagle Mountain, CA



**UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION**

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WASHINGTON, D.C. 20438

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PROJECT NO. 12509-000

**METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA'S
COMMENTS REGARDING REQUEST FOR USE OF TRADITIONAL LICENSING
PROCESS**

The Metropolitan Water District of Southern California ("Metropolitan") respectfully submits the following comments regarding Eagle Crest Energy Company's Request for Use of Traditional Licensing Process for the proposed Eagle Mountain Pumped Hydroelectric Storage Project, FERC Project No. 12509 ("Eagle Mountain Project"). These comments are tendered pursuant to 18 C.F.R. § 5.5.

1. Metropolitan is a public agency created in 1928 by vote of the electorates of several southern California cities. Metropolitan is one of the country's largest wholesale water suppliers, delivering supplemental water for domestic and municipal use to more than 18 million people through its 26 member agencies. Metropolitan's service area encompasses the six county region of southern California (Los Angeles, Orange, Riverside, Ventura, San Diego, and San Bernardino), an area covering nearly 5,200 square miles. Metropolitan supplies an average of 1.7 billion gallons of water per day and more than 2 billion gallons on

a hot day. Over the course of the year, Metropolitan imports on average from 1.5 to 2.1 million acre-feet of water.

2. Metropolitan's imported water is derived from two primary sources: the Colorado River Aqueduct ("CRA") and the California State Water Project ("SWP"). Metropolitan constructed, owns, and operates the CRA, which brings water from the Colorado River into southern California. The second major water supply for Metropolitan is the SWP, which captures and stores runoff from the Sacramento/San Joaquin Delta watershed in northern California and delivers the water to areas of need in northern, central, and southern California. Metropolitan is the largest of the 29 contractors that purchase water through the SWP.

3. Eagle Crest Energy Company ("Eagle Crest") proposes to develop the Eagle Mountain Project as a 1,300 MW pumped storage hydroelectric project consisting of an upper and lower reservoir, intake and outlet structures, a powerhouse, a 500 kV transmission line, and other appurtenant features. Eagle Crest intends to site the development of the Eagle Mountain Project in the Chuckwalla Valley region of Riverside County, California, on land controlled by the Bureau of Land Management and on private property owned by Kaiser Eagle Mountain, LLC. Eagle Crest proposes to fill and replenish the reservoirs with water obtained from dedicated groundwater wells.

4. The CRA lies immediately east of the proposed location for the Eagle Mountain Project. In the past, Eagle Crest sought to obtain Metropolitan's agreement to use CRA water to fill its reservoirs. Metropolitan opposed that request, as such water is required to meet the water supply demands of its member agencies. Moreover, Section 131 of the Metropolitan Water District Act (Cal. Stat. 1969, Chapter 209) precludes Metropolitan from

selling water outside of its service area, unless such sale is made to the federal government or for the purpose of generating electric power which is used directly or indirectly, through exchange, for pumping, producing, treating or reclaiming water for use within the district. The Eagle Mountain Project is located outside Metropolitan's service area, and Metropolitan has entered into long-term power contracts that provide ample electric power for operation of the CRA.

5. Eagle Crest previously obtained preliminary permits for its Eagle Mountain Project, later applying for a hydroelectric license. The Commission, however, denied the earlier application. In June 2004, Eagle Crest again applied to the Commission for a preliminary permit for the Eagle Mountain Project, FERC Project No. 12509. The Commission granted the preliminary permit in March 2005.

6. On January 10, 2008, Eagle Crest filed the following items with the Commission in pursuit of a hydroelectric license for the Eagle Mountain Project: (1) Notice of Intent to File Application for Original License, (2) Pre-Application Document ("PAD"), and (3) Request for Use of Traditional Licensing Process ("TLP Request"). Notice of these filings was published in the January 9, 2008, issue of the *Riverside Press Enterprise*. The publication invited comments on Eagle Crest's request to use the Traditional Licensing Process ("TLP").

7. Because the Eagle Mountain Project involves complex technical issues involving multiple parties, Metropolitan believes the Integrated Licensing Project is more appropriate than the less rigorous TLP pursuant to the factors set forth in 18 C.F.R. § 5.3(c)(1)(ii).

8. Seepage: Eagle Crest proposes to use three feet of fine tailings in the reservoirs to reduce seepage, resulting in an estimated total seepage rate of 600 acre-feet per year. Fine tailings are expected to range from silty sand to clayey silt. Given that the permeability of the tailings proposed may be relatively high even for the proposed sealing material, actual seepage rates likely will require further study. Additionally, analysis of the project will need to address the structural effects of increased seepage on Metropolitan's Colorado River Aqueduct. Increased hydrostatic pressure against the lining of the CRA itself could adversely affect its stability, resulting in potential risks of seepage into the CRA's conveyed water supplies. Hydrostatic pressure is a complex matter that needs further study before approval of the Eagle Mountain Project.

9. Water Quality: Existing groundwater in the vicinity of the Eagle Mountain Project contains several constituents of concern, including total dissolved solids, nitrates, arsenic, and hexavalent chromium. Although reverse osmosis may be appropriate to treat total dissolved solids and nitrates, it may be ineffective for other constituents. Further study is warranted to assess the viability of Eagle Crest's reverse osmosis method and potential treatment alternatives. Additional analysis also should take place to assess potential leaching of heavy metals from the site and any potential impacts on water supplies traveling through the CRA.

10. Groundwater Impacts: Potential groundwater impacts of the project are complex. Data from monitoring wells adjacent to the CRA suggests that the aquifer underlying the Chuckwalla Valley is more confined than previously understood. Therefore, the projected drawdowns and water level impacts could be more than anticipated in the PAD. Additional evaluations should be performed to address these issues.

11. **Brine Disposal**: Brine disposal ponds associated with the project could have material impacts on water supplies conveyed through the CRA. Metropolitan is actively involved with efforts throughout the Colorado River Basin to control salinity of Colorado River water supplies. Additional analysis will be necessary to adequately assess the potential seepage impacts of these ponds in light of Metropolitan's operational salinity criteria and other factors.

12. **Hydrocompaction**: Hydrocompaction occurs when water is added to the land surface, causing subsidence of lands. Desert soils are particularly susceptible to this phenomenon. Acute land subsidence in the vicinity of the CRA would create significant operational problems for Metropolitan. In order to assess the potential impacts of the project, a detailed technical study of hydrocompaction associated with the Eagle Mountain Project will be necessary.

13. For the reasons discussed above, Metropolitan believes that the Eagle Mountain Project should proceed with the more rigorous and comprehensive technical review provided by the Integrated Licensing Project.

Dated: February 11, 2008

Respectfully submitted,

Peter E. von Haam, Senior Deputy
General Counsel

The Metropolitan Water District of
Southern California
P.O. Box 54153
Los Angeles, CA 90054-0153

Tel: 213-217-6726
Fax: 213-217-6890
Email: PVonHaam@mwdh2o.com

CERTIFICATE OF SERVICE

I hereby certify that I have, this 11th day of February 2008, served a copy of the foregoing document by first class mail, postage prepaid and/or by electronic mail, on each person designated on the service list compiled by the Secretary in this proceeding.

Teresa J. Maropoulos
Metropolitan Water District of Southern
California
P.O. Box 54153
Los Angeles, CA 90054-0153

Tel: 213-217-6045
Fax: 213-217-6890
Email: tmaropoulos@mwdh2o.com

UNITED STATES OF AMERICA

FEDERAL ENERGY REGULATORY COMMISSION

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WASHINGTON, D.C. 20438

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PROJECT NO. P-13123

**METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA'S
COMMENTS REGARDING DRAFT LICENSE APPLICATION**

The Metropolitan Water District of Southern California ("Metropolitan") submits the following comments regarding Eagle Crest Energy Company's Draft License Application (DLA) for the proposed Eagle Mountain Pumped Hydroelectric Storage Project, FERC Project No. P-13123 ("Eagle Mountain Project").

1. Metropolitan is a public agency created in 1928 by vote of the electorates of several southern California cities. Metropolitan is one of the country's largest wholesale water suppliers, delivering supplemental water for domestic and municipal use to more than 18 million people through its 26 member agencies. Metropolitan's service area encompasses the six-county region of southern California (Los Angeles, Orange, Riverside, Ventura, San Diego, and San Bernardino), an area covering nearly 5,200 square miles. Metropolitan supplies an average of 1.7 billion gallons of water per day and more than 2 billion gallons on a hot day. Over the course of the year, Metropolitan imports on average from 1.5 to 2.1 million acre-feet of water.

2. Metropolitan's imported water is derived from two primary sources: the Colorado River Aqueduct ("CRA") and the California State Water Project ("SWP"). Metropolitan constructed, owns, and operates the CRA, which brings water from the Colorado River into southern California. The second major water supply for Metropolitan is the SWP, which captures and stores runoff from the Sacramento/San Joaquin Delta watershed in northern California and delivers the water to areas of need in northern, central, and southern California. Metropolitan is the largest of the 29 contractors that purchase water through the SWP.

3. Eagle Crest Energy Company ("ECEC") proposes to develop the Eagle Mountain Project as a 1,300 MW pumped storage hydroelectric project consisting of an upper and lower reservoir, intake and outlet structures, a powerhouse, a 500 kV transmission line, and other appurtenant features. ECEC intends to site the development of the Eagle Mountain Project in the Chuckwalla Valley region of Riverside County, California, on land controlled by the Bureau of Land Management and on private property owned by Kaiser Eagle Mountain, LLC. ECEC proposes to fill and replenish the reservoirs with water obtained from dedicated groundwater wells.

4. The CRA lies immediately east of the proposed location for the Eagle Mountain Project. In the past, ECEC sought Metropolitan's consent to use CRA water to fill its reservoirs. Metropolitan declined the request, as such water has been required to meet the water supply demands of its member agencies. Moreover, Section 131 of the Metropolitan Water District Act (Cal. Stat. 1969, Chapter 209) precludes Metropolitan from selling water outside of its service area, unless such sale is made to the federal government or for the purpose of generating electric power which is used directly or indirectly, through exchange,

for pumping, producing, treating or reclaiming water for use within the district. The Eagle Mountain Project is located outside Metropolitan's service area, and Metropolitan has entered into long-term power contracts that provide ample electric power for operation of the CRA.

5. ECEC previously obtained preliminary permits for its Eagle Mountain Project, later applying for a hydroelectric license. The Commission, however, denied the earlier application. In June 2004, ECEC again applied to the Commission for a preliminary permit for the Eagle Mountain Project, FERC Project No. 12509. The Commission granted the preliminary permit in March 2005 and granted the request to use the traditional licensing process March 4, 2008.

6. Pending now before FERC is ECEC's Draft License Application (DLA). Metropolitan submits the following comments regarding the DLA.

Water Supply Alternatives

7. The DLA makes reference to discussions between ECEC representatives and Metropolitan staff regarding potential water exchanges to provide water from the CRA for initial fill of the project reservoirs. (Ex. E, section 10.2.2., p. 10-3.) Metropolitan has made no commitment whatsoever to supply water for the proposed project.

General Comments

8. In general, the DLA recognizes the potential impacts to the CRA and the local groundwater basin and indicates possible mitigation measures. However, this information is presented too generally, and no information is provided that evaluates either the likely occurrence of these impacts or the effectiveness of the mitigation measures presented.

9. ECEC should dedicate a separate specific analysis for the CRA with a complete description of all the potential water quality and structural impacts and proven mitigation measures to be employed. Metropolitan staff will provide any appropriate information to facilitate such necessary technical analyses.

10. ECEC should conduct risk analyses of worst case scenarios. For example, how will a reservoir or lagoon/pond breach be prevented or mitigated? What are the impacts of over-pumping on groundwater levels and subsidence? A much more detailed plan needs to be developed to address these scenarios.

11. The DLA indicates that monitoring will be conducted to determine seepage amounts, water quality impacts, etc. However, once an impact is detected through monitoring, it could be too late to prevent or effectively mitigate those effects. ECEC should propose a detailed plan of how such impacts will be detected, prevented, and mitigated.

Water Quality

12. The DLA does not specify the likely location of proposed project supply wells. Also, limited groundwater quality data and analyses are presented. Identification and further details about the proposed wells will be necessary to conduct a thorough assessment of the project's impacts on groundwater quality. Detailed analyses should be conducted on the impacts of pumping and aquifer water quality.

13. ECEC should investigate in detail the full range of constituents that are contained in the ore bodies. It is not clear that all possible sources of contaminants have been identified. For example, if magnetite-rich sands exist in the east wall of the lower reservoir, would pyrite and possibly gypsum (other constituents of the ore body along with the

magnetite) be proportionally also “rich” in these sands? Would their presence in these more permeable deposits along the east wall of the lower reservoir lead to more acidic leachate and potentially a greater risk of groundwater contamination?

14. The DLA states the potential for acidic leachate seepage water is low due to the low percentage of pyrite in the ore bodies. However, the USGS report that is referenced in ECEC’s application (Force, 2001) also notes that 10-50% pyrite occurs locally in the lower ore in the upper reservoir. What bearing would these higher percentages have on the potential for leachate acidity and the groundwater contamination assumptions presented in the ECEC application?

15. The DLA does not adequately analyze the potential for cumulative water quality impacts of the project in conjunction with the future Eagle Mountain Landfill Project. The potential for reservoir seepage next to a municipal landfill exacerbates water quality concerns for local groundwater. Comprehensive geotechnical and hydrogeologic studies are necessary to address this issue, with close coordination with the landfill project to ensure that cumulative impacts are avoided.

Groundwater Levels, Hydrocompaction, and Structural Impacts to CRA

16. The DLA does not provide sufficient data to indicate how much groundwater levels may rise from reservoir seepage to evaluate potential structural CRA settlement due to hydrocompaction. Even if sufficient data is available to predict the rise in groundwater levels, ECEC should analyze these potential hydrocompaction questions. Also, while the DLA identifies potential mitigation measures, it does not provide adequate information to evaluate the effectiveness of these measures.

17. For example, the DLA suggests the use of extensometers to monitor settlement. More information should be provided to address the effectiveness of this instrument at this particular site and how extensometers would be used as part of an overall comprehensive deformation program, considering the depth to bedrock. Also, if settlement is detected, what (if any) mitigation measures would ECEC employ? Other tools should also be identified that will measure subsidence and hydrocompaction for the specific site conditions. The effectiveness of these tools should be clearly identified and analyzed.

18. The DLA indicates that a detailed seepage control investigation will be conducted as well as a mitigation program established. More details and data regarding the hydrogeology in the immediate area of the project will be needed. A geotechnical investigation of the soils underlying and in proximity to the CRA should be conducted, likely including groundwater simulations, soil testing, seepage flow models, etc. This is of particular concern because the east end of the lower reservoir, also closer to the CRA, is in alluvial material with seepage control measures proposed at that location.

19. Much of the discussion is based on the performance of groundwater supply wells not in the vicinity of the Eagle Mountain Mine. Without identification of the location of the proposed supply wells, there would be insufficient information to assess the likely potential for subsidence and CRA settlement based on groundwater pumping. Even if the location of the wells were identified, detailed analysis regarding the potential for subsidence should be performed.

20. Water level and modeling information adjacent to the CRA has not been provided in the DLA. To enable comprehensive impacts analysis, ECEC should provide hydrographs of projected groundwater levels for key wells in the basin, particularly those

adjacent to proposed well sites and adjacent to the CRA, and a contour map projecting water level impacts. As discussed below, Metropolitan believes that the water level impacts are greater than indicated by the project proponents. Metropolitan is particularly concerned with the potential for land subsidence as a result of the groundwater withdrawal. Metropolitan's CRA is an unreinforced cut and cover conduit in this area and its tolerance for lateral or horizontal displacement is on the order of 0.25 inches per 200 feet. Any activity which lowers the groundwater table in this area may cause subsidence depending on the soil characteristics. Subsidence modeling should be performed to address Metropolitan's concerns and verify that the proposed operation would not cause excessive displacement of the CRA. These reports will need to be reviewed by Metropolitan to ensure compliance with Metropolitan's hydrogeologic criteria.

21. Metropolitan disagrees with the statement on page 2-33 (Section 2.6.3) that "[i]nelastic subsidence may occur when groundwater levels are lowered below historic levels." This statement is not correct. Subsidence can occur whenever groundwater levels decline, regardless the relation to historic levels. Further evaluation is needed to address this critical issue to Metropolitan's infrastructure.

22. The DLA does not address the potential for groundwater reaching the surface (i.e., "day-lighting") above the CRA rather than infiltrating into the ground as a result of seepage. It would be helpful to understand if additional seepage would impact the CRA.

23. Metropolitan disagrees with the groundwater characteristics assumptions made by ECE in the DLA. Groundwater impacts of the proposed project are substantially more complex than the DLA suggests. Data from monitoring wells constructed by Metropolitan adjacent to the CRA suggest that the Chuckwalla Valley is more confined and

is less transmissive than previously understood. The transmissivity of 147,000 gpd/ft (hydraulic conductivity of 110 ft/day) assumed by ECEC in the DLA is optimistic for this area. Metropolitan is concerned that the assumptions in Table 2-1 on page 2-5 to Exhibit E are not conservative enough given the uncertainty in the hydrogeology of the area. Previous modeling by Metropolitan suggests that the average hydraulic conductivity in Chuckwalla Valley is approximately 25 ft/day, significantly less than the estimates provided in the DLA.

24. Therefore, Metropolitan believes that the projected drawdowns and water level impacts could be substantially more than assumed in the DLA. Using a hydraulic conductivity of 25 ft/day, estimated drawdowns during the 2-year fill period could exceed 150 feet at the wellhead, assuming a 70 percent efficiency factor. Regional impacts could be as much as 30 feet. In the long-term, regional impacts could be more than 50 feet, which could result in a substantial subsidence risk. It is also important to note that the well capacities proposed would be insufficient to produce the makeup water requirements during the 8-hour off-peak periods even if operating continuously during these periods (after allowing for downtime and maintenance requirements). Additional wells will likely be needed. Additional evaluations should be performed to assess these issues.

25. The DLA proposes to use three feet of fine tailings in the reservoirs to reduce seepage and estimates a total seepage rate of 600 acre-feet per year. Fine tailings are expected to range from silty sand to clayey silt. Given that the permeability of the tailings proposed is relatively high even for the proposed sealing material, seepage rates could be substantially higher than estimated. As such, potential adverse impacts from the seepage are not adequately addressed. These seepage could have impacts upon water quality and structural integrity of the CRA.

26. The DLA refers to reverse osmosis (RO) treatment of the higher-TDS water that would be generated through evaporative losses within the reservoirs. A brine line would be constructed with the brine stored in lagoons or ponds in close proximity to the CRA. Very few details are provided on the use of these lagoons or ponds for brine storage. What is the potential of failure from these lagoons or ponds? How will failure be prevented and what specific mitigation measures would protect the adjacent CRA?

Construction Impacts

27. Metropolitan's CRA conduit was not designed for AASHTO H-20 loading in this area, and any vehicle crossings should be restricted to the existing paved roadways which have protective slabs in place to distribute this loading away from the pipeline. Any vehicles or equipment which would likely cross the conduit as part of the construction and operation of the proposed project will need to be reviewed and approved by Metropolitan prior to traversing the CRA.

28. ECEC should identify the specific mitigation measures that will be in place during construction. How could the specific construction operational activities potentially impact the CRA, groundwater quality (i.e., mobility of metals), etc.? Greater detail should be provided regarding these activities along with a detailed mitigation plan.

Respectfully submitted

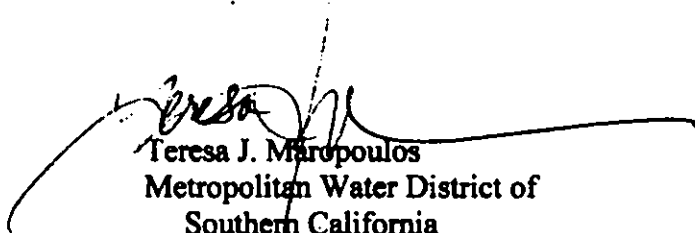


Peter E. vonHaam
Senior Deputy General Counsel
The Metropolitan Water District of
Southern California
P.O. Box 54153
Los Angeles, CA 90054-0153
Tel: (213) 217-6726
Fax: (213) 217-6890
Email: PVonHaam@mwdh2o.com

CERTIFICATE OF SERVICE

10/10/08

I hereby certify that I have, this 15th day of September 2008, served a copy of the foregoing document by first class mail, postage prepaid and/or by electronic mail, on each person designated on the service list compiled by the Secretary in this proceeding.



Teresa J. Maropoulos
Metropolitan Water District of
Southern California
P.O. Box 54153
Los Angeles, CA 90054-0153

Tel: 213-217-6045
Fax: 213-217-6890
Email: tmaropoulos@mwdh2o.com



RIVERSIDE COUNTY FIRE DEPARTMENT

In cooperation with the
California Department of Forestry and Fire Protection

2300 Market Street, 1st FL Suite 150 • Riverside, California 92501 • (951) 955-4777 • Fax (909) 955-4886

John R. Hawkins
Fire Chief

Proudly serving the
unincorporated
areas of Riverside
County and the
Cities of:

- Banning
- Beaumont
- Calimesa
- Canyon Lake
- Coachella
- Desert Hot Springs
- Indian Wells
- Indio
- Lake Elsinore
- La Quinta
- Moreno Valley
- Palm Desert
- Perris
- Rancho Mirage
- San Jacinto
- Temecula

- Board of Supervisors
- Bob Buster,
District 1
- John Tavaglione,
District 2
- Jeff Stone,
District 3
- Roy Wilson,
District 4
- Marion Ashley,
District 5

March 5, 2009

State Water Resources Control Board
Division of Water Rights
1001 I street, 14th Floor
Camilla Williams
Sacramento, CA 95814

Re: Notice of preparation for the Eagle Mountain Pump Storage Project Draft Environmental Impact Report, SCH # 2009011010

With respect to the referenced project (EIR), the Riverside County Fire Department has the following comments:

The proposed project will have a cumulative adverse impact on the Fire Department's ability to provide an acceptable level of service. These impacts include an increased number of emergency and public service calls due to the increased presence of traffic, structures and population. The proponents/developers shall participate in the Development Impact Fee Program as adopted by the Riverside County Board of Supervisors to mitigate a portion of these impacts. This will provide funding for capital improvements such as land, equipment purchases and fire station construction. The Fire Department reserves the right to negotiate developer agreements associated with the development of land and/or construction of fire facilities to meet service demands through the regional integrated fire protection response system.

Mitigation measures, as defined by the County of Riverside, should be considered in order to help reduce these impacts to a level below significance. Examples of mitigation measures might include:

- Developer participation in land acquisition and fire facility construction;
- Equipment upgrade and/or purchase;
- Participation in a fire mitigation fee program which would allow one-time capitol improvements such as land and equipment purchases, and construction development.
- Participation in the cost of adding additional personnel.

Costs necessary to maintain the increased level of service may be at least partially offset by taxes acquired by the new construction; however additional funding sources may have to be identified to cover any shortfalls

The 3 nearest Fire Stations that would respond to an incident are:

RCO Station # 49, Lake Tamarisk, 4380 lake Tamarisk, Desert Center, CA

RCO Station # 45, Blythe Air Base, 17280 West Hobson Way, Blythe, CA

RCO Station # 43, Blythe, 140 West Barnard Street, Blythe, CA

All the above mentioned RCO Fire Stations are staffed full-time, 24 hours/7 days a week, with a minimum 3 person crew, including Paramedics, operating "Type-1" structural fire fighting apparatus.

From the above listed fire stations, the first unit should arrive within 21 minutes after dispatch, the second within 58 minutes and the third within 66 minutes. These times are approximate and do not meet the response protection goals.

As with any additional construction within a response area, a "cumulative" increase in requests for service will add to the Fire Department's ability to provide adequate service.

In the interest of Public Safety, the project shall provide an Alternate or Secondary Access(s) as stated in the Transportation Department Conditions. Said Alternate or Secondary Access(s) shall have concurrence and approval of both the Transportation and the Fire Department, and shall be maintained through out any phasing. The Fire Department will need to review any proposed access/road circulation plan. Secondary access was not indicated in the Notice of Preparation

The California Fire Code outlines fire protection standards for the safety, health, and welfare of the public. These standards will be enforced by the Fire Chief.

If you have additional questions feel free to contact me.

Sincerely,

Jason Neuman

Jason Neuman, Captain

Strategic Planning Division

Riverside County Fire Department

(951) 940-6394

ORIGINAL



National Parks Conservation Association®
Protecting Our National Parks for Future Generations®

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COMMISSION

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FEDERAL ENERGY
REGULATORY COMMISSION

Pacific Regional Office

150 Post Street
Suite 310
San Francisco, CA 94108
415.989.9921 (phone)
415.989.9926 (fax)

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E., Room 1A
Washington, DC 20426

January 28, 2009

California Desert Field Office

61325 29 Palms Highway
Suite B
Joshua Tree, CA 92252
760.366.7785 (phone)
760.366.3035 (fax)

RE: Eagle Mountain Pumped Storage Project, No. P-13123-000

Dear Ms. Bose:

On behalf of the National Parks Conservation Association and our 340,000 members, I would like to be added to the Federal Energy Regulatory Commission's official mailing list for the Eagle Mountain Pumped Storage Project, No. P-13123-000.

Central Valley Field Office

1550 East Shaw Avenue
Suite 114
Fresno, CA 93710
559.229.9343 (phone)
559.229.9349 (fax)

Please send all information and correspondence to:

Mike Cipra
NPCA California Desert Field Office
61325 Twentynine Palms Highway
Suite B
Joshua Tree, CA 92252

Thank you very much for your help. If you have any questions, please do not hesitate to contact me at mcipra@npca.org or (760) 366-7785.

Sincerely,

Mike Cipra
California Desert Program Manager

[Faint, illegible text, possibly bleed-through from the reverse side of the page]

NPCA Headquarters
1300 19th Street NW • Suite 300 • Washington, DC 20036
202.223.NPCA(6722) • Fax 202.659.0650 • npca@npca.org • www.npca.org

NATIONAL PARKS CONSERVATION ASSOCIATION

Protecting Parks for Future Generations

February 13, 2009

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E., Room 1A
Washington, DC 20426

Camilla Williams
Division of Water Rights
State Water Resources Control Board
1001 I Street, 14th Floor
Sacramento, CA 95814

Re: Scoping of environmental issues for the licensing of the Eagle Mountain Pumped Storage Project (P-13123-000)

Dear Ms. Bose and Ms. Williams:

On behalf of our more than 340,000 members, the National Parks Conservation Association (NPCA) would like to thank you for the opportunity to provide recommendations to be included in the Environmental Impact Statement (EIS) for the proposed Eagle Mountain Pumped Storage Project (P-13123-000). Our members care deeply for America's shared natural and cultural heritage that is preserved by units of the National Park System.

Eagle Crest Energy Company (ECEC) has proposed their 1,300-megawatt (MW) Eagle Mountain Pumped Storage Project for an area immediately adjacent to Joshua Tree National Park. Joshua Tree National Park was established by Act of Congress in 1994 to preserve and protect the natural and cultural resources of the California Desert. With over 1.3 million visitors each year, two intact desert ecosystems meeting in a distinct transition zone, the resultant richness in biodiversity, thousands of years of cultural history, and vast areas of federally designated wilderness—including wilderness areas to the immediate north and south of the proposed project area—Joshua Tree National Park is one of the iconic parks in the National Park Service system.

The Eagle Mountain Pumped Storage Project proposes to mine 25,000 acre-feet of groundwater from the Chuckwalla Basin aquifer, and deposit this water in two depleted mining pits in the former Eagle Mountain Mine in Riverside County, California, immediately adjacent to Joshua Tree National Park. The water would flow downhill to the lower pit at times of peak energy demand, generating energy for sale and consumption. At times of non-peak demand, the water



California Desert Field Office, 61325 29 Palms Highway, Suite B, Joshua Tree, CA 92252
Telephone (760) 366-7785 • Fax (760) 366-3035

would be pumped uphill, back to the depleted mine pit that is higher in elevation. This project is proposed to occupy federal lands currently administered by the Bureau of Land Management (BLM) and private lands currently owned by Kaiser Eagle Mountain, LLC—assuming such lands would be available for the Eagle Mountain Pumped Storage Project.

Considering the proximity of this proposed project to Joshua Tree National Park, NPCA has serious concerns that must be addressed in an EIS for the proposed project:

- Purpose and Need. The project as described during scoping meetings on January 15 and 16, 2009 is both a net energy loss, and a net water loss. The project has also been characterized by proponents ECEC as a renewable energy project, as it has the potential to store energy from wind-based sources, which are typically off-peak sources of power. An EIS for the Eagle Mountain Pumped Storage Project must first demonstrate that there is a significant need for the storage of wind energy resources. This is particularly relevant in light of adjacent applications for solar energy projects, which can provide needed peak energy sources. Is there enough excess wind energy to justify a pumped storage project of this scale? If existing wind energy is already being consumed by ratepayers, is it responsible and prudent to develop a project that requires 25,000 acre-feet of groundwater before it even begins to generate power? If there is not an immediate need for the project, is it responsible to risk negative impacts to the resources of Joshua Tree National Park?
- Groundwater and subsidence impacts. The Metropolitan Water District of Southern California (Metropolitan), in its comments on the Draft Licensing Agreement (DLA) made on behalf of ECEC to FERC, stated “In the past, ECEC sought Metropolitan’s consent to use CRA [Colorado River Aqueduct] water to fill its reservoirs. Metropolitan declined the request, as such water has been required to meet the water supply demands of its member agencies. Moreover, Section 131 of the Metropolitan Water District Act (Cal. Stat. 1969, Chapter 209) precludes Metropolitan from selling water outside of its service area... Metropolitan has made no commitment whatsoever to supply water for the proposed project.” This statement indicates that the only water alternative under consideration for the proposed project is to pump 25,000 acre-feet of groundwater from the Chuckwalla Basin aquifer. Based on the technical feasibility report prepared by Metropolitan in May 1998, the Pinto Basin aquifer within Joshua Tree National Park and the Chuckwalla Basin aquifer are in hydrologic communication with each other. Any anticipated impacts associated with a drawdown of water in the Chuckwalla Basin will likely have an impact on groundwater within Joshua Tree National Park’s boundary. What are the potential impacts to the Pinto Basin aquifer? The water for ECEC’s project is proposed for storage in an industrial mine pit, which lies upon a fault. The risk for contamination must be analyzed. What are the constituents contained in the residual ore bodies? For example, would pyrite and gypsum in magnetite-rich ore bodies lead to acidic leachate and a significant risk of groundwater contamination? Would reservoirs of the proposed size create pressure on the crystalline basement and transmit contaminants



to the Pinto Basin aquifer? Would this pressure potentially produce polluted seeps or springs within the Pinto Basin of Joshua Tree National Park, threatening the park's wildlife or world-class paleontological resources in this area? Or would subsidence occur in the Pinto Basin simultaneous with drawdown in the Chuckwalla Basin? If subsidence occurred in the Pinto Basin, what would be the impact to biotic systems and individual species? Joshua Tree National Park is critical habitat for the desert tortoise (*Gopherus agassizi*), federally listed as a threatened species under the Endangered Species Act. Would subsidence in areas of the Pinto Basin create low points that would be subject to flooding during periods of precipitation? Would tortoise burrows and habitat be negatively impacted by subsidence and flooding?

- Ecological considerations of vast reservoirs in the desert. Many resource managing federal agencies in the greater California desert, concentrated under the Desert Manager's Group, and following the lead of the U.S. Fish and Wildlife Service, are currently working in cooperation to address the issue of subsidization of desert ravens. Desert ravens are of particular concern because of their propensity to prey on juvenile desert tortoises, previously identified in this letter as a threatened species. Ravens are intelligent and opportunistic scavengers, and there is a reasonable expectation that subsidizing their water supply could have a negative impact on desert tortoises both within Joshua Tree National Park and on adjacent land. What are the potential impacts from the proposed project on the subsidization of ravens? What are the resultant impacts on desert tortoises and other native prey species such as the endangered Coachella Valley fringe-toed lizard? What are the impacts of vast, previously non-existent reservoirs on other opportunistic predators such as coyotes and their resultant prey species?
- Wilderness impacts. As the development proposed by this project is adjacent to Joshua Tree National Park's federally designated wilderness, we recommend that those preparing the EIS conduct a thorough review of The Wilderness Act of 1964 before preparing this environmental document, as mandated by the National Environmental Policy Act:

Public Law 88-577, 88th Congress, S. 4

Sec. 2. (a) In order to assure that an increasing population, accompanied by expanding settlement and growing mechanization, does not occupy and modify all areas within the United States and its possessions, leaving no lands designated for preservation and protection in their natural condition, it is hereby declared to be the policy of the Congress to secure for the American people of present and future generations the benefits of an enduring resource of wilderness...



DEFINITION OF WILDERNESS

(c) A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain. An area of wilderness is further defined to mean in this chapter an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions and which (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable; (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation; (3) has at least five thousand acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition; and (4) may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value.

The fundamental question with regard to the Wilderness Act of 1964 is: What is the potential of this project to degrade the wilderness values of Joshua Tree National Park? Some questions to help steer this analysis include: What is the potential to of the proposed project to degrade dark night sky values? What are the impacts to natural soundscapes? What are the associated impacts to park visitors seeking a wilderness experience?

- Cumulative Impacts. The National Environmental Policy Act requires a thorough analysis of cumulative impacts in an EIS. The proposed project is in the same immediate area as the proposed Eagle Mountain landfill. NPCA has consistently and successfully opposed the ill-conceived Eagle Mountain landfill project as illegal and environmentally inappropriate for this area adjacent to Joshua Tree National Park. In September 2005, U.S. District Judge Robert J. Timlin issued a much-anticipated ruling in NPCA's and other plaintiff's favor by overturning a federal land exchange needed for the development of the Eagle Mountain landfill. Landfill proponents and the Bureau of Land Management have appealed the decision in the U.S. Court of Appeals for the Ninth Circuit. NPCA remains committed to its position that the proposed Eagle Mountain landfill is illegal. As long as the case remains in appeal, however, FERC is required by law to consider the cumulative impacts of a landfill and a massive pumped storage project in the same immediate area. The cumulative impacts of the potential subsidization of ravens, the cumulative impacts on the threatened desert tortoise and biotic communities, the cumulative impacts on wilderness values, and the cumulative impacts on groundwater must all be considered and analyzed.



Thank you for the opportunity to contribute to this process. The National Parks Conservation Association is concerned about the proposed Eagle Crest Pumped Storage Project, and looks forward to continued involvement in the environmental process. Please feel free to contact me directly at (760) 366-7785, or at mcipra@npca.org, in order to continue this dialogue to ensure that this proposed project does not degrade the federally mandated protection of Joshua Tree National Park.

Sincerely,

Mike Cipra
California Desert Program Manager
National Parks Conservation Association





COUNTY SANITATION DISTRICTS OF LOS ANGELES COUNTY

1955 Workman Mill Road, Whittier, CA 90601-1400
Mailing Address: P.O. Box 4998, Whittier, CA 90607-4998
Telephone: (562) 699-7411, FAX: (562) 699-5422
www.lacsd.org

STEPHEN R. MAGUIN
Chief Engineer and General Manager

February 13, 2009

File No. 31R-110.10

RECEIVED
FEDERAL ENERGY REGULATORY COMMISSION
2009 FEB 17 P 2:13
OFFICE OF THE
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COMMISSION

Kimberly D. Bose, Secretary
Nathaniel J. Davis, Sr., Deputy Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Dear Secretary Bose and Deputy Secretary Davis:

Comments on Scoping Document 1 for Eagle Mountain Pumped Storage Project (FERC Project No. P-13123-000)

Thank you for this opportunity to provide comments on Scoping Document 1 ("SD1") issued by the Federal Energy Regulatory Commission ("Commission" or "FERC") and the State of California State Water Resources Control Board ("Water Board" or "SWRCB") on December 17, 2008 for Eagle Crest Energy Company's ("ECEC's") Eagle Mountain Pumped Storage Project, FERC No. 13123 (the "Project"). The County Sanitation Districts of Los Angeles County (the "Districts") provide these comments to highlight some subjects for additional environmental studies and analysis which must be conducted as a part of the environmental review of the Project in accordance with the requirements of the National Environmental Policy Act, 42 U.S.C. § 4321 *et seq.* ("NEPA") and the California Environmental Quality Act, California Public Resources Code §§21000-21177 ("CEQA").

The Districts provide environmentally sound, cost-effective wastewater and solid waste management facilities that convert waste into resources like reclaimed water, energy, and recycled materials. The Districts are a confederation of 24 independent special districts, governed by Boards of Directors consisting of the presiding officer of the governing body of each city within the Districts and the presiding officer of the Los Angeles County Board of Supervisors for unincorporated territories, serving approximately 5.2 million people in Los Angeles County.

Due to a projected future shortfall in local solid waste disposal capacity, the Districts have been working with other public agencies to study means by which solid waste can be disposed of at sites

¹ The District reserves the right to make additional comments and study requests during the course of the traditional licensing process. As reflected in these comments, ECEC's lack of specificity and incomplete analysis of impacts in Project materials issued to date makes it difficult to provide a full response. Accordingly, this letter is not intended to provide a full and complete list of all the studies necessary for ECEC to comply with applicable law, rules, and regulations with respect to this Project.

Kimberly D. Bose, Secretary
Nathaniel J. Davis, Sr., Deputy Secretary

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February 13, 2009

outside of the Los Angeles metropolitan area. Although nearly all of Los Angeles County's refuse is currently disposed of locally by truck, the Districts have taken a lead role in implementing a Waste-by-Rail System to provide long term disposal capacity to replace local landfills as they reach capacity and close. The Waste-by-Rail system will use an integrated local and remote infrastructure to transport refuse to remote disposal sites.

One of the remote landfill sites available to the Districts in connection with the Waste-by-Rail system is the Eagle Mountain Landfill located in Riverside County. It is fully permitted to receive residual solid waste by rail from Southern California. The Districts have entered into an agreement to purchase Eagle Mountain Landfill for use as part of their Waste-by-Rail program. The Districts have entered into this agreement with the current owners of the Eagle Mountain Landfill, Kaiser Eagle Mountain, LLC and Mine Reclamation, LLC (collectively, "Kaiser"). ECBC's Project proposes to use the Eagle Mountain Landfill site to generate and store electricity by filling the lower reservoir with water and using turbines to pump water from the lower to upper reservoir and generate electricity by a closed loop system.

The environmental review for the proposed ECEC project needs to clearly and completely describe the potential direct and cumulative environmental impacts to the design, construction and operation of the Eagle Mountain Landfill project (Landfill)—a pre-existing proposed project that will largely take place within and adjacent to the footprint proposed for the ECBC Project. The prospect of interference between ECEC's Project and the Landfill is obvious. These potential conflicts must be seriously studied and analyzed by ECEC before its own Project may proceed. However, no serious study or analysis of these interferences has been forthcoming from ECEC.

Implicit in these comments, as well as our previous comments on ECEC's Draft License Application (the "DLA") dated September 12, 2008 ("DLA Comments"), is the fact that no full assessment of the proposed Project by the Districts is possible because of ECEC's failure to provide a complete and accurate description of its proposal. The previous comments are attached hereto as Exhibit "B" and incorporated herein. ECEC does not, as an example, identify with any specificity the location of available or alternate transmission routes or the specific sources of groundwater for the initial fill and annual make-up water necessary to construct and operate this Project. ECEC must provide the Commission, the Water Board and the public more complete and accurate information regarding its proposed project to allow for adequate environmental review.

Long before the Landfill can be operated, the Districts will need to construct the landfill and its supporting infrastructure. This will include excavation, road construction, and the installation of piping, electrical work and landfill liners. Any simultaneity in the construction of the two projects will create potential traffic, air quality, noise, and biological impacts that also need to be considered. Because the Eagle Mountain Landfill has completed the permitting process, it should be considered an existing project and described completely and consistently with previously approved environmental documents and entitlements. The environmental analysis needs to include a significant number of studies and analyses and answer important questions concerning the incompatibility of the two land uses. A partial list of significant questions, studies and impact analyses required, including questions regarding the operation of the Visitor Center, tunnels under an active landfill, groundwater monitoring, seepage, desalinization operations, and the use of minerals and soil at the site, is included in Exhibit A which is attached to this comment letter.

As requested in September 12, 2008 letter, the Districts request that the scoping process be continued until ECBC provides an accurate project description clearly defining the analyses that needs to be undertaken such that the environmental impacts can reasonably be considered. If, however, ECEC

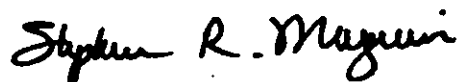
Kimberly D. Bose, Secretary
Nathaniel J. Davis, Sr., Deputy Secretary

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February 13, 2009

proceeds with a deficient draft application, the additional areas of analysis referenced herein must be included within the scope of the EIS/EIR review. Also, all studies currently reflected in the SDI must be pursued sufficiently to thoroughly discuss the significant aspects of probable environmental consequences of the Project on the permitted landfill construction and operation. Significant additional analysis is necessary for the Commission and the Water Board to possess sufficient information to fully consider the Project and its impacts.

Very truly yours,



Stephen R. Maguin

SRM:JLC:sif
Attachment

cc: Camilla Williams, Division of Water Rights, State Water Resources Control Board
FERC Service List for P-13123-000
Kim Nguyen, FERC
Terry L. Cook, Kaiser Eagle Mountain
Matthew D. Hacker, Metropolitan Water District of Southern California

Kimberly D. Bose, Secretary
Nathaniel J. Davis, Sr., Deputy Secretary

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February 13, 2009

EXHIBIT A

- A. Characterize and mitigate any overlap between proposed project Phases I through IV and operation of Landfill.
- B. Potential Areas of Incompatibility
 - 1. Substantiate that the proposed project will not compromise the design, construction and operation of the Landfill.
 - (a) Need to study whether regulators would approve operation of the Landfill over the proposed power generation project.
 - (b) ECEC must substantiate that the Landfill will still comply with siting, design and operational requirements pursuant to 40 CFR 258 and Titles 23 and 27 of the California Code of Regulations regarding municipal solid waste landfills.
 - 2. Operational Issues
 - (a) Visitor's Center
 - (i) How will its operation impact the Landfill's operations?
 - (ii) Will the public have access to all Landfill property?
 - (b) Tunnels Under Active Landfill
 - (i) What type of methane barrier will be installed for subsurface facilities?
 - (ii) How will ECEC prevent the tunnels from becoming potential conduits for groundwater or landfill gas?
 - (iii) If the tunnels become flooded, how will any potential impacts to groundwater be remediated?
 - (iv) What potential pollutants could potentially alter groundwater chemistry from tunnel infrastructure and maintenance?

Kimberly D. Boase, Secretary
Nathaniel J. Davis, Sr., Deputy Secretary

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February 13, 2009

- (v) Where will the estimated 2,500 tons per year of desalinization salt ultimately be disposed?

(e) Other Potential Incompatibilities

- (i) How will the proposed transmission lines impact the operation of the Landfill's railyard and the Landfill as a whole?
- (ii) How will the project's use of the switchyard impact the operation of the Landfill?
- (iii) Could access to fine or coarse tailings or overburden piles for landfill purposes be blocked by this project's infrastructure or operation?
- (iv) How will your project's traffic from the staging, storage, administration or areas affect the Landfill's operation?
- (v) Where will earthen materials be obtained to build the dam and prepare both reservoirs and how much will be necessary? How will the use of these materials affect the Landfill's construction or operations?
- (vi) Where will the significant quantity of tailings present in the East Pit be relocated for use for the Landfill?
- (vii) How can the transfer station potentially impact landfill construction and operations?
- (viii) How will security and maintenance be performed within the Landfill area, and how will these activities affect the operation of the Landfill?
- (ix) How much fine and coarse tailing materials are needed for construction of the project, and how will use of these materials impact the Landfill project?
- (x) Figure E.1-8 does not accurately depict the location of Landfill infrastructure. Please update this figure using information

Kimberly D. Bose, Secretary
Nathaniel J. Davis, Sr., Deputy Secretary

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February 13, 2009

contained in the Report of Waste Discharge
for the Eagle Mountain Landfill.

- C. Completely describe, with project specific studies:
1. What pollutants may be generated by the project?
 2. Determine specific seepage controls based upon detailed geologic mapping including but not limited to:
 - (a) Detailed calculations for leakage losses from both reservoirs
 - (b) Detailed calculations for pre-and post-seepage treatment
 - (c) A detailed description of proposed seepage control, including all supporting calculations
 - (d) A detailed three-dimensional groundwater flow model, such as Visual MODFLOW using particle tracking, for the proposed site should be used to illustrate the impact of seepage from treated and untreated reservoirs, including potential impacts from tunnels in the event they become flooded. Visual MODFLOW should be utilized to predict potential impacts to the Landfill. The groundwater model should be calibrated using historic water levels and pumping data, contained in the Report of Waste Discharge, before making predictions needed to assess potential impacts to the Landfill.
 - (e) A detailed description, including a three-dimensional groundwater flow model described above, for the proposed site to illustrate the impact of proposed seepage recovery wells (modeling should be used to determine the estimated spacing of recovery wells needed to ensure the landfill groundwater monitoring network is not impacted by seepage).
 3. Geology and Geotechnics

Kimberly D. Bose, Secretary
Nathaniel J. Davis, Sr., Deputy Secretary

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February 13, 2009

- (a) Provide stability modeling for reservoir slopes and adjacent areas potentially impacted by the filling of mining pits with water. Modeling of critical existing and final landfill liner slopes should be performed to assess potential impacts to the Landfill in conformance with requirements of the State Department of Water Resources ("DWR"), addressing both impacts from the Maximum Credible Earthquake and Maximum Probable Earthquake events.
- (b) Provide detailed stability calculations for the upper dam in conformance with requirements of the State Department of Water Resources ("DWR"), addressing both impacts from the Maximum Credible Earthquake and Maximum Probable Earthquake events.
- (c) Provide an up to date seismicity study using current data and methodology approved by DWR.

4. Groundwater, Potable Water and Sewerage

- (a) Describe the long-term potential influences of pumping within the basin, provide a detailed three-dimensional groundwater flow model, such as Visual MODFLOW, for the Chuckawalla Valley that will provide basin-wide impacts from pumping along with maximum drawdown predicted for other potential water producers in the basin. The groundwater model should be calibrated using historic pumping data before making predictions needed to assess potential impacts to the basin. The calibrated model should consider groundwater pumping needed for the Landfill, assuming both projects are operational at the same time.
- (b) The groundwater model should address potential impacts of both initial filling and any make-up water needed for the duration of the project.
- (c) Visual MODEFLOW modeling for both the existing production well and proposed production well scenarios to assess potential impact to the basin.
- (d) Based upon modeling results, how will pumping activities impact the landfill or other parties pumping water from the Chuckawalla Valley?

Kimberly D. Bose, Secretary
Nathaniel J. Davis, Sr., Deputy Secretary

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February 13, 2009

- (e) If water used to initially fill the reservoir is obtained from the Chuckawalla Valley, will existing production wells be utilized?
 - (i) Does ECEC have the authority to utilize these wells?
 - (ii) What is the capacity of each well to be used?
- (f) What potable water system will serve the proposed project, and what is the potable water demand of that project?
- (g) Which existing sewage facility will be used for the project, and what is the estimated quantity of sanitary sewage that will be generated?
- (h) Will wastes other than sewage wastes be discharged into the existing sewage system? What are the composition and the quantity of these wastes?

5. Storm Water

- (a) Provide a detailed hydrology study for the project, including:
 - (i) Design calculations for drainage structures necessary to accommodate applicable storm intensities specified by the Regional Water Quality Control Board for the Landfill project, assuming both projects will operate simultaneously, and
 - (ii) A study of where surface water will be directed due to the loss of East Pit storage capacity.
- (b) What materials will be stored within the proposed project's site?
- (c) How will ECEC monitor storm water from industrial activities pursuant to the General Industrial NPDES permit?

Kimberly D. Bose, Secretary
Nathaniel J. Davis, Sr., Deputy Secretary

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- (d) **What best management practices will be used to prevent storm water pollution during construction activities?**

- 6. Address and mitigate the potential impact of the open reservoirs attracting wildlife**
 - (a) **Among the species to be addressed are ravens, coyotes and other predators of the desert tortoise.**
 - (b) **How will the reservoirs affect the Landfill's ability to comply with the Biological Opinion?**

- 7. Perform a complete biological assessment for the proposed project, including a full evaluation of potential impacts to the Landfill project.**

- 8. Perform a detailed visual assessment for the proposed project itself.**

Exhibit B



COUNTY SANITATION DISTRICTS OF LOS ANGELES COUNTY

1955 Workman Mill Road, Whittier, CA 90601-1400
 Mailing Address: P.O. Box 4998, Whittier, CA 90607-4998
 Telephone: (562) 699-7411, FAX: (562) 699-5422
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STEPHEN R. MAGUIN
 Chief Engineer and General Manager

September 12, 2008

File No. 31R-110.10

Secretary Kimberly D. Bose
 Deputy Secretary Nathaniel J. Davis, Sr.
 Federal Energy Regulatory Commission
 888 First Street, NE
 Washington, DC 20426

Dear Secretary Bose and Deputy Secretary Davis:

**Comments Regarding Eagle Crest Energy Company's
 Draft License Application for FERC Hydroelectric Project No. 12509**

Enclosed for the Federal Energy Regulatory Commission's ("Commission's") consideration in review of the above-referenced application, the County Sanitation Districts of Los Angeles County (the "Districts") submit this copy of their further comments regarding the Draft License Application ("DLA") for Eagle Crest Energy Company's ("ECBC's") Eagle Mountain Pumped Storage Project, FERC No. 12509 (the "Project"), proposing construction of hydroelectric facilities on Eagle Mountain, near Desert Center, California. ECBC filed its first preliminary permit application for this Project in 1987, and is now on its fourth preliminary permit.

The Eagle Mountain Landfill (the "Landfill") is currently under contract to be sold to the Districts by Kaiser Eagle Mountain, LLC and Mine Reclamation, LLC (collectively, "Kaiser"). The Landfill is permitted for development on a substantial portion of the property that ECBC proposes to use for its Project. The Project as proposed will have a direct impact on the Districts and the Landfill.

As reflected in the District's previous comments responding to ECBC's Preapplication Document, the Districts' and other parties' assessment of studies and impact analyses has been obstructed by ECBC's failure to provide a complete and accurate description of its proposal. The enclosed letter contains the Districts' further analysis of deficiencies and inaccuracies in the DLA and identifies additional studies that must be conducted to provide the Commission with adequate evidence for its consideration in issuing an original license for the Project. Should ECBC fail to correct these material and serious deficiencies in its license application, the Commission should reject the submittal as patently deficient pursuant to 18 C.F.R. § 4.32.

Very truly yours,

Stephen R. Maguin

SM:zlf
 Enclosure





COUNTY SANITATION DISTRICTS OF LOS ANGELES COUNTY

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STEPHEN R. MAGUIN
 Chief Engineer and General Manager

September 12, 2008

File No. 31R-110.10

Ms. Ginger Gillin
 GEI Consultants, Inc.
 10860 Gold Center Drive, Suite 350
 Rancho Cordova, CA 95670

Dear Ms. Gillin:

**Comments Regarding Eagle Crest Energy Company's
Draft License Application for Proposed FERC Hydroelectric Project No. 12509**

Pursuant to 18 CFR §§ 385.210, .211, .214, the County Sanitation Districts of Los Angeles County (the "Districts") submit this comment letter in response to Applicant Eagle Crest Energy Company's ("ECEC") Draft License Application ("DLA") for its proposed Project No. 12509 ("Project.")

The Districts provide environmentally sound, cost-effective wastewater and solid waste management facilities that convert waste into resources like reclaimed water, energy, and recycled materials. The Districts are a confederation of 24 independent special districts, governed by Boards of Directors consisting of the presiding officer of the governing body of each city within the Districts and the presiding officer of the Los Angeles County Board of Supervisors for unincorporated territories, serving approximately 5.2 million people in Los Angeles County.

Due to a projected future shortfall in local solid waste disposal capacity, the Districts have been working with other public agencies to study means by which solid waste can be disposed of at sites outside of the Los Angeles metropolitan area. Although nearly all of Los Angeles County's refuse is currently disposed of locally by truck, the Districts have taken a lead role in implementing a Waste-by-Rail System to provide long term disposal capacity to replace local landfills as they reach capacity and close. The Waste-by-Rail system will use an integrated local and remote infrastructure to transport refuse to remote disposal sites.

One such remote landfill site is the Eagle Mountain Landfill located in Riverside County. It is fully permitted to receive residual solid waste by rail from Southern California. The Districts have entered into an agreement to purchase Eagle Mountain Landfill for use as part of their Waste-by-Rail program. The Districts have entered into this agreement with the current owners of the Eagle Mountain Landfill, Kaiser Eagle Mountain, LLC and Mine Reclamation, LLC (collectively, "Kaiser"). ECEC's Project would use the Eagle Mountain Landfill site to generate and store electricity by filling the lower reservoir with water and using turbines to pump water from the lower to upper reservoir and generate electricity by a closed loop system.

I.

SUMMARY

The DLA is an insufficient document that fails to satisfy the requirements for a license application or to provide even a cursory basis for FERC to start environmental review as required by the National Environmental Policy Act, 42 USC §4321, *et. seq.* ("NEPA"). The DLA: (1) relies upon illusory or non-existent infrastructure, facilities and approvals; (2) either ignores or glosses over real and substantial impacts to the design, construction and operation of the Eagle Mountain Landfill project ("Landfill")—a pre-existing proposed project that will largely take place within and adjacent to the footprint proposed for the BCBC Project; and (3) cites as bases for the application studies and information generated for other projects rather than that proposed by BCEC. Significant improvements are necessary for the DLA to properly describe the proposed project and its potential direct and cumulative environmental impacts.

II.

**THE DLA RELIES UPON NON-EXISTENT
OR UNSTUDIED FACILITIES AND ASSUMPTIONS**

The DLA contains a number of crucial but unsupported assumptions that go to the heart of the feasibility of the Project and its ability to satisfy its objectives. These include: (1) the assumption that infrastructure will exist to convey power generated by the Project to customers of Southern California Edison ("SCE"); (2) assumptions about the availability and cost of the land to be used for the Project, (3) the assumption that sufficient sources of water will exist for the Project at a reasonable cost; and (4) assumptions that financing for the Project will exist on terms set forth by BCBC. Each of these assumptions is unsupported by existing studies or existing facts.

BCEC's application assumes that the power generated by the Project will be conveyed through a 500kV line extending 50.5 miles to a proposed Colorado River Substation to be built by SCE adjacent to an existing SCE Palo Verde-Devers 500 kV line. (DLA, Ex. "A," p. 4-1.) The existing line conveys power from Arizona's Palo Verde nuclear power plant to California. BCEC provided no studies to show that even the proposed line would possess enough capacity to convey all of the power generated by the Project. The DLA alludes to other transmission connection upgrades that may be necessary to service nearby markets, but it does not identify what these upgrades would be, what they may cost, where they may be located, or what impacts they will have on the local environment or the Landfill. (DLA, Ex. "A," ES-1.)

Regardless of any other "upgrades" that may be necessary, it is now unclear that the second 500 kV line will ever be built. The Arizona Corporations Commission ("ACC"), which possesses state regulatory jurisdiction over the portion of the line to be built in Arizona, rejected the application to construct the line on the grounds that it would impair Arizona's ability to provide power for its own citizens and that California did not have need for the power to be transmitted. SCE has appealed the ACC's decision to FERC, where it appears that both ACC and the Sierra Club will oppose SCE. In any event, it will likely not be known for years whether the line will be approved and whether, if it is approved, economic and other circumstances will permit construction and operation of the second line. The DLA contains no factual basis for any assumption that FERC (or the Federal Courts) will approve construction of the second line. Without the 500kV line, BCEC's ability to carry on its own Project will remain speculative.

The DLA lists the cost for "land and water rights" for the Project as \$24.2 million (DLA, Ex. "D", p. 1-1.), but this figure relies upon a number of unsupported assumptions regarding the availability of the land and water necessary for the Project. ECBC assumes that it will not purchase the necessary land from Kaiser, the Districts, or others, but that it will instead lease all of that land from the present owners for \$2 million. (DLA, Ex. "D", pp. 1-1, 1-2; § 4.3.) The rental figure was not supported by any market or other analysis, and there is no basis for ECBC to assume that the present owners would lease the necessary land and/or water to ECBC at any price. Since it is unclear from ECBC's description the extent to which its operations would impact Landfill operations, the District may potentially lose a site for disposal with a capacity of 708 million tons, which would include 100 years of operation at 20,000 tons per day. The value of the property as a constructed landfill would therefore run into the billions of dollars, but no consideration of this possibility was included in ECBC's calculations. The DLA's assumptions are unrealistic and again suggest the speculative nature of the Project.

ECBC also assumes that enough water will be available for its Project at a reasonable cost, but it doesn't provide the basis for these assumptions. Although the DLA states that the water for the Project will come from unidentified "wells" or, if necessary, from the Metropolitan Water District, its assumptions are not accompanied by an analysis identifying the specific source of the water, the impact of the Project on the availability of water for other uses, including the Landfill, the impact of drawing the water on the environment, or any facts or studies to support the per acre foot cost assumed by ECBC (\$1,000 per acre foot). (DLA, Ex. "D", p. 1-2; Ex. "E", p. 2-9.) ECBC's assumption that it will have sufficient water to run its Project is based upon a further assumption—that it can purchase or lease suitable land and wells to generate the necessary water. (Ex. "E", p. 2-10.) This assumption is also presented without support. In view of the scarcity of water at the Project site and the growing statewide scarcity of water resources, ECBC's broad assumption that it will have enough water to operate the power part of its Project, not to mention its future needs for potable water and water for ancillary aspects of its Project, is speculative.

The DLA further assumes that financing will exist to build and operate the Project at a six-percent interest rate for 70% debt ratio for a 20-year term on a Project-financed basis. (DLA, Ex. "D", p. 5-3.) This assumption appears to be wildly optimistic, and it was not accompanied in the DLA by any analysis of existing or future financial market conditions or other factual support.

Despite all of these uncertainties and unsupported assumptions, ECBC's "schedule" for obtaining all of its entitlements, all of the land and water necessary for the Project, constructing and beginning operation of the Project is overly aggressive. The DLA assumes that the FERC license will be granted less than two years from now despite the previously-identified uncertainties and the likelihood of, at best, a lengthy regulatory delay regarding the construction of the Palo Verde #2 line. ECBC then assumes that sufficient land and water will be secured and power purchase agreements and financing agreements will be reached within one month after the license is granted, with construction to start only two years thereafter. This timetable likely assumes that there will be no opposition to the Project—a prospect which appears unrealistic in light of the intervenors and protestors who already exist. This schedule certainly does not provide for any potential interference with the Districts' Landfill. Once again, the bases for ECBC's aggressive schedule are not sufficiently identified, and the aggressiveness of the schedule makes the Project appear even more speculative.

Ms. Ginger Gillin

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September 12, 2008

III.**THE DLA DOES NOT ADEQUATELY CONSIDER THE PROJECT'S
POTENTIAL INTERFERENCE WITH THE LANDFILL**

The prospect of interference between ECBC's Project and the Landfill is obvious. However, ECBC spends only approximately 5 pages of its lengthy submittal discussing potential interferences, and it summarily rejects the possibility of any significant interference problems. This is largely because ECBC's assumes, based upon "our understanding of the landfill needs in Southern California and the current landfill implementation schedule," neither of which is specifically stated, that "the pumped storage project will be constructed before the landfill project." In view of the apparently unsupported assumptions that form the basis of ECBC's "schedule" for implementation of its Project, its cursory dismissal of the possibility of any significant conflicts is not credible. These potential conflicts must be seriously studied and analyzed by ECBC before its own Project may proceed.

Long before the Landfill can be used, the District will need to construct the landfill and its supporting infrastructure. This will include excavation, road construction, and the installation of piping, electrical work and landfill liners. Any simultaneity in the construction of the two projects will create potential traffic, air quality, noise, and biological impacts that ECBC does not consider in its DLA. Its primary assumption is that the only potential problem is if waste is being placed in the East Pit at the same time that water is present in the reservoirs. This underestimates the nature and scope of potential problems. To the extent that ECBC simply assumes that the projects can be modified to accommodate minimal conflicts, this assumption does not consider that previously approved environmental documents and entitlements may need to be reopened, which may obstruct and delay both projects. The very assumption that regulators would approve a landfill operating above a power project circulating water to generate power is itself highly speculative. ECBC needs to undertake a significant number of studies and analyses and answer important questions concerning the incompatibility of the two land uses in order for FERC to even minimally assess the consequences of granting a license for the Project. A partial list of significant questions, studies and analyses required of ECBC, including questions regarding the operation of the Visitor Center, tunnels under an active landfill, groundwater monitoring, seepage, desalination operations, and the use of minerals and soil at the site, is included in Exhibit "A", Item 1, which is attached to this comment letter.

IV.**THE DLA CONTAINS INSUFFICIENT INFORMATION
ABOUT THE PROJECT IT PROPOSES**

Although the DLA contains a new biological study relating to certain species, most of the studies and reports it cites were prepared for other projects, not ECBC's Project. Studies relating to the impacts of a landfill or other project on the Project's site do not consider the specific features of ECBC's Project or sufficiently consider its impact upon nearby projects and activities and upon the environment itself. The potential environmental impacts of the actual facilities to be constructed are rarely, if at all, considered. For example, the DLA assumes that additional transmission towers and infrastructure will be necessary somewhere at the Project site, but it doesn't describe the location of those towers or consider the possible impacts of different alternative locations. The DLA proposes desalination ponds that will generate an estimated 2,500 tons of salt but doesn't indicate where this salt will be ultimately be disposed of or any impacts accompanying the construction and operation of this facility. (DLA, Ex. "A", p. 1-9.)

Ms. Ginger Gillin

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ECBC must also consider the impact that its proposed project will have on the land uses in the area near the project. For example, there is a large-scale solar farm covering approximately 15,000 acres being developed by Opti-Solar, Inc. next to Eagle Mountain. These impacts include air quality, traffic, noise and light pollution, aesthetics, and other impacts on natural resources and sensitive species, including the desert tortoise. A partial list of necessary information required regarding potential impacts of the Project is included in Exhibit "A", Item II.

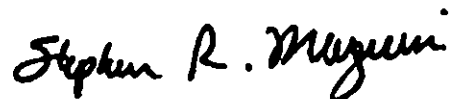
V.

THE DLA IS INSUFFICIENT

ECBC's submission raises significantly more questions than it answers. The Project and its impacts are not adequately considered, and even the basic assumptions underlying the DLA are highly speculative. The Districts request, at the very least, that ECBC engage in further review of the matters identified herein to correct deficiencies and provide a basis for comprehensive review of the application and its impacts. FERC and all parties affected by the Project are entitled to adequate information to permit a meaningful assessment of the Project.

The Districts reserve the right to submit further comments based upon inadequacies in this and future applications and upon modifications to this application in the future.

Very truly yours,



Stephen R. Maguin

SM:alf

Attachment - Exhibit "A"

EXHIBIT "A"

I INCOMPATIBILITY

- A. Claim that no overlap between Phases I through IV and operation of Landfill requires additional study and proof.**
- B. Potential Areas of Incompatibility**
 - 1. ECEC has not substantiated that its project will not compromise the design, construction and operation of the Landfill.**
 - (a) Need to study whether regulators would approve operation of the Landfill over the proposed power generation project.**
 - (b) ECEC must substantiate that the Landfill will still comply with siting, design and operational requirements pursuant to 40 CFR 258 and Titles 23 and 27 of the California Code of Regulations regarding municipal solid waste landfills.**
 - 2. Operational Issues**
 - (a) Visitor's Center**
 - (i) How will its operation impact the Landfill's operations?**
 - (ii) Will the public have access to all Landfill property?**
 - (b) Tunnels Under Active Landfill**
 - (i) What type of methane barrier will be installed for subsurface facilities?**
 - (ii) How will ECEC prevent the tunnels from becoming potential conduits for groundwater or landfill gas?**
 - (iii) If the tunnels become flooded, how will any potential impacts to groundwater be remediated?**

- (iv) What potential pollutants could potentially alter groundwater chemistry from tunnel infrastructure and maintenance?
- (v) What type of groundwater monitoring facilities will be installed for the subsurface facilities, and how will the collected groundwater be managed?
- (vi) Why does the drainage system described in Exhibit "A", Section 5 include oil-separating facilities? Where will such waste be generated? How much oily waste is anticipated? Where will this wastewater be disposed?
- (vii) Please provide a detailed description and diagrams of the powerhouse drainage sump pit described in Exhibit "A", Section 1.5.

(c) Groundwater monitoring

- (i) How will the loss of existing landfill groundwater monitoring wells impact the landfill?
- (ii) Will replacement groundwater monitoring wells be equivalent to those that are removed?
- (iii) Will the replacement wells have the same capture zone and equivalent water chemistry (undiluted by seepage from the reservoirs)?

(d) Desalinization Ponds

- (i) What type of liner and monitoring facilities are proposed?
- (ii) Provide specific drawings, locations and specifications.
- (iii) How will the ponds impact the railyard operations for the Landfill?
- (iv) Provide a detailed layout of any overlap between your project and the Landfill project.

- (v) *Where will the estimated 2,500 tons per year of desalinization salt ultimately be disposed?*

(e) Other Potential Incompatibilities

- (i) *How will the proposed transmission lines impact the operation of the Landfill's railyard and the Landfill as a whole?*
- (ii) *How will the project's use of the switchyard impact the operation of the Landfill?*
- (iii) *Could access to fine or coarse tailings or overburden piles for landfill purposes be blocked by this project's infrastructure or operation?*
- (iv) *How will your project's traffic from the staging, storage, administration or areas affect the Landfill's operation?*
- (v) *Where will earthen materials be obtained to build the dam and prepare both reservoirs and how much will be necessary? How will the use of these materials affect the Landfill's construction or operations?*
- (vi) *Where will the significant quantity of tailings present in the East Pit be relocated for use for the Landfill?*
- (vii) *How can the transfer station potentially impact landfill construction and operations?*
- (viii) *How will security and maintenance be performed within the Landfill area, and how will these activities affect the operation of the Landfill?*
- (ix) *How much fine and coarse tailing materials are needed for construction of the project, and how will use of these materials impact the Landfill project?*
- (x) *Figure E.1-8 does not accurately depict the location of Landfill infrastructure. Please update this figure using information*

contained in the Report of Waste Discharge
for the Eagle Mountain Landfill.

II. INSUFFICIENT INFORMATION IN APPLICATION

A. With the exception of a recent wildlife study, the other information cited in the application and compiled by ECBC appears to be generated in connection with the landfill project, and it does not address the impacts of ECBC's project. Significant additional efforts are needed in the following areas:

- 1. What pollutants may be generated by the project?**
- 2. As described in Exhibit "A", Sections 1.1 and 1.2, ECBC will determine specific seepage controls after geologic mapping is performed. Geologic mapping has been performed for the Eagle Mountain Landfill. These geologic maps and detailed hydrogeologic data are included in the Report of Waste Discharge previously remitted to the Regional Water Quality Control Board. Accordingly, please provide the following information regarding seepage:**
 - (a) Detailed calculations for leakage losses from both reservoirs**
 - (b) Detailed calculations for pre-and post-seepage treatment**
 - (c) A detailed description of proposed seepage control, including all supporting calculations**
 - (d) How was a seepage loss of 600 acre-feet per year determined as noted in Exhibit "A", Section 1.9 and Exhibit "B", Section 5.1?**
 - (e) A detailed three-dimensional groundwater flow model, such as Visual MODFLOW using particle tracking, for the proposed site should be used to illustrate the impact of seepage from treated and untreated reservoirs, including potential impacts from tunnels in the event they become flooded. Visual MODFLOW should be utilized to predict potential impacts to the Landfill. The groundwater model should be calibrated using historic water levels and pumping data, contained in the Report of Waste Discharge, before making predictions needed to assess potential impacts to the Landfill.**

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- (f) A detailed description, including a three-dimensional groundwater flow model described above, for the proposed site to illustrate the impact of proposed seepage recovery wells (modeling should be used to determine the estimated spacing of recovery wells needed to ensure the landfill groundwater monitoring network is not impacted by seepage).
- (g) How could reservoir seepage "reach...the nearby Colorado River Aqueduct" as described in Exhibit "A"?

3. Geology and Geotechnics

- (a) The License Application does not contain the BMEC 1994 study discussed in Exhibit "E", Section 6.5.7. This study, performed by Kaiser and MRC, did not consider the impact of filled reservoirs on lined landfill slopes. ECBC should provide stability modeling for reservoir slopes and adjacent areas potentially impacted by the filling of mining pits with water. Modeling of critical existing and final landfill liner slopes should be performed to assess potential impacts to the Landfill in conformance with requirements of the State Department of Water Resources ("DWR"), addressing both impacts from the Maximum Credible Earthquake and Maximum Probable Earthquake events.
- (b) Provide detailed stability calculations for the upper dam in conformance with requirements of the State Department of Water Resources ("DWR"), addressing both impacts from the Maximum Credible Earthquake and Maximum Probable Earthquake events.
- (c) Update the seismicity study contained in Exhibit E using current data and methodology approved by DWR.

4. Groundwater, Potable Water and Sewerage

- (a) What model was used to assess groundwater pumping impacts to the Chuckawalla Valley (eg. Figures E2-16 through E2-18)? (Use of the Theis equation to predict water levels is not an appropriate methodology to assess long-term impacts to the basin.)

- (b) As data presented in Figures E2-19 and E2-20 do not reflect long-term potential influences of pumping within the basin, provide a detailed three-dimensional groundwater flow model, such as Visual MODFLOW, for the Chuckawalla Valley that will provide basin-wide impacts from pumping along with maximum drawdown predicted for other potential water producers in the basin. The groundwater model should be calibrated using historic pumping data before making predictions needed to assess potential impacts to the basin. The calibrated model should consider groundwater pumping needed for the Landfill, assuming both projects are operational at the same time.
- (c) The groundwater model should address potential impacts of both initial filling and any make-up water needed for the duration of the project.
- (d) Please revise Figure E.1-3 to show specific locations of existing production wells discussed in Exhibit "E", Section 1.1. In addition, Figure 1.E-3 should also be revised to illustrate potential locations of new production wells. Visual MODEFLOW modeling should be performed for both scenarios (i.e., existing vs. new production wells) to assess potential impact to the basin.
- (e) Based upon modeling results, how will pumping activities impact the landfill or other parties pumping water from the Chuckawalla Valley?
- (f) If water used to initially fill the reservoir is obtained from the Chuckawalla Valley, will existing production wells be utilized?
 - (i) Does ECEC have the authority to utilize these wells?
 - (ii) What is the capacity of each well to be used?
- (g) What potable water system will serve the proposed project, and what is the potable water demand of that project?

- (h) Which existing sewage facility will be used for the project, and what is the estimated quantity of sanitary sewage that will be generated?
- (i) Will wastes other than sewage wastes be discharged into the existing sewage system? What are the composition and the quantity of these wastes?

5. Storm Water

- (a) Provide a detailed hydrology study for the project, including:
 - (i) Design calculations for drainage structures necessary to accommodate applicable storm intensities specified by the Regional Water Quality Control Board for the Landfill project, assuming both projects will operate simultaneously, and
 - (ii) A study of where surface water will be directed due to the loss of East Pit storage capacity.
- (b) What materials will be stored within the proposed project's site?
- (c) How will ECEC monitor storm water from industrial activities pursuant to the General Industrial NPDES permit?
- (d) What best management practices will be used to prevent storm water pollution during construction activities?

6. Address and mitigate the potential impact of the open reservoirs attracting wildlife

- (a) Among the species to be addressed are ravens, coyotes and other predators of the desert tortoise.
- (b) How will the reservoirs affect the Landfill's ability to comply with the Biological Opinion?

7. Perform a complete biological assessment for the proposed project, including a full evaluation of potential impacts to the Landfill project.

8. **Perform a detailed visual assessment for the proposed project itself—use of the Landfill project's visual assessment is insufficient.**



KAISER VENTURES LLC

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February 13, 2009

VIA ELECTRONIC FILING

Kimberly D. Bose, Secretary
Nathaniel J. Davis, Sr., Deputy Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

VIA FEDERAL EXPRESS

Camilla Williams
Division of Water Rights
State Water Resources Control Board
1001 I Street, 14th Floor
Sacramento, CA 95814

**Re: COMMENTS ON SCOPING DOCUMENT 1 FOR EAGLE MOUNTAIN
PUMPED STORAGE PROJECT (FERC PROJECT NO. P-13123-000)**

Dear Secretary Bose and Deputy Secretary Davis:

Thank you for this opportunity to provide comments on Scoping Document 1 ("SD1") issued by the Federal Energy Regulatory Commission ("Commission" or "FERC") and the State of California State Water Resources Control Board ("Water Board" or "SWRCB") on December 17, 2008 for Eagle Crest Energy Company's ("ECEC's") Eagle Mountain Pumped Storage Project, FERC No. 13123 (the "Project").¹ Kaiser Eagle Mountain, LLC and Mine Reclamation, LLC (collectively "Kaiser") submit these comments to identify some of the areas of additional environmental studies and analysis which must be conducted as a part of the environmental review of the Project in accordance with the requirements of the National Environmental Policy Act, 42 U.S.C. § 4321 *et seq.* ("NEPA") and the California Environmental Quality Act, California Public Resources Code §§21000-21177 ("CEQA").

Kaiser owns or controls much of the real property on which ECEC proposes to build the Project. Kaiser also owns and holds permits for construction of the Eagle Mountain Landfill and Recycling Center (the "Landfill"), a major landfill facility designed to dispose of up to 708 million tons of municipal solid waste materials.² The

¹ Kaiser reserves the right to make additional comments and study requests during the course of the traditional licensing process. As reflected in these comments, ECEC's lack of specificity and incomplete analysis of impacts in Project materials issued to date makes it difficult to provide a full response. Accordingly, this letter is not intended to provide a full and complete list of all the studies necessary for ECEC to comply with applicable law, rules, and regulations with respect to this Project.

² The Landfill will have the capacity to handle and dispose of 470 million tons in Phases 1-4 and 238 million tons in Phase 5.



Landfill is currently under contract to be sold to Los Angeles County Sanitation District No. 2 ("LACSD"). The Landfill is permitted for development on property that ECEC proposes to use for its Project. The Project as proposed directly conflicts with and is inconsistent with the Landfill, and therefore will have a direct significant adverse impact on Kaiser, the Landfill and the public interest to be served by the development of the municipal solid waste facility.

As reflected in Kaiser's previous comments on ECEC's Draft License Application (the "DLA") dated September 12, 2008 ("DLA Comments") and its Comments and Study Requests dated June 9, 2008 and responding to ECEC's Preapplication Document (the "Preapplication Comments"), Kaiser's assessment of the informational needs and environmental consequences of the proposed Project is hampered by ECEC's failure to provide a complete and accurate description of its proposal. For example, ECEC does not identify with any specificity the location of available or alternate transmission routes or the specific sources of groundwater for the initial fill and annual make-up water necessary to construct and operate this Project. This is illustrated by ECEC's announcement in the scoping sessions held on January 15, 2009 and on January 16, 2009, that the route of its proposed transmission line was changing from the general route previously discussed in its DLA. "[O]nly through an accurate view of the project may the public and interested parties and public agencies balance the proposed project's benefits against its environmental cost, consider appropriate mitigation measures, assess the advantages of terminating the proposal, and properly weigh other alternatives."³ ECEC must provide the Commission, the Water Board and the public more complete and accurate information regarding its proposed project to allow for adequate environmental review.

It is ECEC's burden and responsibility, not Kaiser's or the public's burden and responsibility, to describe a project with sufficient information to initiate meaningful environmental review. Having failed to do so, the effort to scope an environmental analysis at this juncture is fatally flawed. However, Kaiser does offer the following comments concerning some of the additional analysis that is necessary to begin to understand the proposed Project and the scope of its environmental consequences.

³ *San Joaquin Raptor Rescue Ctr. v. County of Merced*, 149 Cal. App. 4th 645, 655, 57 Cal. Rptr. 3d 663 (2007) (citing *City of Santee v. County of San Diego*, 214 Cal. App. 3d 1438, 1454, 263 Cal. Rptr. 340 (1989)) (internal quotation marks and citations omitted).



I. SUMMARY

Kaiser's concerns with the scoping of environmental review for the Project generally fall into the following categories:

- **Incompatibility with the Landfill and other land uses:** The Commission and Board's environmental review must look at the Project's impacts on existing and reasonably foreseeable adjacent land uses and its cumulative impacts in relationship to other past, present, and reasonably foreseeable conditions. There is no doubt that the Project is incompatible with the Landfill.⁴ Based upon the sketchy information that has been provided so far, additional analyses required to examine impacts on the Landfill and other land uses include, but are not limited to: reservoir seepage risks, seismic hazards, conflicts with ancillary facilities, design, construction and operation assumptions, effects of other energy projects in the vicinity, and conflicts with planned land uses reflected in Riverside County's General Plan – Desert Center Area Land Use component. Additionally, the environmental review must consider an analyze impacts on current and future mining and reclamation activities at Eagle Mountain. These impacts range from possible use of rock resources in the construction and maintenance of the Project to loss of access to rock sources that could be sold or would otherwise utilized by the Landfill. For example, on the property that is Section 36, T 14E, R3N SBBM, which property would be impacted by the Project, there is an estimated 64,589,399 tons of waste rock stock piled and an estimated 204,158,000 tons of in place rock. Furthermore, the Landfill is a part of the approved surface mine reclamation plan for the Eagle Mountain mine. In addition to being compatible with the Landfill, the impacts to the reclamation of the mine must be analyzed.
- **Developmental resource impacts:** The environmental impact statement ("EIS")⁵ and environmental impact report ("EIR") must include critical examination of the need for the Project and its impacts on existing energy infrastructure and resources. These issues must be evaluated with respect to the action and no action alternatives.

⁴ For example, the Project utilizes the east pit of the Eagle Mountain site as its lower reservoir but such pit will hold municipal solid waste in Phase 5 of the Landfill. Indeed, the environmental impact statement prepared by the Bureau of Land Management notes that the proposed "hydroelectric project would conflict with the ... Eagle Mountain Project, because ECEC's proposed reservoirs would encroach slightly into the Phase 1 and substantially into the Phase 5 areas of the landfill." Eagle Mountain Landfill and Recycling Center Project DEIS at 5-19.

⁵ Kaiser affirms the intention of the Commission and Water Board to prepare an EIS and EIR. Given the scope of probable significant adverse environmental impacts that would be generated by the Project, this level of environmental review is imperative to meet the requirements of NEPA and CEQA.



- **Impacts on water resources:** The Project's impacts on water quantity and water quality could threaten surrounding land uses, water supply sources, and habitat areas. The high likelihood of seepage affecting other resources requires particular scrutiny; placing large reservoirs in close proximity to a municipal landfill appears to be an unwise and unprecedented proposal. Potential impacts on groundwater supply, water quality, and hydrocompaction must be examined with far greater rigor than shown in ECEC's DLA.
- **Disturbance of wildlife and wildlife habitat:** Additional ecosystem analyses are required to identify adequate protection, mitigation, and enhancement measures necessary for wildlife and wildlife habitat. As a starting point, additional studies are required to evaluate impacts of: the addition of a new water body within desert habitat, direct conflicts with the desert tortoise and its critical habitat areas, bighorn sheep interference, and long-term operation and maintenance of the Project.
- **Cumulative impacts:** The effects of this Project must be examined alongside its interaction with other effects in the region and in the upcoming years.⁶ The combination of these effects, and any resulting environmental degradation, should be the focus of cumulative impact analysis in the EIS/EIR. This analysis must take into account the compounding of the effects of the Project and planned or foreseeable actions over time. The total effects on resources, the ecosystem, or human community need to be reviewed to comply with NEPA and CEQA.

Our comments with respect to these issues are set forth in greater detail below. Kaiser also incorporates by reference, and hereby submits as part of its comments on SD1, Kaiser's DLA Comments and Preapplication Comments. (See FERC Accession Nos. 20080917-0165, 20080917-0166, 20081016-0115, 20081016-0116 (DLA Comments); 20080619-0045 (Preapplication Comments)). The DLA Comments, in particular, provide recommendations from subject-area experts—professional hydrologists, civil engineers, biologists, and energy consultants—regarding missing pieces of the DLA's environmental analyses. Kaiser asks that the discussion of potential Project impacts and recommendations for additional analyses presented in the DLA Comments and Preapplication Comments be reviewed by the Commission and Water Board for the purpose of defining the scope of the EIR/EIS analysis.

⁶ NEPA defines a "cumulative impact" as: "the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency . . . or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time." 40 C.F.R. § 1508.7.



II. DETAILED COMMENTS

A. Data Regarding the Project Must Be Sufficient for a Hard Look at Assessment and Mitigation of Project's Environmental Impacts.

The NEPA studies must allow the Commission and Water Board to engage in the "hard look" at environmental impacts of the Project. CEQA similarly requires that an EIR "be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences." Cal. Code Regs. Tit. 14, § 15151. The DLA falls well short of the informational requirements needed before sufficient NEPA and CEQA analyses can be initiated. In determining whether a proposed action will significantly impact the environment, for purposes of NEPA an agency must consider, "direct," "indirect," and "cumulative" environmental impacts of an application. 40 C.F.R. § 1508.25.⁷ CEQA likewise requires that an EIR "[i]nform governmental decision-makers and the public about the potential, significant environmental effects of proposed activities" and "consider the whole of an action" through adequate and complete information. Cal. Code Regs. Tit. 14, §§ 15002(a)(1), 15003(h)-(i). The DLA inappropriately suggested that study of many Project elements, including reservoir design features and operational controls to address conflicts with the Landfill, could be studied at a later date or that the approved Landfill could be altered to accommodate the Project.

Environmental studies must be performed as soon as it is reasonably possible to complete them. *Kern v. U.S. Bureau of Land Mgmt.*, 284 F.3d 1062, 1072, 1074 (9th Cir. 2002) ("NEPA is not designed to postpone analysis of an environmental consequence to the last possible moment. Rather, it is designed to require such analysis as soon as it can reasonably be done. If it is reasonably possible to analyze the environmental consequences in an EIS... the agency is required to perform that analysis."). "[C]umulative impact analysis must be timely. It is not appropriate to defer consideration of cumulative impacts to a future date when meaningful consideration can be given now." *Id.* at 1075; *see also* Cal. Code Regs. Tit. 14, §§ 15003(j), 15004 (providing that CEQA decisions "be informed and balanced" and occur "[b]efore granting any approval of a project subject to CEQA."). Moreover, "[a] proper consideration of the cumulative impacts of a project requires some quantified or

⁷ While NEPA does not mandate particular results, it sets forth procedural requirements to ensure that federal agencies take a hard look at the all foreseeable direct and indirect consequences of their actions. *N. Alaska Env'tl. Ctr. v. Kempthorne*, 457 F.3d 969, 975 (9th Cir. 2006). Under the "rule of reason" or "hard look" standard applied in NEPA review, the courts assess whether an agency has engaged in a "reasonably thorough discussion of the significant aspects of probable environmental consequences." *American Rivers v. FERC*, 201 F.3d 1186, 1195 (9th Cir. 1999) (quotation marks and citation omitted). Thus, an agency decision will not withstand review when the decision-maker fails to make a rational connection between the facts and the decision, *Bangor Hydro-Elec. Co. v. FERC*, 78 F.3d 659, 663 n.3 (D.C. Cir. 1996), or ignores or minimizes relevant evidence. *Morall v. Drug Enforcement Admin.*, 412 F.3d 165, 178 (D.C. Cir. 2005).



detailed information." *Klamath-Siskiyou Wildlands Ctr. v. Bureau of Land Mgmt.*, 387 F.3d 989, 993 (9th Cir. 2004) (internal quotation marks and citations omitted).

NEPA also requires that an EIS analyze and include appropriate mitigation measures or alternatives in its review. 40 C.F.R. § 1502.14(f) (directing inclusion of "appropriate mitigation measures not in the proposed action"); 40 C.F.R. § 1508.25(b)(3) (requiring agencies to consider "mitigation measures (not already included in the proposed action)").⁸ Because rigorous and objective consideration of alternatives provides the "clear basis for choice," factors producing an attenuated alternatives analysis are danger signals suggesting a possible failure of the reasoned decision-making process. *See* 40 C.F.R. § 1502.14. NEPA's regulations require agencies to "[r]igorously explore and objectively evaluate all reasonable alternatives." *Id.*

ECEC may not circumvent the opportunity for meaningful environmental analysis by offering up a patently deficient draft application; before the FERC and SWRCB can take a "hard look" at the environmental impacts of a project, ECEC must describe its project. For the reasons set forth below, additional information and environmental studies are required to describe and examine the Project, alternatives to the Project, impacts of the Project on various resources, and protection, mitigation, and enhancement measures ("PM&Es") necessary to address such environmental impacts.

B. All of the Studies Listed in SD1 Section 3.1.3 Are Necessary.

Kaiser agrees that **all** of the studies listed in Section 3.1.3 of SD1 need to be conducted to prepare an adequate EIS/EIR. These include important additional analyses regarding water resources and wildlife resources such as:

1. Location of wells

⁸ "Reasonable alternatives include those that are practical or feasible from the technical and economic standpoint and using common sense, rather than simply desirable from the standpoint of the applicant." *Sierra Club v. Marsh*, 714 F.Supp. 539, 573-74 (D. Me. 1989) (emphasis omitted) (quoting Council on Environmental Quality, *Guidance Regarding NEPA Regulations*, 48 Fed. Reg. 34263, 34267 (July 28, 1983) and 46 Fed. Reg. at 18027).

To be sure, one important ingredient of an EIS is the discussion of steps that can be taken to mitigate adverse environmental consequences. [40 C.F.R. § 1508.20 (2007)] The requirement that an EIS contain a detailed discussion of possible mitigation measures flows both from the language of the Act and, more expressly, from CEQ's implementing regulations. Implicit in NEPA's demand that an agency prepare a detailed statement on "any adverse environmental effects which cannot be avoided should the proposal be implemented," 42 U.S.C. § 4332(C)(ii), is an understanding that the EIS will discuss the extent to which adverse effects can be avoided. *See* D. Mandelker, *NEPA Law and Litigation* § 10:38 (1984).



2. Seepage risks
3. Water withdrawal impacts to water resources in the vicinity (including hydrocompaction impacts)
4. Best management practices to protect water quality
5. Field surveys of special status species
6. Mitigation of construction, operation and maintenance impacts on wildlife and sensitive status species

Kaiser's DLA Comments and Preapplication Comments identify some of the potential impacts of the Project in these areas and recommend studies that should be conducted with respect to the above issues. Kaiser renews those comments here and emphasizes that Project must be further described in order for meaningful assessment of these issues. Kaiser also notes that the additional study of water withdrawal impacts to water resources in the vicinity must factor in potential Bureau of Reclamation regulations that would affect the availability of water withdrawals from the Chuckwalla Valley due to broader impacts on Colorado River water resources. *See* Regulating the Use of Lower Colorado River Water Without an Entitlement, 73 Fed. Reg. 40,916 (July 16, 2008) (to be codified at 43 CFR Part 415).

C. Additional Studies Are Required to Address Resource Issues Posed by the Project.

In addition to those studies identified in Section 3.1.3 of SD1, in order to describe the Project and initiate environmental review under NEPA and CEQA additional studies must also be conducted to evaluate the following resource issues:⁹

1. Land use impacts.

The EIS/EIR must address the following issues regarding the Project's impacts on the Landfill, including but not limited to:

⁹ Some of these resource issues are identified in Section 4.2 of SD1, but none are reflected in the list of additional studies presented in Section 3.1.3.



- a. What impact will Project design, construction, operation and maintenance have on the surrounding Landfill's construction, operation and maintenance? ECEC has never offered any explanation of how it will avoid, minimize or mitigate direct and irreconcilable impacts with the Landfill; these impacts cannot be assumed away by vague project "descriptions" or speculation about Landfill construction phasing. The Landfill is a permitted project and will provide an essential public service.
- b. Where will LACSD dispose of the tons of solid waste expected to be discharged at the Landfill if the Project's conflicts with the Landfill make it infeasible or impracticable to implement the Landfill along with the Project use? What is the environmental cost of such relocation of solid waste?
- c. What are the acquisition and severance impacts to people and property associated with acquisition of the Kaiser properties and displacing the Landfill and rock resources?

ECEC's suggestion in the DLA that these issues can be addressed during the Project design and implementation stage is inconsistent with NEPA and CEQA. The Landfill's design has already undergone substantial and comprehensive environmental analysis. The Bureau of Land Management ("**BLM**") and Riverside County, California (the "**County**") each undertook review of applications to facilitate the Landfill. BLM and the County prepared and issued a joint federal EIS/EIR (collectively, the "**Landfill EIS**") analyzing the environmental effects of the Landfill. The Landfill EIS and associated studies reflect many years of environmental review and are documented in over 50,000 pages of written analyses, including a 900-page Draft EIS and a 1600-page Final EIS. Numerous federal, state, and local agencies and non-governmental organizations participated in this extensive environmental review process. In reviewing the BLM land exchange pursuant to Section 7 of the ESA, U.S. Fish and Wildlife Service ("**USFWS**") also evaluated the potential impacts of the Landfill and issued a biological opinion finding it would not jeopardize any threatened or endangered species. Upon review of this voluminous record, the County issued the permits and approvals for the Landfill in 1997. The BLM also approved a land exchange with Kaiser in 1997 and completed the land exchange in 1999.¹⁰

In issuing these permits, BLM and the County determined that the Landfill would fulfill public need for waste disposal—processing up to 20,000 tons of waste per day—while providing protection, mitigation, and enhancement measures that would

¹⁰ An appeal of BLM's land exchange decision is pending before the Ninth Circuit Court of Appeals. All briefing and oral argument in the case has concluded and the matter is before the court for decision. Prior state suits regarding the Landfill environmental review were settled in July 1999, when the California Supreme Court declined review of the appellate court's determination that the environmental review complied with CEQA.



balance harm to various environmental interests. It was determined that "the public interest will be well served by making this [land] exchange," the Landfill "undeniably meets the needs of the State and local residents and their economies," and "disposal of [BLM] lands in exchange for wildlife habitat [from Kaiser] plainly entails a net gain for the public."¹¹ The Landfill is part of the County's zoning and land use plans for development and use of natural resources, as reflected in the Eagle Mountain Policy Area of the County's General Plan (Desert Center Area Land Use Plan) and approved in the County's Ordinance 555, Reclamation Plan No. 107 (as amended).¹² *See* DLA Comments at pp. 9-18.

The Commission and the Water Board must conduct analysis of the Project's direct impacts upon and conflicts with the Landfill. Such interference with another public interest also demands analysis of the cumulative impact of the Project on solid waste disposal alternatives to meet the demands of southern California residents as the Project's incompatibility will jeopardize the Landfill construction and operations. This assessment must be completed as part of the EIS/EIR.

2. Geologic and hydro-geologic impacts

The Project's proposed water uses may elevate seismic risks within the Project vicinity. Given the risks, additional studies should be performed to provide the input necessary to assure proper design of the Project. To properly evaluate the Project's seismic impacts, ECEC must provide designs for major systems and for new structures to be used by the Project (water pipeline, transmission line, access roads, etc.) and additional studies, including but not limited to the following:

- **Design Acceleration Time Histories.** Design ground motions should be established in the form of a suite of spectrum-compatible acceleration time histories that reflect site geologic conditions and seismic setting. These acceleration time histories are an essential input for design of engineering components of the Project and for evaluation of other hazards at the site such as soil liquefaction potential, seismically-induced settlement, and slope stability. The EIS/EIR must be based upon ground motion evaluation that is consistent with the particular industry standards. *See* DLA Comments at p. 14.
- **Modeling of Local Groundwater Elevations.** The proposed construction will change the groundwater regime and elevations in the area. At locations near the proposed reservoir pits, groundwater elevations will likely increase. Local increase in groundwater elevations may result in local increase in soil liquefaction potential. More modeling must be performed to analyze this environmental impact. *See id.*

¹¹ Interior Board of Land Appeals, *Donna and Larry Charpiet and National Parks and Conservation Association*, 150 IBLA 314, 332-33 (September 30, 1999).

¹² *See* DLA at Exhibit E, p. 9-7.



- **Hydro-Geologic Studies.** As set forth in Kaiser's DLA Comments, the high seepage potential for this Project may lead to seismic hazards. Just as the increase in groundwater levels may alter the soil liquefaction risks, seepage may also heighten soil liquefaction risk factors. Water may seep into underlying fault(s), which, in turn, may induce seismicity. There are several well known cases of seepage-induced seismicity, including one at the Department of Energy's Rocky Mountain Arsenal site in Colorado. Additional hydro-geologic studies are required to examine these potential Project impacts. *See id* at pp. 14-15.
3. **Water quality impacts**

In addition to analysis of the water resource impacts areas identified in Section 3.1.3 of SD1, including the critical analysis of "potential seepage from the former mine pits and the brine pond" and "potential impacts to the Colorado River Aqueduct," additional study is necessary to examine: (1) brine pond impacts on groundwater quality; (2) long-term reservoir water quality within the reservoir itself; (3) construction effects on water quality; (4) import and mixing of the potentially dissimilar chemical composition of the Colorado River water in the basin. *See DLA Comments* at pp. 22-24.

4. **Developmental resource impacts**

The EIS/EIR must also consider the developmental resource impacts of the Project, including but not limited to: (a) impacts on the capacity and reliability of the local and regional transmission system; (b) impacts on the need for and availability of generation in off-peak periods; (c) impacts on greenhouse gases ("GHG") because the Project will consume more energy than it generates, likely relying upon power generated by GHG emitting power sources to meet Project pumping demand; (d) fiscal analysis of Project economics relative to alternative resources and the need for the Project; and, (e) market effects and benefits of the Project as compared to No Action Alternative. *See DLA Comments* at pp. 32-39.

5. **Wildlife impacts**

The field surveys listed in Section 3.1.3 with respect to special status species are important. However, the EIS/EIR should not be limited solely to special status species impacts. The EIS/EIR is to examine the probable significant environmental impacts of the Project on wildlife resources in general as well. The environmental review must include analysis of the impact of introducing a new water body in the desert. This requires modeling and/or analysis of similar facilities and not just the proposed field studies in existing environment. *See DLA Comments* at pp. 25-32.

III. CONCLUSIONS

For the foregoing reasons, Kaiser hereby recommends that scoping be continued until such time as ECEC has provided an accurate project description for which an informed scope of environmental analysis can reasonably be determined. If,

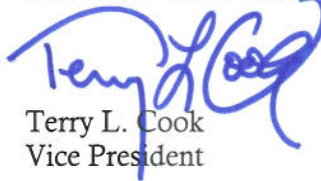


KIMBERLY D. BOSE - FERC
NATHANIEL J. DAVIS, SR. - FERC
CAMILLA WILLIAMS - STATE WATER RESOURCES CONTROL BOARD
FEBRUARY 13, 2009
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however, FERC and SWRCB are going to attempt to determine the scope of an environmental analysis on the basis of a patently deficient draft application, these additional areas of analysis referenced above must be included within the scope of the EIS/EIR review. Kaiser also emphasizes the importance of conducting all of the studies currently reflected in Section 3.1.3 of SD1 with the rigor necessary to provide a thorough discussion of the significant aspects of probable environmental consequences. A great deal of additional analysis is required to provide the Commission and the Water Board with the quality and quantity of information necessary to take a hard look at this Project and its impacts. For an applicant that has "pursued" this Project for a period of now close to 20 years, we are puzzled with the dearth of information that has been provided to date, and are very concerned that this information will not be readily offered or forthcoming from an applicant that seems more concerned about holding a place in line than it does to invest the time, effort and resources to advance this Project.

Very truly yours,

**KAISER EAGLE MOUNTAIN, LLC
MINE RECLAMATION, LLC**



Terry L. Cook
Vice President

Enclosures

cc: FERC Service List for P-13123-000
Kim Nguyen, FERC (via electronic mail)
Alexander Shipman, Esq., Los Angeles County Sanitation District
Matthew D. Hacker, Metropolitan Water District of Southern California

TLC:jpk

terry09\final written comments on FERC's scoping 2-13-09

CERTIFICATE OF SERVICE

I hereby certify that I have, this day, served the foregoing documents upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Bellevue, Washington, this 13th day of February, 2009.

K.W. Campbell

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“DON’T WASTE THE DESERT”

February 16, 2009

Via Electronic Filing

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RE: COMMENTS ON SCOPING DOCUMENT 1 FOR THE EAGLE MOUNTAIN PUMPED STORAGE PROJECT FREC PROJECT NO. P-13123-000

Dear Secretary Bose and Deputy Secretary Davis,

The Citizens for the Chuckwalla Valley (“CCV”) thank you for this opportunity to provide comments on the Scoping Document 1 (“SD1”) issued by the Federal Energy Regulatory Commission (“FERC”) and the State of California State Water Resources Control Board (“SWRCB”) for the Eagle Mountain Pumped Storage Project, FERC No. 13123 (“Project”). **We request at this time to be added to your mailing list for the Project.**

CCV has been involved in this project since 1990 when it was included in the initial Environmental Impact Report/Environmental Impact Statement (“EIR/EIS”) conducted from 1990 – 1997 for the Eagle Mountain garbage dump proposed by Kaiser Ventures and Mine Reclamation Corporation (“Kaiser/MRC”). CCV is a grassroots group formed to prevent the development of the proposed Eagle Mountain dump and to be involved in participating in policies that enhance natural, cultural, scientific, and human environment. (From the beginning CCV felt water and the world’s largest garbage dump simply do not mix). CCV understands and recognizes the need for economic development in desert communities, but do not believe that project which will result in an irretrievable commitment to our community’s and Joshua Tree National Park’s (“JoTr”) natural resources are appropriate. For information on how the environmental community want to see this area grow, see <http://www.ccae.org/rockinforjoshuatree/theNEST/narrative/index.html>, that contains the “Vision for Eagle Mountain” designed to promote tourism, protect desert communities and JoTr’s resources. Members of CCV and other environmental groups have successfully challenged the Eagle Mountain dump which resulted in setting aside the exchange of land Kaiser/MRC needs for it’s dump. The Polluters appealed the lower court’s ruling and once the 9th Circuit Court of Appeals rules favorably, the lands in question will revert back to the Bureau of

Land Management (“BLM”) then ultimately the National Park Service (“NPS”).

We submit these comments to identify some of the areas that we believe warrant environmental studies and analysis as part of the environmental review of the Project in accordance with the requirements of National Environmental Policy Act, 42 U.S.C. § 4321 *et seq* (“NEPA”), and the California Environmental Quality Act, California Public Resources Code §§21000-21177 (“CEQA”).

Seismicity: CCV would like comprehensive studies regarding seismicity. The construction of liners, dams, and ponds have the potential to breach resulting in groundwater and surface contamination from the Project as well as the dump. Please include a detailed cumulative analysis.

What is the potential ground shaking at Eagle Mountain? Please explore random, non-fault specific events inside the site and estimate the PGA. What affect will a 6.75 event have on the liners of the pits involved, as well as brine ponds with the epicenter at the site?

How will horizontal deformation be mitigated? All liners, pipes, dams, ponds will be sheared fully or partially. Leakage and flooding will occur. What analytical method will be used to determine the extent of damage?

What physical barriers, berms, techniques, and engineering methods will you use to stabilize the liner to the slopes? Where will these measures be employed in the design and construction of the liner?

Bulletin of the Seismological Society of America Vol. 85 No. 2, pages 379 and 405, April 1995. clearly define the Eagle Mountain site as containing diverse or hidden faults. Each zone is assumed to have randomly distributed earthquakes.

Utilizing conservative G Force estimates is inappropriate, when the State and Federal laws require a design that would resist relatively high intensity forces? Maximum horizontal acceleration needs to be the criteria. Maximum possibilities should be the criteria. PGA should be .63. Why use a PGA which is smaller than what potentially is possible? How can you predict where ground slippage will occur? Will slippage vary with source, direction, and intensity of ground movement? Why not?

The project is surrounded by active faults, and also show many unnamed little or subsurface faults. These unnamed, subsurface faults need inclusion as to their potential for seismic impact? The Seismology Bulletin we discussed above states that clearly northwest trending, strike-slip faults are important sources of large - magnitude earthquakes.

Because of the web-like nature of faulting and activity along the San Andreas & the Eastern Mojave segment Southeast Transverse Ranges, Pinto Mountains, and Blue Cut Fault, it is commonly accepted that earthquakes generated on a specific fault can generate earthquakes on other separate known and unknown faults. A predictable maximum earthquake generated elsewhere and causing the Blue Cut to slip, would be larger than the 7.5. Please analyze the potential of a large Blue Cut event and the potential from an unknown site specific earthquake.

Blind thrust faults are present and difficult to predict. Please address the potential impacts of a blind

thrust fault. A 7.3 is possible. You need to analyze all of the modeling with this potential in mind. Blind thrust faults demonstrate importance as hazards. There is much uncertainty of the extent, geometry, depth, and origin. Show how you will resolved these issues.

Previous modeling shows the Palos Verdes fault inaccurately in origin, direction, and connections to other faults. Also Whittier was classified as inactive and now is classified as a major active strike-slip fault. How can you guarantee that the same flaws won't reoccur in your modeling?

Again, we see Northridge, with a displacement of 1.5m to 3.5m, that the causative fault was not previously mapped. Landers, which unlike Northridge, ruptured the surface, contain many previously unmapped faults. No evidence before showed this group would produce such large earthquakes. An integrated Approach for Assessing Potential Earthquakes must be used.

Implementing satellite technology, the rate of slip for the Blue Cut could be easily and cost effectively determined. This ought to be done.

Little is known about accumulation at lesser faults. What have you done to increase this knowledge relative to Eagle Mountain?

Models show strain release to the biggest faults is not consistent with recent geodetic data ! How will this affect small faults in the site area?

Cal Tech and the USGS put out a week earthquake report for the week of August 8 - 14, 1996. It states, "...Landers triggered activity as far away as Yellowstone...". Larger earthquakes will trigger activity on known as well as unknown faults. What cumulative affect will occur at the site?

After the Landers quake, a section of sidewalk at Eagle Mountain rose 12 inches. The sidewalks, door & window jams are constantly shifting and in need of repairs. This is because of the unstable ground. How will you stabilize a sheet of plastic, when concrete and steel are easily shifted by the constant ground movement?

Please include field studies to show activity rates.

There needs to be trenching or bore holes performed on faults and old geomorphic features (7) at the site? Also, potential under ground sources must be evaluated with data to substantiate any conclusions.

Not all faults recognized as active have been zoned. Include all known active faults, even if not zoned yet. USGS has a bunch you need to include.

Ground water: It has been determined that the action leakage rate for plastic liners is 21 gallons per acre per day with one foot of head pressure. This has been concluded by Dr. Bonaparte who was commissioned by the EPA to study action leakage rates when promulgating Subtitle D regulations for dumps. There will be hundreds if not thousands of feet of head pressure from the Project and the dump. How will the integrity of the Chuckwalla aquifer be affected by leachate from the Project and the dump?

Further, if the dump happens to come to fruition, how will the Project affect their leachate collection system? According to Drexel Institute, all leachate collection filtration systems will fail. Flow rates are reduced over time because of organism, mineralization, and fine particle clogging of the filter. All forms of remediation - back-flushing with water, gas, and leachate are temporary and never return to flow rates of original design. Sumps will not be able to remove the leachate at potential generation rate, much less the inclusion of direct infiltration due to the Project. The removal system will fail. What is the plan is to remediate the problem? Massive releases of water from the Project and garbage juice from the dump will occur under the Project and through side wall liners and our water will be poisoned forever.

How will side slopes of the pits hold up over time? The author of this has lived in Eagle Mountain going on 28 years. The mining pits once had defined 40 ft slopes, but now are a victim of erosion and the slopes are beginning to regain their natural repose. Explain how the liners will hold up to shear tension.

The Project may use Chuckwalla Valley groundwater or water from the MWD canal has been talked about in several letters to FERC. It has been established that the dump will exacerbate over draught in the Valley to complete depletion of the groundwater. If ground water is used, clearly the projects together will make this happen at an accelerated rate. All Chuckwalla Valley residents (except those who live at MWD's pumping plant at Eagle Mountain) depend on ground water to live. How will residents and JoTr be assured there will be no impacts from water depletion?

If water from MWD via the Colorado River Aqueduct is used, we have a problem with water quality. A cumulative impact study of this must be conducted. Metropolitan Water District of Southern California (MWD), proposes the Upper Chuckwalla Valley Water Storage Project. MWD is a quasi-governmental agency whose mandate is to supply drinking water for more than 16 million Southern Californians. In the 1930's, an aqueduct was built from the Colorado River that conveys water to various pumping stations through the desert, to its ultimate destination, Lake Matthews. The open aqueduct flows next to Joshua Tree National Park, to its pumping plant located in the Eagle Mountains. The plan is to pump water from the Pinto Basin into the aqueduct and pump Colorado River water from the aqueduct onto the desert floor and allow it to percolate into the underground water basin. During times of drought, extraction wells will pump the water back into the aqueduct. One of the stated reasons for the project is to dilute the polluted river water which contains perchlorate, an oxidizer used in developing rocket fuel that disrupts the thyroid, creating problems with metabolism, reproduction, development and cancer in children, with our clean water. CCV is concerned about perchlorate precipitating on the surface, then becoming airborne from winds, and being taken up by plants and eaten by animals. CCV also anticipates a PM10 problem at the mouth of the Pinto Basin (Upper Chuckwalla Valley) as a result of this plan that currently is non-existent. Residents are also concerned about exposing arsenic, that naturally occurs in desert soils, by denuding the desert. CCV is extremely concerned with the potential impacts to Desert Center/Eagle Mountain and Joshua Tree National Park's ground water quality and quantity, potential significant impacts to air quality, as well as other environmental impacts to desert natural resources. Water transfers between the Project and MWD will have significant impacts to the area.

Our concerns for Joshua Tree National Park: Introducing a large source of water where it currently is scarce will have significant impacts on the resources of Joshua Tree National Park. The application for license attempts to portray the proposal to build two giant lakes less than a mile from

pristine desert national park-land as environmentally sound and without significant impacts on fish, botanical, and wildlife resources. The document reaches this conclusion by focusing attention on the immediate project area (the abandoned pit mine) and by specifically addressing threatened and endangered species of state and federal concern. By taking this narrow approach the project proponents are able to ignore the much larger ecological questions raised by their project. They also ignore the significance of lands immediately outside their project boundary and the mandate of the National Park Service to preserve and protect these resources for future generations.

The Project plans on utilizing existing wells or other sources from the Chuckwalla Basin aquifer but does not identify actual locations or the owners of the water rights. Any water source utilized from within the Chuckwalla Basin will require an analysis of potential impacts to the Pinto Basin aquifer and JoTr's water rights. If the Chuckwalla is so located that withdrawals and a corresponding decline in the water table will induce flow from the three basins feeding the Chuckwalla. The three basins referred to are the Pinto, Hayfield, and Cadiz. Flow from the Pinto Basin could result in a decline in the water table with resulting impacts on the flora and fauna of the area.

Drawdown of the aquifers is not expected to affect local springs. We seriously question this conclusion and would require additional studies to analyze the potential impacts to local springs. The springs in the area surrounding the project are important water sources for local wildlife including Desert Bighorn Sheep. There is a deficiency in reliable data and observations on the existing springs in the area. Since the Desert Protection Act was enacted, Buzzard Springs is within the new boundaries of Joshua Tree National Park.

Colonization of the reservoirs by fish and the dreaded mussel should CRS water be used, is likely. We maintain that establishment of entire biological systems in these reservoirs is a real possibility. Typically one would expect growth of "weedy" species that might include alien or exotic species. If this project were somewhere in a city, perhaps these biotic components would be insignificant, but coming as they do to a pristine desert ecosystem, all of these organisms constitute an uncontrolled, probably uncontrollable eutrophication experiment. By adding large amounts of biological material to what should be a pristine, arid, part of the world, far-reaching biological effects are likely which cannot be foreseen and which need to be addressed.

While it is true that existing fish resources are not likely to be affected, that is not the point. The issue is that fish and their associated algal and invertebrate food bases will be added to an area where they do not naturally belong, only a 1/2 from national park land, designated wilderness, and an international biosphere reserve. All of these designations intended to preserve and protect the unique and highly desirable natural resources of the Mojave and Colorado Deserts.

If this were a city area where plants and animals are already largely absent, such species lists might be of less concern. But here in southern California's most pristine desert, such presence or absences are extremely important as are the ecological forces regulating these populations. Specifically, it is these natural resources that were set aside by the Congress in their creation of Joshua Tree National Monument.

Although the reservoirs will fluctuate in depth on some days, there are numerous organisms that can and will quickly colonize such a water body. "Weedy" algal and planktonic communities can be

established very quickly and are extremely resistant to disturbance. Aquatic invertebrates are aurally dispersed and rapidly colonize any body of water. Fish may or may not become established, but certainly there are species that can survive the rigors these impoundments will impose. It is clear that other cascading effects up the food chain will occur because of the sudden establishment of a large food and water source in what should be a pristine arid desert. Home ranges of small animals will be altered by the sudden availability of this water, predators will increase or move home ranges to reap the windfall in prey. The result will be a large scale biological manipulation with unpredictable results. The situation might be described as a biological experiment without controls.

Bird species will definitely colonize the reservoir. Every birder knows that birds use available water sources. Migrant species may stop for a short time and continue their trip when watered and rested. Other less long-range travelers may stay and colonize areas when water is made available. "Weedy" species, such as gulls may be particularly troublesome. Bird species already using the nearby Salton Sea could very easily colonize the project site. Raven populations are already known to pose a problem to tortoises.

New studies would be required before any of the proponents' assertions can be accepted. Such study, occupying several years, would test the null hypothesis that adding a huge lake to a desert has no effect on nearby plants and animals. The applicant might have indicated studies they proposed to conduct rather than concluding in advance that no effect would result.

National Park Service radio tagging studies have shown that tortoises are active throughout the summer months although they are very hard to find then. JoTr represents the most pristine, most protected, and for that reason, most important population of tortoises in the area. Desert tortoise densities in the Pinto Basin have been documented at 200-250 per square mile. Clearly JoTr is an important reservoir for tortoises and this project will have far-reaching effects on the national park lands immediately adjacent.

"Impacts on the desert tortoise would be limited to disturbance during construction and some loss of habitat due to permanent, above ground project facilities," is both untrue and misleading. The applicant has neither studied nor cited other studies supporting this claim. The widespread ecological effects of operational impacts will affect the desert tortoise. Most critically, the project will have impact on predator populations in the area and on raven numbers. The applicant once again conceals ecological problems by addressing close-by direct effects whereas long-term indirect effects are the actual concern.

The applicant describes using fencing around the reservoirs and other project areas. Fencing will be necessary to prevent entry of large mammals and people. But such fencing will have minimal effect on the many small mammals, birds, and reptiles that live in this area. Most of them are small enough or sufficiently mobile to get over, under, or through the fence.

The applicant discusses conducting raven monitoring studies. Raven numbers will undoubtedly increase with the combined water, food, power lines, towers, and roads resulting from this project.

Each of these is a direct aid to raven increase, together they could produce a significant synergistic increase. Work by Camp, Knight and Freilich 1993 (Common raven populations in Joshua Tree National Monument, California. *Western Birds* 24: 198-199) showed the project area to have

extremely low raven numbers leading the authors to conclude the area to be among the most pristine in southern California.

Besides monitoring their numbers, the applicants have no plan for how to deal with this threat to tortoises. Although they suggest using non-lethal methods and don't even mention direct reduction of ravens, such aggressive techniques will undoubtedly be required. The applicants do not show commitment to such aggressive reduction nor do they explain how they will handle the problem ecologically, financially, or logistically.

The project proponents plan to build two large lakes in the midst of a pristine desert ecosystem only a 1/2 mile from a national park, designated wilderness, and International Biosphere Reserve. Each of these designations; national park status, wilderness, and Biosphere establishment was bestowed on Joshua Tree National Monument in consideration of world class, precious resources deemed valuable to the people of the United States and to the people of the World. The botanical and wildlife studies mentioned in the application give attention to the barest minimum of environmental concerns for those species of special status. The few threatened or endangered species addressed are already in serious trouble. Although parks and biosphere reserves may be natural refugia for these species, the National Park Service is charged with the long-term maintenance of **all** species and intact, functioning ecosystems.

To be a viable project and neighbor to a national park site, the proponents would have to conduct studies addressing the null hypothesis: "Construction of two large lakes in pristine desert does not cause effects on the plants and animals of the land about 2 km away." Only with these results in hand could the applicant then go further and propose suitable mitigations or modifications based on data. The selection of bats and ravens for attention in the section on monitoring studies is arbitrary. It is true that bats include a number of Category II species and that ravens pose special concern to tortoises. But this project threatens widespread ecological impacts that would affect many more species than these few.

The application states that all disturbed areas would be seeded to reduce erosion potential. There is no discussion on whether native or non-native vegetation would be used. To reduce any potential impacts to JoTr, we strongly suggest that only native vegetation be allowed for erosion control.

Reservoirs and brine pond(s): We request these be covered to prevent evaporation and to exclude birds and other species from drinking the water or the brine. The Glamis gold mine had arsenic ponds for their heap-leach gold mine in the Imperial Valley, CA. Birds, attracted to this source of what they thought was water, were attracted and met with death upon consuming the liquid. The mining company placed a cover over the ponds to eliminate the problem. They were pleasantly surprised to learn that not only were bird species now protected, the liner paid for itself over several years in saved water. The reservoirs and the brine pond(s) for the Project must be covered to protect animal species and prevent loss of precious water.

Pipelines & transmission lines: A complete analysis of the pipelines to be constructed if Chuckwalla water wells are used must be conducted. Also, will transmission lines be constructed or will the Project tie into existing MWD transmission line? A complete cumulative analysis of impacts from all proposed transmission lines in the Chuckwalla Valley must be conducted.

Lastly, how can pumping billions of gallons of ground water be labeled “renewable energy”? Simply put, “There is no life without water”. Chuckwalla Valley residents depend on a clean supply of groundwater and this project alone, or with the dump will deplete our precious water resources.

Respectfully Submitted

Donna Charpied
Executive Director
Citizens for the Chuckwalla Valley

Cc: Interested Parties