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October 8, 2009

Ms. Vicki Wood, Field Manager
Bureau of Land Management
El Centro Field Office
1661 South 4th Street
El Centro CA 92243
Fax 760 337-4490

Jim Bartel, Field Supervisor
Carlsbad Fish & Wildlife Office
6010 Hidden Valley Road, Suite 101
Carlsbad, California 92011
Fax 760 431-9618

Re: Violations of the "Sunrise Powerlink" Biological Opinion and Pending Construction in Peninsular Bighorn Sheep Habitat

Dear Ms. Wood and Mr. Bartel:

We write on behalf of The Protect Our Communities Foundation, Backcountry Against Dumps, East County Community Action Coalition, and Donna Tisdale, to apprise you of serious past and threatened violations of the conservation conditions for the Sunrise Powerlink Transmission Line Project's Biological Opinion ("BO") by San Diego Gas & Electric Company ("SDG&E").

We have three concerns. First, SDG&E has violated conservation conditions of the BO for the Sunrise Powerlink Project, as further discussed below and documented in the photographs attached to this letter. Second, many of the conservation measures required in the Sunrise Powerlink BO for SDG&E's construction of the Sunrise Powerlink Project within Peninsular bighorn sheep habitat have not been accomplished. Third, we understand that SDG&E intends to proceed with construction in Peninsular bighorn sheep critical habitat this fall despite its failure to complete the conservation measures required in the BO for its proposed construction.

We request that you (1) notify SDG&E of its past violations of the BO Conservation Conditions, and request their immediate remediation, (2) notify SDG&E of the additional conservation measures required in the BO before construction of the Sunrise Powerlink Project may commence, and (3) expressly forbid SDG&E from proceeding with its planned construction activities within Peninsular bighorn sheep critical habitat unless and until all conservation

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measures required under the BO have been completed by SDG&E and reviewed and approved by your respective offices.

On August 31, 2009, we sent you a Freedom of Information Act request for documents relating to implementation of the conservation conditions in the Sunrise Powerlink BO. In our request we identified a number of measures that must be completed before SDG&E may initiate any vegetative clearing or ground disturbing activities, including SDG&E's planned construction activities in Peninsular bighorn sheep habitat this fall.

Upon receipt of the documents you produced in response to our August 31 FOIA request, we were disheartened to find that SDG&E already appears to have violated important conditions in the BO. According to Biological Opinion condition G-CM-17, (1) SDG&E must submit a Habitat Acquisition Plan *at least 120 days prior to any ground disturbing activities*; (2) all off-site compensation parcels are to be approved by agencies overseeing the project; (3) parcels are to be acquired or their acquisition is to be assured *prior to any ground disturbing activities*; and (4) approval by the agencies of a Habitat Management Plan for all offsite compensation parcels is required *prior to the initiation of any vegetation clearing activities*. Based on our review of documents obtained from our FOIA request and conversations with your staff we understand that SDG&E has not successfully completed *any* of these four conditions.

Despite its failure to complete any of these measures, SDG&E proceeded to disturb ground and clear vegetation long before SDG&E submitted its Habitat Acquisition Plan on June 19, 2009. Moreover, this draft plan was notably rejected as inaccurate and inadequate by the Fish and Wildlife Service in a letter dated July 9, 2009.

Ironically, the same day SDG&E submitted its flawed Habitat Acquisition Plan, our clients were invited by the property owner to visit the site of the Modified Route D Substation on the agencies' selected Environmentally Superior Southern Route. Upon arrival at the site they discovered evidence of ground disturbance and vegetation clearing – a new well had been installed, chaparral had been cleared, and weeds including the noxious star thistle had invaded the disturbed areas as documented in the photographs attached to this letter. Disturbance of the ground and vegetation at this site is no trivial matter – This site contains an extraordinarily rich mosaic of sensitive vegetation including mixed native and exotic grasslands, coastal sage scrub, old-growth chaparral, clay soils, and enormous specimens of Engelmann oaks and manzanita. This site may also provide habitat for the Quino checkerspot butterfly among other sensitive species.

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We are also concerned that SDG&E intends to initiate construction activities in critical habitat for Peninsular bighorn sheep this fall despite these past violations of the BO and the company's failure to carry out required conservation conditions. According to SDG&E documents filed with the Interior Board of Land Appeals last spring, SDG&E intends to begin construction on two segments of the Sunrise Powerlink in habitat for the Peninsular bighorn sheep in October 2009. However, based on conversations with agency staff we understand that key documentation showing implementation of required mitigation and conditions of the biological opinion has not yet been submitted by SDG&E and/or approved by the agencies. As a result, Sunrise Powerlink construction activities in bighorn sheep habitat may not take place in October as originally planned. However, no documents provided by the agencies so far in response to our FOIA appear to formally notify SDG&E in writing that conditions of the BO have not yet been satisfied and that therefore SDG&E must not proceed with construction until these conditions have been fulfilled.

Accordingly, we respectfully request that the Bureau of Land Management and Fish and Wildlife Service notify SDG&E in writing that it violated the Sunrise Powerlink BO when it disturbed the ground and cleared vegetation at the substation site prior to successfully completing required BO conservation conditions. Based on this violation and the sensitivity of the substation site, we ask that the agencies require that SDG&E mitigate these habitat disturbances at higher ratios than otherwise required in the BO and CEQA/ NEPA documents, and that SDG&E be barred from any other planned ground or vegetation disturbing activities pending successful implementation and agency approval of all required conservation conditions in the BO.

We also respectfully request that you provide formal written notification to SDG&E that required conservation conditions in the BO have not yet been fulfilled and therefore SDG&E must not proceed with any planned construction activities in bighorn sheep habitat until these measures have been approved by the agencies and successfully implemented.

We respectfully request that you respond to this letter with information on your intentions to resolve these issues.

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Thank you for considering our views on this important matter. Please contact our environmental specialist David Hogan at 760 809-9244 with any questions on these matters.

Very truly yours,

Stephan C. Volker
Attorney for The Protect Our Communities Foundation,
Backcountry Against Dumps,
East County Community Action Coalition, and
Donna Tisdale

Attachment 1 – Landscape photograph of vegetation at substation site
Attachment 2 – Photograph of well and invasive exotic weeds at substation site
Attachment 3 – Photograph of invasive exotic weeds, and ground disturbance at substation site
Attachment 4 – Photograph of star thistle weed near well at substation site
Attachment 5 – Chaparral vegetation clearing at substation site