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VIA CERTIFIED MAIL AND FACSIMILE

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Re: Supplemental Information – The Sunrise Powerlink Project Violates the Cleveland National Forest Plan and Applicable Environmental Laws

Dear Forest Service Officials:

We write on behalf of Backcountry Against Dumps, The Protect Our Communities Foundation, East County Community Action Coalition and Donna Tisdale to supplement our July 9, 2009 letter to you opposing Forest Service approval of the Sunrise Powerlink transmission line (“Powerlink” or “Project”) on the Cleveland National Forest.

We urge you to reject the Powerlink because it would violate the Land and Resource Management Plan for the Cleveland National Forest (“Forest Plan”) and contravene the requirements for adequate environmental and scientific analysis, the public notice and comment procedures, and the planning criteria set forth in the National Forest Management Act (“NFMA”), 16 U.S.C. § 1600, et seq., the National Environmental Policy Act (“NEPA”), 42 U.S.C. § 4321 et seq., the Federal Land Policy Management

Act (“FLPMA”), 43 U.S.C. § 1701 *et seq.*, the National Historic Preservation Act (“NHPA”), 16 U.S.C. § 470 *et seq.*, the Endangered Species Act (“ESA”), 16 U.S.C. § 1531 *et seq.*, and implementing Forest Service regulations.

We urge your rejection of the Powerlink because many significant environmental impacts from the Project have never been disclosed, significant impacts to visual resources from the Powerlink cannot be resolved, and Forest Service comments requesting improvements in the Powerlink NEPA review have been ignored. For these reasons the Forest Service must reject construction of the Powerlink across the Cleveland National Forest. In the alternative, in the event the Forest Service proceeds to consider approval of the Project, the agency may do so only after adopting amendments to the Land and Resource Management Plan for the Cleveland National Forest based on further NEPA analysis and public disclosure.

I. The True Number of Significant Environmental Impacts Have Never Been Disclosed

NEPA documentation prepared by BLM for the Powerlink is hopelessly confused, confusing and replete with contradictions regarding the significant environmental impacts that will result from the Project. BLM neither fully understood nor publicly disclosed the true magnitude of harm the Project would cause the Cleveland National Forest. Because significant impacts to the Cleveland National Forest have never been disclosed in BLM’s NEPA record, a supplemental NEPA review and disclosure by the Forest Service is necessary.

BLM’s NEPA documentation of significant environmental impacts from the Project on the Forest is incomplete and inconsistent. According to the Executive Summary in the Final EIR/EIS, the Final Environmentally Superior Southern Route Alternative will result in 41 Class I (“significant, unmitigable”) impacts. *See* FEIS at page ES-6. Yet 46 Class I impacts are listed in Table H-24 where a separate summary is presented for each SDG&E’s proposed northern route, the Environmentally Superior Southern Alternative, and the LEAPS Transmission-Only Alternative. *See* FEIS at pages H-124-125. And perhaps most importantly, the CPUC’s Order Modifying Decision 08-12-058 and Denying Rehearing of Decision, as Modified identifies 100 Class I impacts including, long after the closure of the NEPA record, a first time-ever summary and disclosure of 57 Class I cumulative impacts associated with the Final Environmentally Superior Southern Route Alternative¹.

¹ Despite being described elsewhere in the Final EIR/EIS, the “Final Environmentally Superior Southern Alternative” is never once mentioned in the Section G cumulative effects analysis. Nor is any explanation provided of the relationship between the identified cumulative effects from each of the “southern route alternatives” (e.g. Interstate 8 Alternative, BCD Alternative, etc.) and the actual cumulative effects of these alternatives when pieced together into the selected Final Environmentally Superior Southern Alternative.

As a result of these conflicting statements and omissions, the public, BLM, and now the Forest Service have been denied an important and timely opportunity to review and comment on the number and type of significant impacts anticipated from the adopted Environmentally Superior Southern Route Alternative. Because it is now impossible to determine how many significant impacts on the Cleveland National Forest may have been omitted from BLM's analysis, the Forest Service must either reject the Project or prepare and distribute a supplemental NEPA analysis of its own.

II. Impacts to Visual Resources

In our July comments on the Powerlink we signaled our concern that the Project would cause significant conflicts with Forest Plan scenic integrity objectives and the related visual resource management emphases of several Cleveland National Forest "Places." Based on similar concerns, in its comments on the draft EIR/EIS the Forest Service requested additional simulation of visual impacts on the Forest. *See* FEIR/EIS pages 3-159 and 168-171. BLM's response to the Forest Service comments provides abundant additional affirmation that the Powerlink would be in irreconcilable conflict with Forest Plan visual resource standards:

Of the 25 sensitive viewing areas, the views from 19 would be sufficiently adversely affected such that the resulting view impairment would not be consistent with either the management emphasis for the applicable Landscape Place or Scenic Integrity Objective (SIO).

... the Modified Route D Alternative would *not be consistent* with either the management emphasis or the HIGH SIO that would apply to this landscape [Sensitive Viewing Area No. 5: Interstate 8 Eastbound Overlook].

... the Modified Route D Alternative would *not be consistent* with either the management emphasis or the HIGH SIO that would apply to this landscape [Sensitive Viewing Area No. 16: Pacific Crest Trail Near Morena Lake Campground].

See FEIR/EIS at pages 3-168-169, emphasis added.

...the South Option, as viewed from La Posta Truck Trail, would *not be consistent* with either the management emphasis of the Morena Landscape Place or the HIGH Scenic Integrity Objective (SIO) that would apply to this landscape.

Id. at page 3-159.

Based on detailed analyses conducted at representative Key Viewpoints, the EIR/EIS concluded that *neither the Proposed Project* nor any of the alternatives or options *would be consistent* with the established CNF Scenic Integrity Objectives.

[Modified Route D]...would also *not be consistent* with the USFS management emphasis of the Morena Landscape Place, or the HIGH Scenic Integrity Objective (SIO) that would apply to the landscape immediately adjacent and to the north.

Id. at pages 3-169-171.

BLM has thus conceded, bluntly and repeatedly, the indisputable significant conflicts between the Powerlink and Forest Plan visual resource protection standards. Yet BLM's FEIR/EIS offers *no* proposed Forest Plan amendment to accommodate Powerlink impacts to Forest visual resources. Therefore, the Forest Service must either reject construction of the Powerlink across the Cleveland National Forest or consider Forest Plan amendments and conduct related supplemental NEPA analysis to accommodate visual resource impacts from the Project.

We believe that the Forest Plan's *existing* visual resource standards are essential to protect the Forest's visual integrity, and should *not* be weakened to accommodate this destructive and unnecessary Project. Accordingly, we urge the Forest to *reject* this Project.

III. Forest Service Recommendations Ignored

During the comment period on the draft EIR/EIS, the Forest Service sent two comment letters. The first letter identified the Forest Service as a cooperating agency with the BLM for the purpose of NEPA review, and both letters detailed concerns and recommendations for modification of the EIR/EIS to facilitate use of the NEPA analysis by the Forest Service for a decision on the Project. However, several important comments by the Forest Service were either overlooked or ignored by the BLM. Therefore the Forest Service cannot rely on the inadequate Final EIR/EIS as a basis for its own decision on whether to amend the Forest Plan and/or authorize construction of the Powerlink.

Clean Water Act

The Forest Service recommended that BLM identify Clean Water Act jurisdictional waters, consult with the Army Corps of Engineers and Regional Water Quality Control Board, and include the results in the Final EIR/EIS. BLM elected neither to specifically identify jurisdictional waters nor include the results of consultation with the Corps and RWQCB in the Final EIS. As a result, the Final EIR/EIS does *not* contain the required NEPA analysis of impacts to specific jurisdictional waters, especially the analysis of any practicable alternatives to the as-yet-undisclosed impacts to aquatic ecosystems as required under the Environmental Protection Agency's 404(b)(1) Guidelines for Specification of Disposal Sites for Dredged or Fill Material. Therefore, the Forest Service must act independently to ensure its own compliance with the Clean Water Act either by rejecting construction of the Powerlink across the Cleveland National Forest or

by preparing a thorough supplemental NEPA analysis addressing impacts and alternatives to filling any jurisdictional waters and aquatic ecosystems.

Riparian Conservation Areas

The Forest Service recommended that BLM identify Riparian Conservation Areas impacted by each Project alternative on National Forest land, disclose the results of the five step screening process, and evaluate Project design elements and mitigation measures to determine whether impacts from the Project are consistent with Riparian Conservation Area direction. BLM's response claims that Appendix 8Q Riparian Conservation Area (RCA) Analysis addresses this Forest Service recommendation. However, this document clearly fails to follow the five step screening process.

For example, Appendix 8Q totally disregards the fundamental purposes of screening step 3 to review new projects against Forest Plan desired conditions to "Improve Riparian Conditions" and "Provide Ecological Conditions to sustain viable populations of native and desired nonnative species." See Forest Plan Part 3 Appendix E and Part 1 Goals 5.2 and 6.2. This step is intended to explore ways in which to modify a project to lessen its adverse impacts, and promote beneficial mitigations. Contrary to these purposes, Appendix 8Q fails to provide any analysis of ways in which the Powerlink could be modified to have neutral or beneficial effects on riparian conditions. Instead, the document duly concludes that the Environmentally Superior Southern Route Alternative will result in permanent and temporary impacts to 12 RCAs, and considers impacts to just two federally listed species while ignoring numerous other listed species, Regional Forester Sensitive Species, and otherwise imperiled riparian dependent species.

Appendix 8Q also presents no evidence that the Powerlink was screened in accordance with steps 4 or 5. No mention is made of Forest Plan riparian management objectives WAT-1 and WAT-2 (See Forest Plan Part 2, Appendix B) and no discussion is provided with respect to the Forest Service Handbook measures that will be applied to mitigate or avoid the adverse effects of Powerlink activities inside the RCAs.

Ultimately, BLM's Appendix 8Q totally fails to address the fundamental question of whether Powerlink impacts to Riparian Conservation Areas are consistent with Forest Plan direction. However, a clear answer in the negative is provided elsewhere when the FEIR/EIS finds that impacts from the southern route on Riparian Conservation Areas would be significant and unmitigable. See pages E.4.2-6 and E.2.2-22. Impacts of this significance clearly require rejection of this Project unless the Forest first adopts a Forest Plan amendment after conducting supplemental NEPA analysis and disclosure.

Other Forest Service Recommendations Ignored

- **Avoidance of sensitive biological resources** – The Forest Service recommended that Powerlink related facilities be designed to avoid known sensitive habitat areas and, where sensitive areas are expected to be impacted according to

biological resource maps, that an analysis be provided describing why such areas cannot be avoided. *See* FEIR/EIS at page 3-144. However, the FEIR/EIS contains *neither* detailed maps showing the specific impacts of the Environmentally Superior Southern Route Alternative *nor* any discussion of why severe impacts to specific sensitive biological resources along this selected route cannot be avoided.² Therefore, the Forest Service must either reject construction of the Powerlink across the Cleveland National Forest or prepare its own supplemental NEPA analysis showing how specific impacts to biological resources will either be avoided or minimized. As discussed above, we strongly urge the former and oppose the latter.

- **Future expansion through incompatible land use zones** – The Forest Service recommended that BLM identify and evaluate an option that *excludes* possible future expansion of the Powerlink through the Cleveland National Forest along the San Luis Rey River due to incompatible Forest Plan land use zones. *See* FEIR/EIS at page 3-144. Contrary to the Forest Service’s request, this expansion option was *retained* in the Final EIR/EIS. *Id.* at Figure B12-b. Therefore, the Forest Service must either reject construction of the Powerlink across the Cleveland National Forest or propose a Forest Plan amendment and conduct related supplemental NEPA analysis considering modification of Forest Plan land use zones to accommodate this route. As noted above, we strongly urge the former and oppose the latter.

The Forest Service also recommended that BLM *drop* the Route D Alternative from consideration for a possible future expansion route due to conflicts with the Forest Plan and the Roadless Conservation Rule. *See* FEIR/EIS at page 3-145. Contrary to the Forest Service’s request, this expansion route was *retained* in the Final EIR/EIS. *Id.* e.g. Figure E.1.1-6. Therefore, the Forest Service must either reject construction of the Powerlink across the Cleveland National Forest or propose a Forest Plan amendment and conduct related supplemental NEPA analysis considering modification of Forest Plan land use zones to accommodate this route. As explained above, we strongly urge the former and oppose the latter.

² In its response to this Forest Service recommendation BLM refers to revised maps in Appendix 11 and route revisions described in Section 3. However, maps in the referenced Appendix 11 do not show sensitive biological resources, and detailed maps elsewhere showing biological resources (e.g. Appendix 8) do not clearly identify which illustrated Powerlink segments are part of the adopted Environmentally Superior Southern Route Alternative. The referenced Section 3 of the Recirculated Draft EIR/Supplemental Draft EIS proposes some revisions to reduce impacts to biological resources. But this does not respond to the Forest Service recommendation. To the contrary, the impacts to specific sensitive biological resources not addressed by route revisions are *still not identified* and *no explanation is provided* as to why impacted areas cannot be avoided.

- **Quantification of roads and pull sites** – The Forest Service recommended that BLM quantify and analyze in the EIR/EIS the extent to which existing Forest roads would be utilized or upgraded, the extent of new road construction, and the number and acreage of pull sites and associated impacts. *See* FEIR/EIS at page 3-152. BLM's responses do not refer to any such documentation in the Final EIR/EIS other than the mapped locations of such impacts. *See* at pages 3-172-173. Therefore, the Forest Service must either reject construction of the Powerlink across the Cleveland National Forest or prepare its own supplemental NEPA analysis quantifying impacts from roads and pull sites and attempting to show how specific resource impacts will either be avoided or minimized. Since this required showing cannot be made, we urge you to reject this ill-advised Project.
- **Surveying, avoidance, and monitoring of springs** – The Forest Service recommended that the Project alignment and roads be surveyed for springs within ½ mile of the alignment and that if impacts to springs cannot be avoided, the springs be monitored during construction. *See* FEIR/EIS at page 3-155. BLM responded by including a new mitigation measure that would only require monitoring of springs during *blasting*. *See Id.* at pages 3-177. Therefore, the Forest Service must either reject construction of the Powerlink across the Cleveland National Forest or prepare its own supplemental NEPA analysis identifying springs in and around the Project and attempting to show how impacts to them will either be avoided or minimized.

Thank you for your consideration of our further comments and renewed request that you reject the Sunrise Powerlink Project.

Very truly yours,

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Foundation, Backcountry Against Dumps, East
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Tisdale

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