

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



ITEM: 3.69
(ID # 13179)

MEETING DATE:

Tuesday, August 04, 2020

FROM: TRANSPORTATION AND LAND MANAGEMENT AGENCY (TLMA):

SUBJECT: TLMA -TRANSPORTATION & LAND MANAGEMENT AGENCY: COMMENTS ON THE FEDERAL ENERGY REGULATORY COMMISSION'S SCOPING DOCUMENT 1 FOR LAKE ELSINORE ADVANCED PUMPED STORAGE PROJECT (FERC DOCKET NO. P-14227-003). District 1. [\$0 Total Cost]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve and authorize the Board Chairman to sign the attached comments on the Federal Energy Regulatory Commission's Scoping Document 1 for the Lake Elsinore Advanced Pumped Storage Project ("LEAPS Project"); and
2. Direct the Assistant CEO/TLMA Director, in coordination with County Counsel, to submit the signed letter to the Federal Energy Regulatory Commission (FERC) no later than August 17, 2020.

ACTION: Policy

Juan D. Perez, Director of Transportation & Land Management

7/28/2020

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Jeffries, seconded by Supervisor Perez and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt
Nays: None
Absent: None
Date: August 4, 2020
xc: TLMA

Kecia R. Harper
Clerk of the Board

By:
Deputy

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FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 0	\$ 0	\$ 0	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: N/A			Budget Adjustment: No	
			For Fiscal Year: 20/21	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

The Lake Elsinore Advanced Pumped Storage (LEAPS) Project, as currently proposed, is a 500 MW hydroelectric advanced pumped storage facility to be located in unincorporated Riverside County in the First District. Specifically, Lake Elsinore, within the City of Lake Elsinore, would serve as the lower reservoir for the proposed facility and a new upper reservoir would be constructed in the Elsinore Mountains in the Cleveland National Forest. Additional Project facilities proposed in the unincorporated area include, but are not limited to, the Santa Rosa Powerhouse in Lakeland Village and approximately 32 miles of 500 kV transmission lines that would connect the Project to an existing transmission line owned and operated by Southern California Edison (SCE) to the north of the Project and another existing transmission line owned and operated by San Diego Gas and Electric (SDGE). The transmission lines would be connected by 170 high-voltage steel towers running throughout, and adjacent to, the Cleveland National Forest, the City of Lake Elsinore, and the unincorporated communities of La Cresta, Tenaja, Lakeland Village, and Temescal Valley.

The proposed LEAPS Project has a long history. In 1988 the Project was proposed by Elsinore Valley Municipal Water District (EVMWD), who later joined with Nevada Hydro Company, Inc. (Nevada Hydro), as the financial and development partner. In 2004, Nevada Hydro and EVMWD filed an application with the Federal Energy Regulatory Commission (FERC) for an original license for the project. FERC has licensing jurisdiction over hydroelectric projects such as the LEAPS Project. FERC issued a Final Environmental Impact Statement for the LEAPS Project in January 2007. At some point the partnership between EVMWD and Nevada Hydro dissolved. Additionally, in approximately 2007, Nevada Hydro filed for the transmission line component of the project with the California Public Utilities Commission (CPUC) to include a transmission line called the Talega Escondido/Valley Serrano 500kv Interconnect Project to benefit the LEAPS Project. After multiple rounds of documentation with the CPUC, the CPUC ultimately dismissed Nevada Hydro's application without prejudice in May 2012 and imposed five conditions that Nevada Hydro was required to satisfy for any subsequent application. Also, the State Water Resources Board denied the application for water quality certification associated with the LEAPS Project in 2009.

In 2017, the County was notified that despite the denials and challenges to the earlier version of the LEAPS Project, Nevada Hydro still intended to move forward with the Project with FERC. On August 29, 2017, the Board of Supervisors took action in Agenda Item 3.4 to oppose

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renewal of the LEAPS application being considered by FERC. At that time, the Board expressed concerns about the limited environmental review and lack of scoping meetings proposed to be done for the Project when the Project would have major long term public impacts in Riverside County. The Board was clear that the Project changes "demand a fresh start in any application that FERC may allowed to proceed."

In October 2017, Nevada Hydro filed its new application with FERC. The project was similar to the earlier project studied in the early 2000s but it no longer had a primary transmission line component. Instead, the new version of the LEAPS Project proposes two separate lines leave the powerhouse to connect south with San Diego Gas & Electric interconnection point and north with the Southern California Edison interconnection point. As a result, the Project no longer needs CPUC approval which is was unable to obtain with the earlier version of the Project. However, the Project will still need water quality certification from the State Water Resources Board which will necessitate compliance with the California Environmental Quality Act (CEQA), in addition to satisfying the National Environmental Policy Act (NEPA) under federal law.

On November 22, 2017, TLMA sent a separate letter to FERC also raising concerns about the need for new environmental documentation.

On August 27, 2019, the Board authorized County Counsel to intervene in the LEAPS Project application pending before FERC (Docket No. P-14227-003). The Board determined that it was necessary to become a party to the FERC proceeding to ensure that Project impacts to fire safety, water quality, visual and aesthetic impacts, transportation and traffic, and other environmental and public service impacts are satisfactorily mitigated and that the surrounding community residents, as well as the County and the City of Lake Elsinore, have a meaningful opportunity to provide their concerns and input on the Project. (Report out of closed session on Agenda Item C.1.). The County's Motion to Intervene was filed on September 19, 2019 and now the County and Riverside County Flood Control and Water Conservation District are officially parties to the FERC licensing proceeding.

On June 18, 2020, FERC issued a Notice of Intent to Prepare an Environmental Impact Statement (EIS) and solicited comments on Scoping Document 1 for the revised LEAPS Project. While it is encouraging to see that FERC appears to have decided against just using the earlier EIS from 2007 to support the revised Project, it is disappointing that FERC has elected to only move forward with soliciting written comments on Scoping Document 1 due to COVID-19. A quick review of the FERC docket for the Project clearly shows that the LEAPS Project is of significant concern to numerous State and Federal agencies, the County, the City of Lake Elsinore, the City of Wildomar, the Pechanga Band of Luiseno Indians, several environmental groups, and numerous residents. For that reason, FERC should have conducted virtual scoping meetings via technology, as so many governmental agencies are doing right now, so that the surrounding community residents, as well as the County, the City of Lake Elsinore, and other concerned agencies could have had a meaningful opportunity to verbally provide their concerns and input on the LEAPS project.

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County staff has reviewed the Scoping Document 1 and has prepared the attached comment letter for the Board's consideration that raises concerns and comments regarding the following areas that should be analyzed in greater detail in the EIS for the Project:

- Question regarding purpose and need of the LEAPS Project
- Need for a Joint CEQA/NEPA Document and not just an EIS
- Concerns about deferral of environmental studies to a later date
- Inadequate/incomplete analysis of alternatives to the proposed Project
- Lack of detail as to the Project itself as described in Scoping Document 1
- Lack of Clarity on the Proposed Environmental Measures related to geological and soil resources, other environmental resources, threatened and endangered species, recreation and land use, cultural resources, aesthetic resources, fire impacts, and traffic and construction impacts.

Impact on Residents and Businesses

The Scoping Document is one of the first steps in the EIS process. The LEAPS Project could lead to major public impacts, including but not limited to, dam safety issues, wildfire dangers, visual and public safety impacts from transmission lines, and disturbance of sensitive habitat areas. All of such are foreseeable impact to residents and businesses in the unincorporated area of the County. Therefore, it is important that the County thoroughly comment on Scoping Document 1 so as to ensure that all environmental and public service impacts are satisfactorily analyzed and mitigated in an open and transparent process. It is in the public interest for the County to continue to actively participate in this FERC proceeding and the EIS process so as to protect the public health, safety, and general welfare of residents of the unincorporated areas of the County.

Additional Fiscal Information

N/A

Contract History and Price Reasonableness

N/A

ATTACHMENTS

ATTACHMENT A. LEAPS County Comments



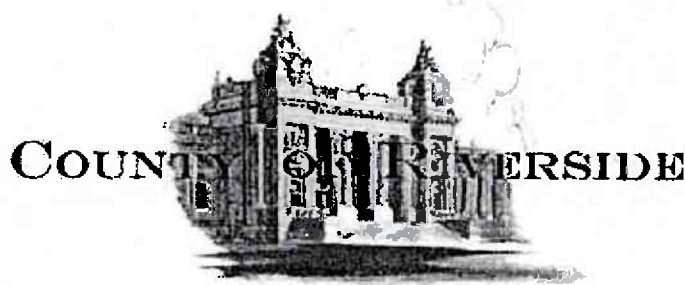
Jason Farin, Principal Management Analyst

7/30/2020



Gregory L. Priamos, Director County Counsel

7/29/2020



Board of Supervisors

District 1	Kevin Jeffries 951-955-1010
District 2	Karen Spiegel 951-955-1020
District 3	Chuck Washington 951-955-1030
District 4	V. Manuel Perez 951-955-1040
District 5	Jeff Hewitt 951-955-1050

August 13, 2020

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

**RE: COUNTY OF RIVERSIDE COMMENTS ON SCOPING DOCUMENT 1 FOR LAKE
ELSINORE ADVANCED PUMPED STORAGE PROJECT (P-14227-003).**

Dear Ms. Bose:

The County of Riverside ("County"), an Intervenor in this proceeding, appreciates the opportunity to provide the following comments on the Scoping Document 1 ("SD1") for the Lake Elsinore Advanced Pumped Storage Project (hereinafter referred to as "LEAPS project"). As previously advised, the County has many concerns regarding the pumped storage project and the 32 miles of 500kv transmission lines it would bring through the Cleveland National Forest, the community of Temescal Valley, and large areas of Multi-Species Habitat Preserve. Approval of the LEAPS project would bring major public impacts, including but not limited to dam safety issues, wildfire dangers, visual and public safety impacts from transmission lines, traffic and construction impacts, disturbance of sensitive habitat areas, and the possible destruction of California Native American sacred places and tribal cultural resources. All of such are foreseeable impacts to residents, businesses, and sovereign tribal governments in the unincorporated area of the County.

While the County understands that Federal Energy Regulatory Commission (FERC) staff was unable to conduct in-person, on-site scoping meetings due to COVID-19, the County is disappointed that FERC elected to only move forward with soliciting written comments on SD1. A quick review of the docket clearly shows that the LEAPS project is of significant concern to numerous State and Federal agencies, the County, the City of Lake Elsinore, the Pechanga Band of Luiseno Indians, numerous environmental groups, and residents of the County. For that reason, FERC should have conducted virtual scoping meetings via technology, as so many governmental agencies are doing right now, so that the surrounding community residents, as well as the County, the City of Lake Elsinore, and other concerned agencies could have had a meaningful opportunity to verbally provide their concerns and input on the LEAPS project.

As stated in SD 1, the scoping process is done "to ensure that all pertinent issues are identified and analyzed, and that the EIS is thorough and balanced." The County thanks FERC for taking the following comments on SD1 into its consideration so that the issues

and questions raised in this letter may be addressed in depth during the preparation of the Environmental Impact Statement under the National Environmental Policy Act (NEPA).

Purpose and Need of the LEAPS Project is Unclear

After reading SD1, it is unclear as to why the LEAPS project is needed at this time. NEPA requires a project proponent to create a statement that specifies the "underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action." 40 CFR 1502.13. While this "purpose and need" statement is presented as a simple statement under NEPA, in reality the statement sets the course of the project, the evaluation of the impacts of that project, and the development and analysis of sufficient alternatives to the project.

This is particularly important for the LEAPS project. As mentioned above several state and federal agencies, cities, environmental groups, and concerned citizens have commented on and been critical of the LEAPS project through the years. Additionally, the California Independent System Operator Corporation (CAISO), a nonprofit public benefit corporation that sets policies to ensure reliable performance of the electricity grid in California, has previously concluded that that LEAPS project was not needed for energy reliability as other options that were either already online or under development would be more than sufficient. Given the intense scrutiny and issues raised about the LEAPS project by numerous organizations, it is incumbent on FERC to provide a suitable discussion as to how and why a two billion dollar project with immense physical environmental impacts is needed or even desired.

The EIS should also discuss as part of the need for the project, the actual net energy that will be created by the LEAPS project. SD1 states that the LEAPS project would generate an average of 1,560,000 megawatt-hours of electricity annually. However, it is our understanding that substantial amounts of energy are required to pump the water from Lake Elsinore to the proposed 70-acre Decker Canyon upper reservoir that is to be constructed in the Cleveland National Forest. In fact, as drafted it is not clear any net energy would be created at all, and instead the project applicant would simply use cheaper electricity at off-peak prices to pump the water to the upper reservoir, in order to sell the generated energy during peak prices. The EIS should include some discussion at least as to how and why this benefits the ratepayer or enhances energy reliability – particularly in light of the cost and environmental damage inherent in the LEAPS project.

Scope of the Project Lacks Detail

SD1 lacks suitable detail as to the scope of the project itself. For example, Figure 2 of the scoping document appears to be at a 1 inch to 4 mile scale making it impossible to ascertain where the project will be located or the types of existing areas that may be impacted. More detail needs to be provided as to the project location, in a larger scale, that includes easily identifiable locational information such as parcel numbers, street

names, etc., so that all potentially impacted residents, businesses, and property owners are able to fully understand and comment upon the impact of the project. This includes potential construction impacts on both public and privately maintained roads.

Furthermore, this project has been ongoing for over a decade. Why did FERC not include at least some visual details or photosimulations in the scoping document as to the substations, conduit system, and transmission lines that will traverse roughly 32 miles within the impact area? While maybe such details are uncommon in a typical scoping document, the LEAPS proposed action is far from a typical project.

Clarity on the Proposed Environmental Measures (PEMs) is Needed

Given the complexity and resulting physical environmental impacts that this project will cause, additional detail on the various Proposed Environmental Measures (PEMs) must be included so that the public can fully understand the impacts of the project and how those impacts are proposed to be mitigated. In particular, the timing of the additional studies, programs/plans, and when additional consultation would occur are necessary for the public so the public can understand if additional restrictions or limitations would be placed on the project after the NEPA/CEQA process is complete, or if this will be the extent of the analysis. Moreover, when project applicants submit a basic series of PEMs, there is a tendency in an EIS to simply list these PEMs again as if they are valid design features or mitigation for impacts without illustrating how or why those measures would help reduce the project's impacts, creating a fundamental disconnect between the PEMs and the analysis. Please ensure this does not occur for this project.

Moreover, please see the additional comments raised on particular PEMs within Section 3.2.2 of SD1 below:

General

As currently written, it does not appear that there will be adequate monitoring of the project during construction. SD1 states the project would "obtain a qualified biologist or natural resource specialist to serve as an environmental construction monitor." This project is complex with substantial biological impacts occurring simultaneously within the Cleveland National Forest and the County. There would likely need to be a number of qualified monitors' onsite simultaneously – with authority to redirect and/or pause the development – in order to ensure this project is implementing all of the necessary design features, regulations, and mitigation that will be required for a project of this magnitude.

Geologic and Soil Resources

The PEM regarding erosion control needs further detail. SD1 discusses the need for an erosion control plan in order to "control erosion, stream sedimentation, dust, and soil mass movement including measures to revegetate disturbed areas with native plants." The EIS needs to include specific examples and details about this plan earlier

in the process, given its importance. Further, an erosion control plan is not likely the place to include measures related to stream sedimentation or revegetating the disturbed land with native plants, as these actions would likely entail their own separate plan with numerous detailed mitigation to illustrate how the project would reduce those particular impacts.

Aquatic Resources

The PEM regarding construction of access roads needs further explanation. It states the project would "build access roads at right angles to streambeds and washes to minimize impacts to water resources." How or why would that reduce the impacts to water resources? If such statements are included in the scoping document, then the document should provide at least some cursory discussion as to how or why that would be applicable.

This section discusses developing a detailed plan specifying the "activities, locations, methods, and schedule that the environmental construction monitor would use to monitor construction in aquatic and terrestrial environments." Similar to prior comments, this is a vague statement, yet covers a significant amount of actual activity that will have impacts on the surrounding community. This is the type of plan that should be discussed and analyzed in the EIS in great detail given its importance, as opposed to pushing it out to a later date after the NEPA and CEQA process may have concluded.

Terrestrial Resources

While the terrestrial resources section of the scoping document contains greater detail related to the studies and consultation, the section still needs further detail and explanation as some of it appears to be misleading and inadequate as to identification of species impacts and mitigation. The section related to restricting construction and survey to the pre-defined project footprint seems misleading as a PEM because any project would typically be restricted to their project boundaries and parameters as the project was evaluated in the EIS.

The section discusses the preparation of a habitat mitigation plan with the US Forest Service, Department of the Interior, California Department of Fish and Wildlife, and Riverside County to "identify appropriate mitigation of habitat losses." This also appears to be a misleading PEM, as how would a project make it through the NEPA process – and certainly through any subsequent CEQA process likely to be required – if these impacts were not already "identified" and analyzed and the "appropriate mitigation" already incorporated into the documentation?

The terrestrial project includes a discussion related to the development of a plan to prevent and control the introduction and spread of noxious weeds and exotic plants. Similar to prior comments, this potential impact must be thoroughly evaluated in the EIS given the importance of the projects location and the sheer distance in the area of potential effect.

The County and the Riverside County Flood Control and Water Conservation District filed a joint motion to intervene (See FERC eLibrary Accession No. 20190920-5007) and raised the comment that the project would be located within the Riverside County Multiple Species Habitat Conservation Plan (MSHCP). SD1 references the MSHCP and the need for "additional preconstruction special-status plant and wildlife surveys at transmission line tower sites and along transmission alignment access roads". However, surveys alone would not ensure consistency with the MSHCP. Since this project is not a covered activity within the MSHCP, it is likely the project will require a separate Section 7 Consultation and Biological Assessment with the U.S. Fish & Wildlife Service.

Threatened and Endangered Species

Further detail, analysis and mitigation as to impacts to threatened and endangered species must be included in the EIS. Section 3.2.2 of SD1 discusses specific surveys for various species (e.g. Quino Checkerspot butterfly, Stephen's kangaroo rat). This is a positive recognition as to the types of direct impacts the applicant's proposed action would cause. However, under the same heading in the cumulative impacts section, there is a blanket statement about the need to study the effects on a multitude of listed endangered and threatened species (e.g. southern California steelhead, Munz's onion, San Diego ambrosia, least Bell's vireo, coastal California gnatcatcher, etc.). This begs the question as to why have roughly 19 listed endangered and threatened species identified under the cumulative impact section, and only four species under Section 3.2.2?

There are concerns regarding impacts to vernal pools. SD1 discusses the restoration of "disturbed vernal pool habitat". As avoidance is the preferable option for vernal pools, is the project suggesting it will restore existing habitat that is already disturbed? Or will the project itself be the disturbance? This needs to be clarified in the scoping document and evaluated in detail in the EIS.

Recreation and Land Use

SD1 references the acquisition and modification of the existing Santa Rosa [Mountain] Villas for the construction of the Santa Rosa powerhouse site. Given the County's housing needs, this is a concern for the County and the first time that such acquisition has been suggested. What if the property owner is unwilling to sell? As a for profit operation by a private entity, this does not appear to be the type of project where eminent domain would be appropriate. Moreover, the multi-family residences at the Santa Rosa [Mountain] Villas have been identified in our new Lakeland Village Community Plan as high density residential units, surrounded by mixed use area properties. Therefore, an assessment as to how this project would impact the community plan, as well as our state mandated Housing Element and Regional Housing Needs Allocation (RHNA) numbers, would be necessary in the EIS. Further, SD1 discusses the option of retaining the villas in a vacant condition "and return [the villas] to the regional housing inventory upon completion of construction to address

potential effects on residents during construction." How is displacing people from their existing homes going to be an improvement over the construction impacts that may occur? And if this is accurate, what kind of operational impacts would now occur to those properties, as it would be entirely inappropriate to argue the baseline condition would now be a vacant property.

Cultural Resources

What level of consultation with the impacted Tribes would occur as part of this project? This discussion should be included as a PEM.

This area of Riverside County is within the Ancestral territory of the Luiseno people and a place with religious and cultural significance to our sovereign Tribal Government neighbors. It is imperative that FERC consult with Riverside County Tribal Governments in order to ensure tribal cultural resources, sacred sites, and historic properties are identified and evaluated as required by Federal law. In addition to properly identifying resources that may be affected by the Project, FERC must also require appropriate studies to be completed before project approval to analyze the impacts the LEAPS project will have on places of cultural and religious significance to California Native American tribes. Further, a proper analysis during these proceedings would assist with the CEQA review for the project.

Aesthetic Resources

As discussed in the prior motion to intervene (See FERC eLibrary Accession No. 20190920-5007), the project will create a permanent visual impact throughout the County. While the PEM discusses the creation of a scenery conservation plan, there is little that can be done to achieve consistency with "high scenic integrity objectives" when it comes to above-ground power poles, transmission lines, and the prominent water conduit system connecting the water from Lake Elsinore to the proposed Decker Canyon reservoir. Therefore, the EIS will need to include a sufficient analysis of all of the potential permanent visual impacts this project will cause within the National Forest and the impacted counties. The impacts of large transmission towers in very close proximity to a major interstate highway route, and on existing communities, needs to be thoroughly analyzed, addressed, and mitigated.

Additional Resource Impacts that Must Be Analyzed

The PEMs and scoping document overall appears to be missing some rather key potential impacts.

- **Fire Impacts**

It's unclear how we can have a project with 32 miles of 500 kV transmission lines crossing miles of open space with zero PEMs or discussion about fire

impacts, aside from a basic statement in the cumulative effects section. The LEAPS project is proposed to a Very High Fire Risk area, as identified by the California Department of Forestry and Fire Protection (CalFire). Clearly California's recent past has shown fire and power lines to be intricately linked and SD1 should be redrafted to include a more robust discussion on this issue so the public can appropriately comment on this potentially devastating impact to the project's surrounding communities.

- **Traffic and Construction Impacts**

Given the size and scale of the proposed action, impacts during construction – particularly traffic impacts – are likely to be substantial. The PEMs refer to the need to develop and implement safety plans during construction. However, there is a lack of overall discussion and detail as it relates to construction impacts, in particular to the Lakeland Village area. The EIS needs to evaluate and discuss how the project will mitigate for inevitable road and lane closures that would occur, particularly with the construction of the Santa Rosa Powerhouse and the associated water tunnels. Furthermore, will the project applicant utilize Highway 74 predominately for the construction of the upper Decker Canyon Reservoir? What level of material will need to be delivered to the site and what level of cut and fill will be required in order to build a 70-acre surface area reservoir that can hold upwards of 5,972 acre-feet of water?

Joint CEQA/NEPA Document Should be Prepared

Given the scope of the project and the required approvals from local and state agencies, why is FERC processing only a NEPA compliance document as opposed to a joint document implementing both NEPA and the California Environmental Quality Act (CEQA) standards? While at times an EIS may be appropriate and can "stand in" for the future CEQA document; such a procedure here, given the complexity of the project and the level of environmental impacts that would occur, is inappropriate. The fundamental error to this approach is that the potential for detailed evaluation of mitigation measures that would be binding under the CEQA process will now be pushed to a later date – or sidestepped altogether as was already attempted by the project applicant in 2011, arguing that the EIS sufficiently evaluated the impacts under CEQA and therefore an Environmental Impact Report (EIR) under CEQA was not required. The number one requirement for the use of a NEPA document in lieu of an EIR is whether or not that document satisfies all of the requirements of CEQA. State CEQA Guidelines section 15221. In order for an EIS to be utilized under CEQA, the NEPA document must satisfy CEQA's content standards for an EIR. Given the recent federal changes relating to the Council on Environmental Quality's NEPA regulations, it is unlikely that any EIS for a project of this complexity would be sufficient alone to meet the CEQA standards as the changes to the NEPA regulations have no binding effect on CEQA. It is unlikely that any state or local agency will allow the use of the NEPA document alone in order to approve

any subsequent agency approvals needed, and would require a new CEQA document – likely an Environmental Impact Report - be created.

Studies Should Not be Deferred

The provided PEMs discuss a number of options, including what appear to be a number of additional studies and plan/programs. Although that may be suitable depending on the study or the potential impact on the environmental resource, the County is concerned that the project applicant will attempt to reduce the scope of analysis by inappropriately deferring studies, analysis, and mitigation to a later date without the benefit of public review and thus reducing the opportunity for informed decision-making on the part of FERC. Therefore, while the County appreciates the need for these studies and consultations identified in the scoping document, these are studies and consultations that need to occur prior to any FERC approvals in order to inform the public and the multitude of federal, state, tribal, and local agencies, and non-governmental organizations (NGOs) that will review and comment on this EIS.

Multiple Project Alternatives Should be Analyzed

The scoping document states that the EIS will evaluate (1) the no project alternative; (2) the applicant's proposed action; and (3) "alternatives to the proposed action." The scoping document does not provide any indication of what those other alternatives may be or how many. Under NEPA, a reasonable alternative would be any action that could fulfill the purpose and need of the proposed action. This is why greater detail regarding the project's purpose and need must be provided in the scoping document in order to allow the various public agencies, Tribes, NGOs, and the general public to suggest reasonable alternatives to the proposed project. Given the CAISOs findings regarding the lack of need for the proposed action, the EIS must have a robust discussion of other alternatives that would satisfy the State's needs for enhanced reliability of energy, while reducing the significant level of impact this project would cause. For this reason alone it appears a second scoping document should be issued so the public can provide meaningful feedback as it relates to the alternatives analysis; lacking that information will unduly limit the reasonable range of project alternatives that are ultimately analyzed in the EIS.

Conclusion

The LEAPS project could lead to major public impacts, including but not limited to, dam safety issues, wildfire dangers, visual and public safety impacts from transmission lines, traffic and construction impacts, and disturbance of sensitive habitat areas. All of which are foreseeable impacts to residents and businesses in the unincorporated area of the County. While the LEAPS project purports to have statewide energy benefits, the

environmental impacts, potentially detrimental and long lasting, are at the local level and will be borne by the residents of Riverside County. Therefore, it is important that all environmental and public service impacts are satisfactorily analyzed and mitigated in an open and transparent process with ample public review, comment and outreach.

The County thanks FERC for considering its comments and questions on SD1 during the preparation of the EIS. Please do not hesitate to reach out to Assistant County Executive Officer – TLMA Director Juan C. Perez at (951) 955-6742 should you wish to discuss this letter. The County looks forward to working with FERC and the project applicant throughout the EIS process.

Sincerely,


Supervisor V. Manuel Pérez, Chairman
Riverside County Board of Supervisors

[TO BE PLACED ON BOS LETTERHEAD AND SUBMITTED BACK TO COUNTY COUNSEL FOR ELECTRONIC SUBMITTAL TO FERC]

[DATE]

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

RE: COUNTY OF RIVERSIDE COMMENTS ON SCOPING DOCUMENT 1 FOR LAKE ELSINORE ADVANCED PUMPED STORAGE PROJECT (P-14227-003).

Dear Ms. Bose:

The County of Riverside ("County"), an Intervenor in this proceeding, appreciates the opportunity to provide the following comments on the Scoping Document 1 ("SD1") for the Lake Elsinore Advanced Pumped Storage Project (hereinafter referred to as "LEAPS project"). As previously advised, the County has many concerns regarding the pumped storage project and the 32 miles of 500kv transmission lines it would bring through the Cleveland National Forest, the community of Temescal Valley, and large areas of Multi-Species Habitat Preserve. Approval of the LEAPS project would bring major public impacts, including but not limited to dam safety issues, wildfire dangers, visual and public safety impacts from transmission lines, traffic and construction impacts, and disturbance of sensitive habitat areas. All of such are foreseeable impacts to residents and businesses in the unincorporated area of the County.

While the County understands that Federal Energy Regulatory Commission (FERC) staff was unable to conduct in-person, on-site scoping meetings due to COVID-19, the County is disappointed that FERC elected to only move forward with soliciting written comments on SD1. A quick review of the docket clearly shows that the LEAPS project is of significant concern to numerous State and Federal agencies, the County, the City of Lake Elsinore, the Pechanga Band of Luiseno Indians, numerous environmental groups, and residents of the County. For that reason, FERC should have conducted virtual scoping meetings via technology, as so many governmental agencies are doing right now, so that the surrounding community residents, as well as the County, the City of Lake Elsinore, and other concerned agencies could have had a meaningful opportunity to verbally provide their concerns and input on the LEAPS project.

As stated in SD 1, the scoping process is done "to ensure that all pertinent issues are identified and analyzed, and that the EIS is thorough and balanced." The County thanks FERC for taking the following comments on SD1 into its consideration so that the issues and questions raised in this letter may be addressed in depth during the preparation of the Environmental Impact Statement under the National Environmental Policy Act (NEPA).

Purpose and Need of the LEAPS Project is Unclear

After reading SD1, it is unclear as to why the LEAPS project is needed at this time. NEPA requires a project proponent to create a statement that specifies the "underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action." 40 CFR 1502.13. While this "purpose and need" statement is presented as a simple statement under NEPA, in reality the statement sets the course of the project, the evaluation of the impacts of that project, and the development and analysis of sufficient alternatives to the project.

This is particularly important for the LEAPS project. As mentioned above several state and federal agencies, cities, environmental groups, and concerned citizens have commented on and been critical of the LEAPS project through the years. Additionally, the California Independent System Operator Corporation (CAISO), a nonprofit public benefit corporation that sets policies to ensure reliable performance of the electricity grid in California, has previously concluded that that LEAPS project was not needed for energy reliability as other options that were either already online or under development would be more than sufficient. Given the intense scrutiny and issues raised about the LEAPS project by numerous organizations, it is incumbent on FERC to provide a suitable discussion as to how and why a two billion dollar project with immense physical environmental impacts is needed or even desired.

The EIS should also discuss as part of the need for the project, the actual net energy that will be created by the LEAPS project. SD1 states that the LEAPS project would generate an average of 1,560,000 megawatt-hours of electricity annually. However, it is our understanding that substantial amounts of energy are required to pump the water from Lake Elsinore to the proposed 70-acre Decker Canyon upper reservoir that is to be constructed in the Cleveland National Forest. In fact, as drafted it is not clear any net energy would be created at all, and instead the project applicant would simply use cheaper electricity at off-peak prices to pump the water to the upper reservoir, in order to sell the generated energy during peak prices. The EIS should include some discussion at least as to how and why this benefits the ratepayer or enhances energy reliability – particularly in light of the cost and environmental damage inherent in the LEAPS project.

Scope of the Project Lacks Detail

SD1 lacks suitable detail as to the scope of the project itself. For example, Figure 2 of the scoping document appears to be at a 1 inch to 4 mile scale making it impossible to ascertain where the project will be located or the types of existing areas that may be impacted. Furthermore, this project has been ongoing for over a decade. Why did FERC not include at least some visual details or photosimulations in the scoping document as to the substations, conduit system, and transmission lines that will traverse roughly 32 miles within the impact area? While maybe such details are uncommon in a typical scoping document, the LEAPS proposed action is far from a typical project.

Clarity on the Proposed Environmental Measures (PEMs) is Needed

Given the complexity and resulting physical environmental impacts that this project will cause, additional detail on the various Proposed Environmental Measures (PEMs) must be included so that the public can fully understand the impacts of the project and how those impacts are proposed to be mitigated. In particular, the timing of the additional studies, programs/plans, and when additional consultation would occur are necessary for the public so the public can understand if additional restrictions or limitations would be placed on the project after the NEPA/CEQA process is complete, or if this will be the extent of the analysis. Moreover, when project applicants submit a basic series of PEMs, there is a tendency in an EIS to simply list these PEMs again as if they are valid design features or mitigation for impacts without illustrating how or why those measures would help reduce the project's impacts, creating a fundamental disconnect between the PEMs and the analysis. Please ensure this does not occur for this project.

Moreover, please see the additional comments raised on particular PEMs within Section 3.2.2 of SD1 below:

General

As currently written, it does not appear that there will be adequate monitoring of the project during construction. SD1 states the project would "obtain a qualified biologist or natural resource specialist to serve as an environmental construction monitor." This project is complex with substantial biological impacts occurring simultaneously within the Cleveland National Forest and the County. There would likely need to be a number of qualified monitors' onsite simultaneously – with authority to redirect and/or pause the development – in order to ensure this project is implementing all of the necessary design features, regulations, and mitigation that will be required for a project of this magnitude.

Geologic and Soil Resources

The PEM regarding erosion control needs further detail. SD1 discusses the need for an erosion control plan in order to "control erosion, stream sedimentation, dust, and soil mass movement including measures to revegetate disturbed areas with native plants." The EIS needs to include specific examples and details about this plan earlier in the process, given its importance. Further, an erosion control plan is not likely the place to include measures related to stream sedimentation or revegetating the disturbed land with native plants, as these actions would likely entail their own separate plan with numerous detailed mitigation to illustrate how the project would reduce those particular impacts.

Aquatic Resources

The PEM regarding construction of access roads needs further explanation. It states the project would "build access roads at right angles to streambeds and washes to minimize impacts to water resources." How or why would that reduce the impacts to

water resources? If such statements are included in the scoping document, then the document should provide at least some cursory discussion as to how or why that would be applicable.

This section discusses developing a detailed plan specifying the “activities, locations, methods, and schedule that the environmental construction monitor would use to monitor construction in aquatic and terrestrial environments.” Similar to prior comments, this is a vague statement, yet covers a significant amount of actual activity that will have impacts on the surrounding community. This is the type of plan that should be discussed and analyzed in the EIS in great detail given its importance, as opposed to pushing it out to a later date after the NEPA and CEQA process may have concluded.

Terrestrial Resources

While the terrestrial resources section of the scoping document contains greater detail related to the studies and consultation, the section still needs further detail and explanation as some of it appears to be misleading and inadequate as to identification of species impacts and mitigation. The section related to restricting construction and survey to the pre-defined project footprint seems misleading as a PEM because any project would typically be restricted to their project boundaries and parameters as the project was evaluated in the EIS.

The section discusses the preparation of a habitat mitigation plan with the US Forest Service, Department of the Interior, California Department of Fish and Wildlife, and Riverside County to “identify appropriate mitigation of habitat losses.” This also appears to be a misleading PEM, as how would a project make it through the NEPA process – and certainly through any subsequent CEQA process likely to be required – if these impacts were not already “identified” and analyzed and the “appropriate mitigation” already incorporated into the documentation?

The terrestrial project includes a discussion related to the development of a plan to prevent and control the introduction and spread of noxious weeds and exotic plants. Similar to prior comments, this potential impact must be thoroughly evaluated in the EIS given the importance of the projects location and the sheer distance in the area of potential effect.

The County and the Riverside County Flood Control and Water Conservation District filed a joint motion to intervene (See FERC eLibrary Accession No. 20190920-5007) and raised the comment that the project would be located within the Riverside County Multiple Species Habitat Conservation Plan (MSHCP). SD1 references the MSHCP and the need for “additional preconstruction special-status plant and wildlife surveys at transmission line tower sites and along transmission alignment access roads”. However, surveys alone would not ensure consistency with the MSCHP. Since this project is not a covered activity within the MSHCP, it is likely the project will require a

separate Section 7 Consultation and Biological Assessment with the U.S. Fish & Wildlife Service.

Threatened and Endangered Species

Further detail, analysis and mitigation as to impacts to threatened and endangered species must be included in the EIS. Section 3.2.2 of SD1 discusses specific surveys for various species (e.g. Quino Checkerspot butterfly, Stephen's kangaroo rat). This is a positive recognition as to the types of direct impacts the applicant's proposed action would cause. However, under the same heading in the cumulative impacts section, there is a blanket statement about the need to study the effects on a multitude of listed endangered and threatened species (e.g. southern California steelhead, Munz's onion, San Diego ambrosia, least Bell's vireo, coastal California gnatcatcher, etc.). This begs the question as to why have roughly 19 listed endangered and threatened species identified under the cumulative impact section, and only four species under Section 3.2.2?

There are concerns regarding impacts to vernal pools. SD1 discusses the restoration of "disturbed vernal pool habitat". As avoidance is the preferable option for vernal pools, is the project suggesting it will restore existing habitat that is already disturbed? Or will the project itself be the disturbance? This needs to be clarified in the scoping document and evaluated in detail in the EIS.

Recreation and Land Use

SD1 references the acquisition and modification of the existing Santa Rosa [Mountain] Villas for the construction of the Santa Rosa powerhouse site. Given the County's housing needs, this is a concern for the County and the first time that such acquisition has been suggested. What if the property owner is unwilling to sell? As a for profit operation by a private entity, this does not appear to be the type of project where eminent domain would be appropriate. Moreover, the multi-family residences at the Santa Rosa [Mountain] Villas have been identified in our new Lakeland Village Community Plan as high density residential units, surrounded by mixed use area properties. Therefore, an assessment as to how this project would impact the community plan, as well as our state mandated Housing Element and Regional Housing Needs Allocation (RHNA) numbers, would be necessary in the EIS. Further, SD1 discusses the option of retaining the villas in a vacant condition "and return [the villas] to the regional housing inventory upon completion of construction to address potential effects on residents during construction." How is displacing people from their existing homes going to be an improvement over the construction impacts that may occur? And if this is accurate, what kind of operational impacts would now occur to those properties, as it would be entirely inappropriate to argue the baseline condition would now be a vacant property.

Cultural Resources

What level of consultation with the impacted Tribes would occur as part of this project? This discussion should be included as a PEM.

Aesthetic Resources

As discussed in the prior motion to intervene (See FERC eLibrary Accession No. 20190920-5007), the project will create a permanent visual impact throughout the County. While the PEM discusses the creation of a scenery conservation plan, there is little that can be done to achieve consistency with “high scenic integrity objectives” when it comes to above-ground power poles, transmission lines, and the prominent water conduit system connecting the water from Lake Elsinore to the proposed Decker Canyon reservoir. Therefore, the EIS will need to include a sufficient analysis of all of the potential permanent visual impacts this project will cause within the National Forest and the impacted counties. The impacts of large transmission towers in very close proximity to a major interstate highway route, and on existing communities, needs to be thoroughly analyzed, addressed, and mitigated.

Additional Resource Impacts that Must Be Analyzed

The PEMs and scoping document overall appears to be missing some rather key potential impacts.

- **Fire Impacts**

It's unclear how we can have a project with 32 miles of 500 kV transmission lines crossing miles of open space with zero PEMs or discussion about fire impacts, aside from a basic statement in the cumulative effects section. Clearly California's recent past has shown fire and power lines to be intricately linked and SD1 should be redrafted to include a more robust discussion on this issue so the public can appropriately comment on this potentially devastating impact to the project's surrounding communities.

- **Traffic and Construction Impacts**

Given the size and scale of the proposed action, impacts during construction – particularly traffic impacts – are likely to be substantial. The PEMs refer to the need to develop and implement safety plans during construction. However, there is a lack of overall discussion and detail as it relates to construction impacts, in particular to the Lakeland Village area. The EIS needs to evaluate and discuss how the project will mitigate for inevitable road and lane closures that would occur, particularly with the construction of the Santa Rosa Powerhouse and the associated water tunnels. Furthermore, will the project applicant utilize Highway 74 predominately for the construction of the upper Decker Canyon Reservoir? What level of material will need to be delivered to

the site and what level of cut and fill will be required in order to build a 70-acre surface area reservoir that can hold upwards of 5,972 acre-feet of water?

Joint CEQA/NEPA Document Should be Prepared

Given the scope of the project and the required approvals from local and state agencies, why is FERC processing only a NEPA compliance document as opposed to a joint document implementing both NEPA and the California Environmental Quality Act (CEQA) standards? While at times an EIS may be appropriate and can “stand in” for the future CEQA document; such a procedure here, given the complexity of the project and the level of environmental impacts that would occur, is inappropriate. The fundamental error to this approach is that the potential for detailed evaluation of mitigation measures that would be binding under the CEQA process will now be pushed to a later date – or sidestepped altogether as was already attempted by the project applicant in 2011, arguing that the EIS sufficiently evaluated the impacts under CEQA and therefore an Environmental Impact Report (EIR) under CEQA was not required. The number one requirement for the use of a NEPA document in lieu of an EIR is whether or not that document satisfies all of the requirements of CEQA. State CEQA Guidelines section 15221. In order for an EIS to be utilized under CEQA, the NEPA document must satisfy CEQA's content standards for an EIR. Given the recent federal changes relating to the Council on Environmental Quality's NEPA regulations, it is unlikely that any EIS for a project of this complexity would be sufficient alone to meet the CEQA standards as the changes to the NEPA regulations have no binding effect on CEQA. It is unlikely that any state or local agency will allow the use of the NEPA document alone in order to approve any subsequent agency approvals needed, and would require a new CEQA document – likely an Environmental Impact Report - be created.

Studies Should Not be Deferred

The provided PEMs discuss a number of options, including what appear to be a number of additional studies and plan/programs. Although that may be suitable depending on the study or the potential impact on the environmental resource, the County is concerned that the project applicant will attempt to reduce the scope of analysis by inappropriately deferring studies, analysis, and mitigation to a later date without the benefit of public review and thus reducing the opportunity for informed decision-making on the part of FERC. Therefore, while the County appreciates the need for these studies and consultations identified in the scoping document, these are studies and consultations that need to occur prior to any FERC approvals in order to inform the public and the multitude of federal, state, tribal, and local agencies, and non-governmental organizations (NGOs) that will review and comment on this EIS.

Multiple Project Alternatives Should be Analyzed

The scoping document states that the EIS will evaluate (1) the no project alternative; (2) the applicant's proposed action; and (3) "alternatives to the proposed action." The scoping document does not provide any indication of what those other alternatives may be or how many. Under NEPA, a reasonable alternative would be any action that could fulfill the purpose and need of the proposed action. This is why greater detail regarding the project's purpose and need must be provided in the scoping document in order to allow the various public agencies, Tribes, NGOs, and the general public to suggest reasonable alternatives to the proposed project. Given the CAISOs findings regarding the lack of need for the proposed action, the EIS must have a robust discussion of other alternatives that would satisfy the State's needs for enhanced reliability of energy, while reducing the significant level of impact this project would cause. For this reason alone it appears a second scoping document should be issued so the public can provide meaningful feedback as it relates to the alternatives analysis; lacking that information will unduly limit the reasonable range of project alternatives that are ultimately analyzed in the EIS.

Conclusion

The LEAPS project could lead to major public impacts, including but not limited to, dam safety issues, wildfire dangers, visual and public safety impacts from transmission lines, traffic and construction impacts, and disturbance of sensitive habitat areas. All of which are foreseeable impacts to residents and businesses in the unincorporated area of the County. While the LEAPS project purports to have statewide energy benefits, the environmental impacts, potentially detrimental and long lasting, are at the local level and will be borne by the residents of Riverside County. Therefore, it is important that all environmental and public service impacts are satisfactorily analyzed and mitigated in an open and transparent process with ample public review, comment and outreach.

The County thanks FERC for considering its comments and questions on SD1 during the preparation of the EIS. Please do not hesitate to reach out to Assistant County Executive Officer – TLMA Director Juan C. Perez at (951) 955-6742 should you wish to discuss this letter. The County looks forward to working with FERC and the project applicant throughout the EIS process.

Sincerely,

Supervisor V. Manuel Perez, Chairman
Riverside County Board of Supervisors

AGENDA ITEM:

3.69 13179 TLMA -TRANSPORTATION & LAND MANAGEMENT AGENCY: COMMENTS ON THE FEDERAL ENERGY REGULATORY COMMISSION'S SCOPING DOCUMENT 1 FOR LAKE ELSINORE ADVANCED PUMPED STORAGE PROJECT (FERC DOCKET NO. P14227-003). District 1

I am requesting the County of Riverside Board of Supervisors to include the following items that require additional information and areas of potential impacts that are not adequately addressed or absent from both the Riverside County's response on the Federal Energy Regulatory Commission's Scoping Document 1 for Lake Elsinore Advanced Pumped Storage Project (FERC Docket No. P14227-03) and the original FEDERAL ENERGY REGULATORY COMMISSION Scoping Document itself:

- 1) Page 1, Paragraph 2 of Riverside County Board of Supervisor's Response Letter
 - a) In response to FERC unable to conduct in-person, on-site scoping meeting due to COVID-19
 - i) Require Nevada Hydro to generate an interactive digital document compatible with Riverside County's GIS, Map My County software.
 - ii) This document would be made accessible to all residents.
 - b) Interactive Document should include but not limited to:
 - i) All details included in Figure 2 of the Scoping Document
 - ii) All the details specified below in Item 3 a) Figure 2 of the scoping Document which are missing from Figure 2 of the Scoping Document.
 - iii) interactive layers for each level of details
 - iv) parcel/address locating abilities so people may individually be able to plot their property/home and quickly identify if their home will be within any identified spheres of influence or one that will be required to sell.
 - v) Upon receipt of the digital file, County of Riverside, should be allotted adequate time to:
 - (1) Install, test, and troubleshoot the digit file
 - (2) conduct a webinar workshop for all residents to participate utilizing this document.
 - (3) Inform the general public of the availability of the interactive document for public review.
 - (4) for the general public to review the interactive document and time to file a comment with FERC.

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2) Scope of the Project Lacks Detail

- a) Figure 2 of the scoping document does not have the plotted locations of:
 - i) Construction Impact Zone
 - ii) Completed Project boundaries
 - iii) Riverside County CAL Fire Stations
 - iv) US Forestry Stations
 - v) US Forestry Lookout/Observation Towers
 - vi) Closest Fire Hydrants
 - vii) Communication Towers
 - viii) Blue Line Streams
 - ix) Tenaja Falls
 - x) Ancient Oaks within the Construction Impact Zone
 - xi) Identified Wildlife Corridors including but not limited to the connections between:
 - (1) Cleveland National Forest and the Santa Rosa Plateau Ecological Reserve
 - (2) Cleveland National Forest and Lake Elsinore
 - (3) Cleveland National Forest and the Pacific Ocean
 - xii) Public Trails, Public Roads, and Private Roads within the Cleveland Forest Area that will be impacted and or eliminated, and are connected to the County of Riverside
- b) Figure 2 of the scoping document does not identify
 - i) Project Construction Access
 - (1) Which local Public Roads and Highways that will be utilized.
 - (2) Which local Privately Owned and Privately Maintained Roads that will be utilized.
 - ii) Maintenance Access
 - (1) Which local Public Roads and Highways that will be utilized.
 - (2) Local Privately Owned and Maintained Roads that will be utilized.
 - iii) Individual homes and privately owned parcels of land that will be required to sell.
 - iv) Spheres of project influences for:
 - (1) Property Value depreciation
 - (2) Cellular Interference
 - (3) Radio Communication Interference
 - (4) Construction Noise Attenuation
 - (5) Operation Noise Attenuation
 - (6) EMF emission levels
 - (7) Tower Visibility for each Transmission Tower
 - (8) Prohibited Recreational use areas during course of construction.
 - (9) Prohibited Recreational use areas upon completion.
 - (10) Prohibited aerial drop zone(s) for Wildfire containment.
- c) Figure 2 needs to be drawn utilizing a much larger scale and multiple sheets/pages, for a clear easy to read comprehensive contiguous exhibit for the average person to comprehend.

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3) Clarity on the Proposed Environmental Measures (PEMs) is Needed

- a) Geologic and Soils Resources: Will AQMD be monitoring this project daily throughout the clearing, grading, and installation phases?
- b) Aquatic Resources
 - i) Will this impact Blue Line Streams that flow to and/or from the County of Riverside?
 - ii) Will this impact Tenaja Falls?
 - iii) Will the operation of this project create an increased level of evaporation of our vital water within our drought prone environment and only natural occurring lake?
- c) Wildlife Resources
 - i) Identify the approximate number of Mountain Lions, Bobcats, Coyotes, Hawks, Eagles, etc. that will be displaced due to the demolition of their natural habitat with the potential of forcing them into Riverside County Communities which would cause public:
 - (1) safety issues
 - (2) threats to wildlife and livestock
 - (3) to contact and burden the Riverside County Animal Control Services.
 - ii) Identify the number and size of Ancient Oaks within the project sphere of construction influence
 - iii) Disruption or elimination of the natural Wildlife Corridors that connect to natural Wildlife Corridors within the County of Riverside.
- d) Threatened and Endangered Species: Identify the potential disruption or elimination of wildlife vital to the threatened and endangered species survival along with the impacts to the ecological balance within Riverside County.
- e) Recreation and Land Use
 - i) Prior to any construction activities, develop and implement an individual plan in consultation with each of the individual Santa Rosa Plateau Property Owner Associations for the purpose of the installation of the Transmission Lines and Towers:
 - (1) identify and coordinate the use of privately owned and privately maintained roads including:
 - (a) Nevada Hydro providing traffic control plans, signage, and personnel per County of Riverside specifications.
 - (b) Nevada Hydro to provide the type, size, weight, and maximum quantity of each type of vehicle that will travel these roads each day during the construction phase.
 - (c) Nevada Hydro or entities associated with this project will agree not to store or dispose of any materials or debris on or along any roads, or on any Property Owners property without a prior written agreement between all parties, including the applicable Property Owners Association, and storage or disposal must be in compliance with Property Owners Association's CC&R's.

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- (2) Enter into a usage, maintenance, cleanup, and repair agreement with each individual impacted Property Owners Association for a Temporary Project Access Road Easement during the course of construction and project maintenance following project completion that will include but not limited to:
 - (a) Nevada Hydro posting improvement, maintenance, and repair bonds for roads and infrastructure.
 - (b) Nevada Hydro providing Additionally Insured Auto and Liability Certificates naming each Property Association and their Property Owners as the Additional Insured that will remain effective throughout the entire course of this project.
 - (c) Nevada Hydro providing each Property Association a Release of Liability Agreement for each Property Owner Association and it's Property Owners against any accidents and legal suits resulting from the use of these roads or personal property during the entire construction phase and if required yearly maintenance periods beyond completion.
 - (d) Agreement to include Nevada Hydro to hold each individual Property Owners Association harmless against any damages or accidents that may occur to Nevada Hydro employees, contractors, subcontractors, equipment, vehicles, and or materials while utilizing these roads for the preconstruction phase, construction phase, post construction phase, and yearly maintenance.
- (3) Bonds will be released upon the acceptance of undamaged roads or upon completion and acceptance of repairs by the individual impacted Property Owners Association.
- ii) Pumping during the weekends without releasing water back into the lake during the weekend should be addressed regarding the potential to greatly lower the water level during peak usage times for Riverside County residents.
- iii) Loss or interruption of direct access to the Cleveland Forest network of multipurpose trails for recreational use from the Santa Rosa Plateau Communities (La Cresta and Tenaja) and Riverside County Residents.
- iv) The conditioning of this project to construct at Nevada Hydro's expense both a paved path and separate designated equestrian trail that would serve as:
 - (1) a maintenance road
 - (2) a First Responder access road (Fires)
 - (3) an Evacuation Road
 - (4) a bicycle path
 - (5) an electric scooter path
 - (6) a walking/jogging path
 - (7) both paved path and equestrian trail to be installed from Lake Elsinore beyond to the Case Springs Substation
 - (8) Nevada Hydro to fund the extension of the paved path and equestrian trail through to San Mateo Campground creating a beach to lake connection, which would help offset and mitigate the impacts of this project.
 - (9) Trails and paths to be maintained at the expense of Nevada Hydro.

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- v) The conditioning of the project for Nevada Hydro to construct at their expense multiple pocket parks with:
 - (1) drinking fountains,
 - (2) shade trees,
 - (3) public restrooms
 - (4) a Native American Descriptive Timeline narrative the entire length.
 - (5) Pocket Parks and Timeline to be maintained at the sole expense of Nevada Hydro.
- vi) This corridor of Transmission Lines and Towers has a great potential of attracting Homeless Encampments that would:
 - (1) be within the High and Very High Fire Hazard areas of the County of Riverside.
 - (2) potentially increase crime in the surrounding communities.
 - (3) require this project to be conditioned for Nevada Hydro or contract annually with the Riverside County Sheriff's Department to monitor the entire project site daily and coordinate with Code Enforcement and local agencies to remove any Homeless Encampments at Nevada Hydro's expense during construction and upon completion during the entire course of operations.

Note: Homeless Encampments already exist along the Slaughter Trail on undeveloped parcels adjacent to Clinton Keith Road and Fire Station 75, as well as along riverbeds, drainage channels and other cleared accessible easements throughout Riverside County. These Homeless Encampments are known to have open fires within the Slaughter canyon and pose a constant threat of a Wildfire incident.

4) Additional Resource Impacts that Must Be Analyzed

a) Fire Impacts

- i) The potential significant financial impact to Property Owners caused by Insurance Carriers dropping homeowners due to increased risk of fire and decreased ability to minimize and extinguish Wildland Fires.
- ii) Identify the distances from the closest CAL Fire Stations and US Forestry Stations from all areas of the project with projected response times.
- iii) The conditioning of this project for both the entire clearing and construction phase, or until a permanent watermain is installed and accepted by the governing jurisdiction, to have a temporary Watermain Highline with Hydrants that meets both Cal Fire and Riverside County's requirements the entire length of the project.
- iv) The conditioning of this project to install at the expense of Nevada Hydro a Watermain Line that is tied into and water supplied by the Upper Reservoir with pump stations as needed and Fire Hydrants the entire length of the Transmission Lines. During construction this mainline could be temporarily connected to and water supplied by Rancho Water District and/or Elsinore Water District until the Upper Reservoir is capable of supplying the water.
- v) The conditioning of this project to construct at the expense of Nevada Hydro both a CAL Fire Station within the Santa Rosa Plateau La Cresta/Tenaja Communities and an US Forestry Station that are adjacent to the completed project with direct access to a maintenance road within the Transmission Line Corridor for quick and immediate response.

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- b) Traffic and Construction Impact
 - i) During both the construction phase and required maintenance following project completion.
 - (1) Specifically the privately owned and privately maintained roads within the five Property Owners Associations on the Santa Rosa Plateau often referred to as the La Cresta and Tenaja areas.
 - (2) Condition this project to upgrade and reconstruct any private roads per the County of Riverside specifications and paving sections per a determined traffic index that will withstand, if any, the construction traffic and maintenance traffic, as well as make any necessary repairs to these roads upon completion of this project.
 - (3) Condition this project to provide Improvement Bonds and Agreements for the complete removal and replacement of any private roads that would be used during the construction phase.
- 5) Multiple Project Alternatives Should Be Analyzed
 - a) Routing the Transmission Lines along South Main Divide Road and North of the Wildomar OHV Area area:
 - i) which is an area that already has a dirt road access.
 - ii) would also create a greater distance between the Santa Rosa Plateau Communities and the Transmission Lines/Towers.
 - iii) would potentially allow for aerial drops between the Transmission Lines/Towers and the dwelling units within the La Cresta, La Cresta Highlands, and Tenaja improving the defense against a Wildland Fire in the Cleveland National Forest.
 - b) Routing the Transmission Lines along Ortega Hwy 74.
 - i) This road is already paved and would greatly lessen the impact to both the Cleveland National Forest and the County of Riverside.
 - ii) A cooperative construction agreement could be made between the State of CA and Nevada Hydro with shared costs to widen the Ortega Hwy to match the newly improved lower section of Hwy 74 within Orange County.
 - iii) Would disturb less of the untouched Cleveland National Forest
 - iv) Would lessen the number of Transmission Towers on the face of the Cleveland National Forest Mountains and greatly reduce the visual impact to the entire Lake Elsinore/Temecula Valley.
 - v) Would create benefits to the entire Lake Elsinore/Temecula Valley by:
 - (1) Off-setting any negative impacts caused by LEAPS to property values resulting from improved accessibility into Orange County.
 - (2) Lessening the number of Transmission Towers traversing the face of the Cleveland National Forest which is visible for miles.
 - (3) Would decrease traffic on both the 15 Fwy and 91 Fwy.
 - (4) Would improve the needed increased safety of Hwy 74.
 - (5) Would quicken the response time to Fires and other emergencies along the transmission line route.

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- (6) Would open up the job market to more lower income households with easier access to higher paying jobs in Orange County.
- (7) Would potentially the Riverside County economy by potentially increasing tourism to Lake Elsinore and Temecula Wine Country with an improved access between the beach and lake creating a more desirable tourist destination.

Thank you in advance for your time reviewing my recommended additions to the County of Riversides Board of Supervisors Comments to FERC.

From: Deborah Siegmund-Palmer <ddspalmer@msn.com>

Sent: Monday, August 3, 2020 11:46 AM

To: Piantadosi, Debra <DPIANTAD@RIVCO.ORG>; Almiron, Tricia <talmiron@rivco.org>; Perez, Juan <JCPEREZ@RIVCO.ORG>; COB <COB@RIVCO.ORG>; Supervisor Kevin Jeffries <rivcodistrict1@public.govdelivery.com>

Subject: LEAPS Action Item 13179 LEAPS and LEAPS County Comments on Scoping Document 1

Importance: High

Dear Tricia, Debra and Clerk of the Board:

As a follow up to Thursday's Lake Elsinore LEAPS Workshop and Mr. Perez's comments, I am requesting to have the attached comments added to Tuesday, August 4th, Board of Supervisor Meeting:

AGENDA ITEM:

3.69 13179 TLMA -TRANSPORTATION & LAND MANAGEMENT AGENCY: COMMENTS ON THE FEDERAL ENERGY REGULATORY COMMISSION'S SCOPING DOCUMENT 1 FOR LAKE ELSINORE ADVANCED PUMPED STORAGE PROJECT (FERC DOCKET NO. P14227-003). District 1.

Should you have any question, please telephone me at (951)704-8116.

Sincerely,

Deborah Siegmund-Palmer

From: Piantadosi, Debra <DPIANTAD@RIVCO.ORG>

Sent: Friday, July 31, 2020 3:54 PM

To: ddspalmer@msn.com <ddspalmer@msn.com>

Subject: LEAPS Action Item 13179 LEAPS and LEAPS County Comments on Scoping Document 1

Debra L. Piantadosi

Assistant CEO Executive Assistant to

Juan C. Perez, Assistant County Executive Officer/TLMA

County of Riverside

4080 Lemon St. 14th Floor

Riverside CA 92501

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dpiantad@rivco.org (new e-mail address)

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From: COB

Sent: Monday, August 3, 2020 3:36 PM

To: George Johnson (GAJohnson@RIVCO.ORG) <GAJohnson@RIVCO.ORG>; Young, Alisa <AYoung@RIVCO.ORG>; Perez, Juan <JCPEREZ@RIVCO.ORG>; District 4 Supervisor V. Manuel Perez (District4@RIVCO.ORG) <District4@RIVCO.ORG>; District2 <District2@Rivco.org>; District3 <District3@Rivco.org>; District5 <District5@Rivco.org>; Supervisor Jeffries - 1st District (district1@rivco.org) <district1@rivco.org>

Cc: Piantadosi, Debra <DPIANTAD@RIVCO.ORG>; Almiron, Tricia <talmiron@rivco.org>

Subject: August 4, 2020 Item No 3.69 Public Comment on LEAPS Project (Deborah Siegmund-Palmer)

Importance: High

Good afternoon,

The email below and attachment were received via COB for your review for the August 4, 2020 Board Hearing Item No 3.69 (MinuteTraq No 13179).

A printed copy is filed with Agenda back-up.

Thank you kindly,

Clerk of the Board of Supervisors
4080 Lemon Street, 1st Floor, Room 127
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SANTA ROSA WEST PROPERTY OWNERS ASSOCIATION
COMMENTS REGARDING
Agenda Item 3.69 13179 TLMA
Tuesday, August 4, 2020
BOARD OF SUPERVISORS COUNTY OF RIVERSIDE

AGENDA ITEM:

3.69 13179 TLMA -TRANSPORTATION & LAND MANAGEMENT AGENCY: COMMENTS ON THE FEDERAL ENERGY REGULATORY COMMISSION'S SCOPING DOCUMENT 1 FOR LAKE ELSINORE ADVANCED PUMPED STORAGE PROJECT (FERC DOCKET NO. P14227-003). District 1.

SANTA ROSA WEST PROPERTY OWNERS ASSOCIATION is requesting the County of Riverside Board of Supervisors to include the following items that require additional information and areas of potential impacts that are not adequately addressed or absent from both the Riverside County's response on the Federal Energy Regulatory Commission's Scoping Document 1 for Lake Elsinore Advanced Pumped Storage Project (FERC Docket No. P14227-03) and the original FEDERAL ENERGY REGULATORY COMMISSION Scoping Document itself:

1) Scope of the Project Lacks Detail

- a) Figure 2 of the scoping document does not have the plotted locations of:
 - i) Construction Impact Zone
 - ii) Completed Project boundaries
 - iii) Riverside County CAL Fire Stations
 - iv) US Forestry Stations
 - v) US Forestry Lookout/Observation Towers
 - vi) Closest Fire Hydrants
 - vii) Communication Towers
 - viii) Blue Line Streams
 - ix) Tenaja Falls
 - x) Ancient Oaks within the Construction Impact Zone
 - xi) Identified Wildlife Corridors including but not limited to the connections between:
 - (1) Cleveland National Forest and the Santa Rosa Plateau Ecological Reserve
 - (2) Cleveland National Forest and Lake Elsinore
 - (3) Cleveland National Forest and the Pacific Ocean
 - xii) Public Trails, Public Roads, and Private Roads within the Cleveland Forest Area that will be impacted and or eliminated, and are connected to the County of Riverside
- b) Figure 2 of the scoping document does not identify
 - i) Project Construction Access
 - (1) Which local Public Roads and Highways that will be utilized.
 - (2) Which local Privately Owned and Privately Maintained Roads that will be utilized.

Specifically within the Santa Rosa Plateau Communities.

SANTA ROSA WEST PROPERTY OWNERS ASSOCIATION
28715 Via Montezuma
#B
Temecula, CA 92562
Todd Croupe
It's: President

8/4/20 3.69
Page 1 of 4

SANTA ROSA WEST PROPERTY OWNERS ASSOCIATION
COMMENTS REGARDING
Agenda Item 3.69 13179 TLMA
Tuesday, August 4, 2020
BOARD OF SUPERVISORS COUNTY OF RIVERSIDE

- ii) Maintenance Access
 - (1) Which local Public Roads and Highways that will be utilized.
 - (2) Local Privately Owned and Maintained Roads that will be utilized.
- iii) Individual homes and privately owned parcels of land that will be required to sell.
Specifically with the Santa Rosa Plateau Communities.
- iv) Spheres of project influences for:
 - (1) Property Value depreciation
 - (2) Cellular Interference
 - (3) Radio Communication Interference
 - (4) Construction Noise Attenuation
 - (5) Operation Noise Attenuation
 - (6) EMF emission levels
 - (7) Tower Visibility for each Transmission Tower
 - (8) Prohibited Recreational use areas during course of construction.
 - (9) Prohibited Recreational use areas upon completion.
 - (10) Prohibited aerial drop zone(s) for Wildfire containment.
- 2) Clarity on the Proposed Environmental Measures (PEMs) is Needed
 - a) Recreation and Land Use
 - i) Prior to any construction activities, develop and implement an individual plan in consultation with each of the individual Santa Rosa Plateau Property Owner Associations for the purpose of the installation of the Transmission Lines and Towers:
 - (1) identify and coordinate the use of privately owned and privately maintained roads including:
 - (a) Nevada Hydro providing traffic control plans, signage, and personnel per County of Riverside specifications.
 - (b) Nevada Hydro to provide the type, size, weight, and maximum quantity of each type of vehicle that will travel these roads each day during the construction phase.
 - (c) Nevada Hydro or entities associated with this project will agree not to store or dispose of any materials or debris on or along any roads, or on any Property Owners property without a prior written agreement between all parties, including the applicable Property Owners Association, and storage or disposal must be in compliance with Property Owners Association's CC&R's.

SANTA ROSA WEST PROPERTY OWNERS ASSOCIATION
COMMENTS REGARDING

Agenda Item 3.69 13179 TLMA

Tuesday, August 4, 2020

BOARD OF SUPERVISORS COUNTY OF RIVERSIDE

- (2) Condition Nevada Hydro to enter into a usage, maintenance, cleanup, and repair agreement with each individual impacted Property Owners Association for a Temporary Project Access Road Easement during the course of construction and project maintenance following project completion that will include but not limited to:
 - (a) Nevada Hydro posting improvement, maintenance, and repair bonds for roads and infrastructure.
 - (b) Nevada Hydro providing Additionally Insured Auto and Liability Certificates naming each Property Association and their Property Owners as the Additional Insured that will remain effective throughout the entire course of this project.
 - (c) Nevada Hydro providing each Property Association a Release of Liability Agreement for each Property Owner Association and it's Property Owners against any accidents and legal suits resulting from the use of these roads or personal property during the entire construction phase and if required yearly maintenance periods beyond completion.
 - (d) Agreement to include Nevada Hydro to hold each individual Property Owners Association harmless against any damages or accidents that may occur to Nevada Hydro employees, contractors, subcontractors, equipment, vehicles, and or materials while utilizing these roads for the preconstruction phase, construction phase, post construction phase, and yearly maintenance.
- (3) Bonds will be released upon the acceptance of undamaged roads or upon completion and acceptance of repairs by the individual impacted Property Owners Association.
- ii) Loss or interruption of direct access to the Cleveland Forest network of multipurpose trails for recreational use from the Santa Rosa Plateau Communities and Riverside County Residents.
- iii) This corridor of Transmission Lines and Towers has a great potential of attracting Homeless Encampments that would:
 - (1) be within the High and Very High Fire Hazard areas of the County of Riverside.
 - (2) potentially increase crime in the surrounding communities.
 - (3) require this project to be conditioned for Nevada Hydro or contract annually with the Riverside County Sheriff's Department to monitor the entire project site daily and coordinate with Code Enforcement and local agencies to remove any Homeless Encampments at Nevada Hydro's expense during construction and upon completion during the entire course of operations.

Note: Homeless Encampments already exist along the Slaughter Trail on undeveloped parcels adjacent to Clinton Keith Road and Fire Station 75, as well as along riverbeds, drainage channels and other cleared accessible easements throughout Riverside County. These Homeless Encampments are know to have open fires within the Slaughter canyon and pose a constant threat of a Wildfire incident.

SANTA ROSA WEST PROPERTY OWNERS ASSOCIATION

28715 Via Montezuma

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Temecula, CA 92562

Todd Croupe

It's: President

SANTA ROSA WEST PROPERTY OWNERS ASSOCIATION

COMMENTS REGARDING

Agenda Item 3.69 13179 TLMA

Tuesday, August 4, 2020

BOARD OF SUPERVISORS COUNTY OF RIVERSIDE

3) Additional Resource Impacts that Must Be Analyzed

a) Fire Impacts

- i) Santa Rosa Plateau Communities comprises of approximately 1,000 homes and over 3,000 residents, with ONLY ONE viable egress road, and resides within the High and Very High Fire Hazard areas of Riverside County. The 32 Miles of Transmission Lines are slated to be installed adjacent to our communities.
- ii) The potential significant financial impact to Santa Rosa Plateau Communities Property Owners caused by Insurance Carriers dropping homeowners due to increased risk of fire and decreased ability to minimize and extinguish Wildland Fires.
- iii) Identify the distances from the closest CAL Fire Stations and US Forestry Stations from all areas of the project with projected response times to each Transmission Tower.
- iv) The conditioning of this project for both the entire clearing and construction phase, or until a permanent watermain is installed and accepted by the governing jurisdiction, to have a temporary Watermain Highline with Hydrants that meets both Cal Fire and Riverside County's requirements the entire length of the project.
- v) The conditioning of this project to install at the expense of Nevada Hydro a permanent Watermain Line that is tied into and water supplied by the Upper Reservoir with pump stations as needed and Fire Hydrants the entire length of the Transmission Lines. During construction this mainline could be temporarily connected to and water supplied by Rancho Water District and/or Elsinore Water District until the Upper Reservoir is capable of supplying the water.
- vi) The conditioning of this project to construct at the expense of Nevada Hydro both a CAL Fire Station within the Santa Rosa Plateau La Cresta/Tenaja Communities and an US Forestry Station that are adjacent to the completed project with direct access to a maintenance road within the Transmission Line Corridor for quick and immediate response.

b) Traffic and Construction Impact

- i) During both the construction phase and required maintenance following project completion.
 - (1) Specifically the privately owned and privately maintained roads within the five Property Owners Associations on the Santa Rosa Plateau often referred to as the La Cresta and Tenaja areas.
 - (2) Condition this project to upgrade and reconstruct any private roads per the County of Riverside TLMA specifications and paving sections per a determined traffic index by a licensed Geotechnical Engineer that will withstand, if any, the construction traffic and maintenance traffic, as well as make any necessary repairs to these roads upon completion of this project.
 - (3) Condition this project to provide Improvement Bonds and Agreements for the complete removal and replacement of any private roads that would be used during the construction phase.

SANTA ROSA WEST PROPERTY OWNERS ASSOCIATION

28715 Via Montezuma

#B

Temecula, CA 92562

Todd Croupe

It's: President

From: Pamela Malnar <PAMMALNAR@VERIZON.NET>

Sent: Monday, August 3, 2020 5:44 PM

To: COB <COB@RIVCO.ORG>

Subject: LEAPS Action Item 13179 LEAPS and LEAPS County Comments on Scoping Document 1

Importance: High

Dear Clerk of the Board:

As a follow up to Thursday's Lake Elsinore LEAPS Workshop and Mr. Perez's comments, Santa Rosa Plateau Property Owners Association is requesting to have the attached comments added to Tuesday, August 4th, Board of Supervisor Meeting:

AGENDA ITEM:

3.69 13179 TLMA -TRANSPORTATION & LAND MANAGEMENT AGENCY: COMMENTS ON THE FEDERAL ENERGY REGULATORY COMMISSION'S SCOPING DOCUMENT 1 FOR LAKE ELSINORE ADVANCED PUMPED STORAGE PROJECT (FERC DOCKET NO. P14227-003). District 1.

Should you have any question, please telephone Pam Malnar, PM Property Management, at (951)676-4570.

Sincerely,

SANTA ROSA WEST PROPERTY OWNERS ASSOCIATION

By: Todd Croupe

It's: President

SANTA ROSA WEST ASSOCIATION

Todd Croupe, George Schaeffer, Kari Welch,

Todd Brandt & Lynda Sullivan

28715 Via Montezuma #B

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From: COB

Sent: Tuesday, August 4, 2020 7:25 AM

To: George Johnson (GAJohnson@RIVCO.ORG) <GAJohnson@RIVCO.ORG>; Young, Alisa <AYoung@RIVCO.ORG>; Perez, Juan <JCPEREZ@RIVCO.ORG>; District 4 Supervisor V. Manuel Perez (District4@RIVCO.ORG) <District4@RIVCO.ORG>; District2 <District2@Rivco.org>; District3 <District3@Rivco.org>; District5 <District5@Rivco.org>; Supervisor Jeffries - 1st District (district1@rivco.org) <district1@rivco.org>

Subject: August 4, 2020 Item 3.69 Public Comment on LEAPS (Todd Croupe)

Importance: High

Good morning,

Forwarding email and attachment received via COB for August 4, 2020 Item No 3.69 (MinuteTraq No 13179).

These are filed with Agenda back-up.

With best regards,

Clerk of the Board of Supervisors
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August 4, 2020

VIA E-MAIL (FERCOnlineSupport@ferc.gov) and U.S. MAIL

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE, Room 1A
Washington, D.C. 20426

Re: **LEAPS Project (P-14227-003)** – Comments on June 2020 Scoping Document 1
for Lake Elsinore Advanced Pumped Storage (LEAPS) Project
(FERC No 14227-003); Request to Be Placed on Mailing List

Dear Secretary Bose:

This office represents Friesian Focus, LLC, the Fernandez Family Trust, and Joseph and Joan Fernandez (collectively the "Fernandez Parties") with respect to the above-referenced LEAPS project and hereby presents their scoping comments in response to Scoping Document 1. **Please also add the undersigned (see address on letterhead, above) to FERC's official mailing list for this project.**

I. INTRODUCTION

The LEAPS project is an ill-conceived proposal that would ravage species habitat, public lands, and public trust resources; harm minority and low income communities; significantly contribute to global warming/climate change impacts, while wastefully and inefficiently consuming energy and fossil fuel resources; and significantly exacerbate wildfire and human health and safety risks in a high wildfire danger area. The environmental, environmental justice, and public trust impacts of LEAPS have never adequately been disclosed and studied, probably because its proponents realize that their only hope for approval lies in ignoring, obscuring, and/or misstating its enormous impacts and severely truncating environmental analysis and public participation. It is the Federal Energy Regulatory Commission's ("FERC") solemn responsibility to conduct the meaningful and robust environmental analysis necessary to comply with law, and which will inevitably reveal that this project cannot possibly be approved as proposed.

The Fernandez Parties' interest in the LEAPS project stems from concerns about its impacts on the environment of the region – and, with respect to its adverse greenhouse gas (GHG) and climate change impacts, the State, country and world – as well as its impacts on 190 acres of real property they own within the Cleveland

National Forest in southern Riverside County, on which property they live, work and recreate. In March 2005, Friesian Focus, LLC purchased an approximately 40-acre parcel of land (APN 932-030-018) located at 43975 Tenaja Road, Riverside, CA 92562. Recently, in an effort to preserve undeveloped space and to provide potential grazing space for their animals, Friesian Focus, LLC purchased another, nearby 150-acre parcel (APN 101-060-01-00) located within the National Forest at 0000 Tenaja Truck Trail for a total of 190 acres. According to FERC's Scoping Document 1 for the LEAPS project and The Nevada Hydro Company's ("TNHC") application materials, high voltage transmission lines and appurtenant infrastructure, including 180-foot tall steel towers from which the lines will be suspended, are proposed in close proximity to the Fernandez Parties' residential and business property, and such lines would directly impact the 150-acre parcel. The prospect of having to live, work and recreate in the shadows of such large industrial facilities in the otherwise pristine, rural and bucolic setting of the National Forest is very concerning to the Fernandez Parties, who have worked diligently to develop and improve their 40-acre parcel for use both as a residence and a business; with a primary house, guest house and pool, various corrals, pastures and riding areas, and a 15-stall barn and office complex to facilitate the importation, keeping and breeding of rare Friesian horses in connection with their successful business (Friesian Focus, LLC). Their efforts have resulted in stunning improvements; the facilities are currently, and have for many years now been, used for entertaining clients and conducting business on-site full time. The Fernandez Parties also lease out their newly acquired 150-acre parcel, a wild, rugged and beautiful property which essentially encompasses the entire peak of Miller Mountain, for its long-time and traditional use of sustainable cattle grazing.

Placing monstrous, high voltage transmission lines and towers within close proximity to the Fernandez Parties' properties, which are located in a Riparian Conservation Area, and include their home and business, is likely to result in significant and adverse fire, health and safety, biological resources, noise, aesthetic and other environmental impacts, in addition to physically affecting and diminishing the value of their property, investment and business. Due to the nature and magnitude of the extensive environmental (and human) impacts associated with the LEAPS project, and especially the 32-mile transmission interconnect component proposed to occur on the eastern edge and virtually throughout the length of the Cleveland National Forest, the Fernandez Parties believe that these enormous impacts are unmitigable, and that FERC should deny the license for the project. If any part of the project were to go forward at all, all transmission lines and towers should be located **entirely outside** of the ecologically sensitive and scenic Cleveland National Forest lands.

With this introduction and background in mind, we offer the following specific comments on the scope of the proposed EIS – which, as explained below, should be prepared as a joint EIS/EIR - and look forward to FERC's taking the requisite "hard look" at the project and ensuring that that document is prepared in compliance with all applicable requirements of both the National Environmental Policy Act ("NEPA") and the California Environmental Quality Act ("CEQA").

II. EIS/EIR SCOPING COMMENTS

Scoping Document 1 acknowledges throughout its text that the contemplated Environmental Impact Statement ("EIS") must be used by California State agencies, such as the California Public Utilities Commission ("CPUC") and the California Department of Fish and Wildlife ("CDFW"), in their decision-making processes for approvals that will be necessary to authorize and carry out the LEAPS project. Another such State agency that Scoping Document 1 neglects to mention is the California State Water Resources Control Board ("SWRCB"), which must issue a Clean Water Act ("CWA") Section 401 water quality certification as a result of point source discharges of pollutants (e.g., algae bloom and potentially hazardous lake bottom sediment contaminants) that will be transported and discharged from Lake Elsinore as an inherent part of the LEAPS project. Because the LEAPS project will involve both State and Federal agencies, those agencies should closely cooperate in the analysis and a joint Environmental Impact Statement/Environmental Impact Report ("EIS/EIR") should be prepared, pursuant to the provisions of the California Environmental Quality Act ("CEQA"; Pub. Resources Code, § 21000 et seq.) and the CEQA Guidelines (14 Cal. Code Regs., § 15000 et seq.) pertaining to preparation of joint CEQA/NEPA documents (14 Cal. Code Regs., §§ 15220-15229), such that there is assurance that the environmental review satisfies the requirements of both NEPA and CEQA and can be used by all involved agencies, whether Federal, State, regional or local. (See, e.g., *Nelson v. County of Kern* (2010) 190 Cal. App. 4th 252, 278-280.)

This LEAPS project would have significant environmental impacts in areas both within and outside the 560,000-acre Cleveland National Forest (e.g., impacts to Lake Elsinore and its environs) and cumulative impacts extending well beyond the Forest (e.g., GHG/climate change, water and air quality, energy efficiency, wildfire risk, health and safety, biological resources, wildlife crossings and habitats, aesthetics, etc.). FERC should therefore work closely with California State, regional and local agencies in preparing its NEPA document to ensure that it contains any additional analysis needed to meet CEQA standards, i.e., prepare a joint EIS/EIR. Apart from its significant impacts on forest resources and activities such as camping, hiking, biking, fishing, horseback riding, picnicking and scenic driving, it will dramatically affect the hydrological and biological regimes of Lake Elsinore itself (a public trust resource that is one of the largest natural lakes in Southern California and a "Core Reserve" under the Riverside County Multi-Species Habitat Conservation Plan (RCMSHCP)) and have profoundly significant impacts on the Lake's surrounding biological and human communities.

Pursuant to CEQA, an EIR must provide a detailed statement describing and analyzing the significant environmental impacts of the project and discussing ways of mitigating and avoiding those effects. A legally adequate EIR must contain several substantive components, including a stable, accurate and finite project description; a complete and accurate description of the physical environmental conditions in the vicinity of the project (i.e., environmental setting/baseline); a discussion and analysis of all the Project's potentially significant environmental effects, including cumulative impacts (e.g., GHG/climate change) and growth-inducing impacts; and a discussion and analysis of potentially feasible ways to mitigate or avoid the project's significant environmental

effects, including a discussion and analysis of project alternatives aimed at mitigating or avoiding identified impacts. Such a detailed statement is required not only to satisfy CEQA's substantive environmental goal of protecting, rehabilitating, and enhancing the environmental quality of the State, but also to disclose all of the project's significant impacts in order to foster public awareness and participation, as well as public accountability for decisionmakers. These requirements are essentially mirrored in NEPA, the federal statute upon which CEQA was patterned, and must be met in the EIS/EIR for the LEAPS project.

A. Public Involvement/Environmental Justice

Public involvement in the NEPA and CEQA review process is critical for the overall framework of informed decision-making and serves as an essential check on completeness and accuracy of analysis. Public comments can provide critical factual information and data, and also inform agencies about public opinions and values. Council on Environmental Quality ("CEQ") regulations require agencies to make diligent efforts to involve the public in the NEPA process and environmental review. (40 C.F.R. § 1506.6.) It is common for federal agencies to hold public meetings and hearings during an EIS scoping process. Because of the gravity and seriousness of the LEAPS project, and the magnitude of its environmental impacts in a wide range of areas, it is critical that public participation and input be fostered to the greatest possible degree. Both the scoping process and environmental review should incorporate considerations and robust analysis of environmental justice effects, taking into account impacts on minority and low-income populations in and around Lake Elsinore, as well as federally recognized tribes and indigenous peoples affected by the project. It is highly concerning (and potentially violative of due process rights) to conduct scoping during the COVID-19 pandemic in a manner that excludes public participation via live, on-site – or even virtual (e.g., Zoom, WebEx, Blue Jeans) – hearings and meetings. Merely "soliciting written comments, recommendations and information on SD 1" is guaranteed to drastically reduce the public's participation and involvement, and may violate the due process rights of adversely affected parties to be heard. The Fernandez Parties therefore urge FERC to reconsider and to enhance the opportunities for meaningful public participation in this process, particularly among environmental justice populations like those in and around Lake Elsinore.

B. Project Description

The EIS/EIR must contain an accurate and consistent project description. (*County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185; CEQA Guidelines § 15124.) Indeed, the Court of Appeal in *County of Inyo* underscored the importance of an EIR's project description by stating "[a]n accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR." (*County of Inyo, supra*, 71 Cal.App.3d at 192.) As such, FERC should ensure that the EIS/EIR for the LEAPS project depicts the project and all necessary components of it completely and accurately; includes all reasonably foreseeable future phases of the project and future activities that are a consequence of the project; and contains a project description that is consistent throughout. A complete project description must include all aspects of project

construction and operation, including but not limited to, excavation, construction, operation, use and maintenance of facilities, including construction and operation of maintenance and access roads for LEAPS facilities and transmission lines and towers, disposal of spoils from the reservoir and other project excavation (including haul routes, vehicle types, and disposal sites), staging areas, helicopter routes and landing sites, fuel and energy consumption and GHG and air pollutant emissions (of both particulate matter and criteria air pollutants) of all project components, vehicles, aircraft and equipment, and other health and safety and environmental impacts from all of the above.

Specifically, the EIS/EIR must describe the project and all of its components such that its precise location and boundaries are accurately described and mapped, preferably with topographical maps and aerial photos so that the project components near Lake Elsinore (pumped storage component) and beyond (transmission interconnect component) are easily identifiable and locatable by the public, decisionmakers, and affected parties, and not just by persons involved in the preparation of the EIS/EIR. This is particularly important for the transmission interconnect component, which traverses and impacts vast areas of Cleveland National Forest lands and numerous private property inholdings therein. An accurate project description is critical to a legally adequate EIS/EIR because the adequacy of the project description is closely linked to the adequacy of the EIS/EIR's substantive analysis of the project's environmental effects. In other words, an inadequate project description will likely infect and taint the entirety of the environmental analysis. (See *Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376; *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713.)

On the related topic of basic project objectives – a statement of which is required and which effectively drives an EIS/EIR's alternatives analysis – the objectives cannot be drafted in an artificially narrow manner so as to compel rejection of potentially feasible environmentally superior alternatives to the project as proposed. (E.g., *North Coast Rivers Alliance v. California Department of Food and Agriculture* (2015) 243 Cal. App. 4th 647, *passim*.) NEPA requires FERC to take a “hard look” at the proposed project and to “objectively evaluate” and analyze alternatives in light of project objectives. For example, while the project here considers only hydroelectric pumped storage as an energy source, and above-ground transmission lines through a protected National Forest as the only means of distributing that energy, NEPA/CEQA review requires analysis of a *reasonable range* of potentially feasible alternative energy sources as well as alternative means of distribution (e.g., power lines routed wholly outside Cleveland National Forest, such as along the I-15 corridor). Such an alternate power line route could avoid, for example, impacts such as line route vulnerability to weather and erosion to tower foundations and access/maintenance roads in rugged terrain; erosion, sedimentation and noxious, non-native vegetation introduction due to ongoing fire abatement and vegetation removal under the transmission lines and along access roads; related water-quality and species impacts (including, but not limited to, deaths of raptors and other avian species traveling via the Pacific flyway); removal of and impacts to rare and sensitive oak woodlands; significant scenic vista impacts throughout the length of a National Forest specifically renowned for its scenic driving and recreational

opportunities; and conflicts with the Cleveland National Forest Land Management Plan, which prioritizes maintaining open space over serving urban needs. It is well documented that transmission line rights of way serve as points of entry for exotic, invasive species of weeds and vegetation that will adversely affect the environment and lead to further impacts, such as application of hazardous and harmful chemical herbicides in sensitive watershed, wetland and riparian areas. Put simply, 32 miles of high voltage transmission lines and towers are wholly inconsistent with the low intensity uses, natural character, and limited level and type of development of Cleveland National Forest lands that is supposed to be ensured by the land use plans and restrictions governing their use, and alternative locations *must* be considered and fully analyzed as part of any adequate EIS/EIR.

C. Environmental Setting/Baseline

Determining and describing the environmental setting – the physical environment that will be affected by the project and the “baseline” against which project impacts must be measured – is a critical prerequisite to an adequate discussion and analysis of the project’s significant environmental effects as, like the project description, an inadequate or inaccurate environmental setting description will likely taint associated impact analyses and mitigation measures keyed to project-induced changes to the baseline conditions described in the environmental setting. Accordingly, FERC’s EIS/EIR must carefully and completely describe the physical environmental conditions throughout the entire area impacted by the project, including all areas to be disturbed or affected by the excavation, construction, operation and future maintenance of the upper (Decker Canyon) reservoir and pumped storage facilities and infrastructure, as well as the 30-plus miles of transmission towers, lines and substations running virtually the length of Cleveland National Forest, and the massive network of maintenance and access roads that will be needed to construct, use and maintain them. Moreover, it is important to describe the *current* state of the physical environment and not to rely on dated maps and/or surveys, as CEQA requires the environmental setting to describe the on-the-ground conditions as they exist at the time the Notice of Preparation is published or environmental review commences. As such, accurate descriptions of current hydrological (surface and groundwater), air quality, GHG/climate change, energy efficiency, water quality, biological resources (with emphasis on unique, rare, threatened, and endangered plants and animals), geological, recreational, land use, traffic, noise, aesthetic, and tribal/cultural/historical resource conditions, supported by comprehensive and recent protocol-level studies and evaluations, should be incorporated into the EIS/EIR to ensure the proper identification of *all* project impacts and the development of effective mitigation measures and alternatives to address them.

The Fernandez Parties’ property provides a good example of why a comprehensive and detailed discussion of the environmental setting throughout the project area is so important. Without detailed maps and aerial photos, wetland delineations or recent, protocol-level wildlife and vegetation surveys, it is impossible to know what impacts will result, let alone to determine the significance of any such impacts, from the placement of transmission towers, lines, and access and maintenance roads and helicopter staging areas in locations where on-the-ground conditions are unknown, or described only

generally based simply on region-wide soil, hydrology, wildlife or vegetation databases. Such databases may be outdated or incomplete, and with respect to the Fernandez Parties' property, would not be likely to reflect the fact that the property contains resources such as a seasonal stream and a natural seep which feeds a wildlife-rich riparian corridor leading to a significant wetland/vernal pool complex, and supports land uses such as a horse ranch, recreation and cattle grazing, and is adjacent to a private airport – all of which are existing conditions that are wholly incompatible with nearby 180-foot transmission towers and high voltage transmission lines. These points are undoubtedly equally true with respect to many other Cleveland National Forest inholdings that will be impacted by the LEAPS project as currently proposed.

Another important component of an adequate discussion of a project's environmental setting and an adequate EIS/EIR is a complete and thorough discussion of the applicable *regulatory* setting and framework, including the identification of all applicable land use plans and regulations and an analysis of any inconsistencies between those plans and regulations and the proposed project. Accordingly, the EIS/EIR should address all applicable land use plans including, but not limited to, all applicable City/County general and specific plans, regional water quality and air quality attainment plans, regional transportation plans, sustainable communities strategies, climate action plans, regional housing allocation plans, hazardous waste management plans, community redevelopment plans, seismic safety and flood plain plans, and any specialized state and/or federal environmental plans and regulations such as roadless wilderness area rules and regulations, the Land Management Plan for the Cleveland National Forest, the Back Country Motorized Use Restricted (BCMUR) land use zone, and all Habitat Conservation Plans developed under the federal Endangered Species Act and/or other laws for all areas included in or potentially affected by the project.

In sum, current, on-the-ground conditions everywhere that LEAPS project construction/development/use is proposed (including at both the proposed pumped storage and transmission facilities and related access roads, staging areas, and helicopter landing areas) need to be documented first in order to accurately analyze the project's far-reaching physical footprint and impacts, and to develop effective mitigation and project alternatives. This task cannot be deferred until later, as seems to be currently improperly contemplated by TNHC's LEAPS application, as disclosed by FERC's Scoping Document 1 and its proposed EIS. This includes baseline habitat, species, wetland, watershed, groundwater and surface waters, traffic, noise, GHG emissions analysis, fire risk and safety conditions throughout the area that would be covered and impacted by the proposed project's sprawling reach and massive footprint, including access roads, pull sites, and staging areas.

D. Discussion and Analysis of Significant Environmental Effects

After the environmental setting and regulatory setting, including all applicable land use plans and laws, rules and regulations, has been accurately disclosed, described, and discussed, FERC must then determine whether the project will result in any changes to the identified physical conditions, whether directly, indirectly or cumulatively, and if so, determine the significance of those effects. At a minimum, the EIS/EIR should pay

close attention to the project's potential impacts on air and water quality, GHG/climate change, wasteful and unnecessary energy usage, biological resources, geological and soil resources, cultural/historical resources (including tribal resources), wildfire and EMF safety, recreation and aesthetics. The facts that the project is plainly a significant *net-energy loser* and *major GHG emitter*, and of such massive scale, covering vast areas and rugged terrain and encompassing many different components, only highlight the need for the EIS/EIR to be as comprehensive and accurate as possible. Many lands, habitats, resources and human lives stand to be profoundly impacted by the project for many decades to come if it is approved, constructed and operated as proposed.

E. Discussion and Analysis of Project Mitigation Measures and Alternatives to Address Significant Environmental Effects

Following the identification of all of the project's potentially significant adverse environmental effects, FERC's EIS/EIR must move on to identify, describe and design effective and concrete mitigation measures, and a range of reasonable project alternatives, in order to significantly mitigate and minimize, if not avoid, each and every significant effect identified. Mitigation measures must be definite, enforceable, and not improperly deferred, and potentially feasible alternatives that could achieve most of the project's basic objectives while avoiding or mitigating one or more of its significant impacts must also be identified and thoroughly analyzed. Under NEPA, an EIS must devote "substantial treatment" to analysis of project alternatives which are often (and, quite obviously, should be here) analyzed with equivalent detail as the proposed project itself. (40 C.F.R. § 1502.14.)

Importantly, and more specifically, CEQA requires that the mitigation measures be feasible and fully enforceable or incorporated into the project. Further, contrary to the panoply of proposed *future* studies and plans masquerading as mitigation measures in FERC's earlier EIS, and as disclosed and contemplated by Scoping Document 1, CEQA forbids the use of future studies and other forms of deferred mitigation. Accordingly, all mitigation measures included in the final EIS/EIR must be fully developed and described, refrain from proposing the development of future studies and/or plans as mitigation, and include specific performance standards designed to ensure that the adopted mitigation measures will work effectively to minimize identified impacts.

It is apparent from Scoping Document 1 and its description of the proposed project mitigation that the applicant has so far not taken these legal requirements and obligations seriously. Substantial project environmental impacts and impact areas are repeatedly addressed only by proposals of *unlawfully deferred* mitigation. For example, the applicant proposes to develop and implement a *future* erosion control plan and revegetation plan to address project erosion, stream sedimentation, dust and mass soil movement impacts; to consult with USFS and USFWS to conduct surveys and develop measures to avoid and mitigate special status species, habitat, botanical, wetlands, and fish and wildlife species *in the future*; develop and implement *future* plans to revegetate and prevent the spread of noxious/exotic weeds and plants; prepare a *future* habitat management plan in consultation with USFS, Department of the Interior, CDFW, and Riverside County; develop a *future* plan for clearing and revegetating the upper

reservoir area in consultation with USFS; conduct *future* wetland delineations and prepare *future* habitat mitigation and management plans in consultation with CDFW and the resource agencies; conduct *future* pre-construction plant and wildlife surveys and consult with the CPUC, USFS and other agencies regarding mitigation; develop and implement a *future* Avian Protection Plan; develop *in the future* currently undefined criteria for distance between construction and bird nests; develop and implement a *future* Lake Elsinore monitoring and remediation plan to address project-related effects on shorebirds, waterfowl, and other birds; develop *in the future* methods to minimize impacts from falling rocks and vibration from blasting and drilling; conduct *future* surveys and develop *future* mitigation strategies for numerous species, including bats and threatened and endangered species such as the arroyo toad, Stephens' Kangaroo rat, vernal pool fairy shrimp, and other species; develop *future* safety, recreation and related site plans; develop a *future* annual fish stocking plan for Lake Elsinore; develop a *future* Historic Properties Management Plan (HPMP) to address impacts on National Register-eligible cultural resources within the project's area of potential effect (APE); and develop a *future* scenery conservation plan to achieve the "greatest consistency possible" with the High Scenic Integrity Objectives of the Cleveland National Forest Land Management Plan (as if such a thing could even conceivably be possible for the 32 miles of transmission lines and 180-foot tall towers that would run virtually the length of and forever scar the forest). The point here is that it is well established that deferred mitigation simply calling for future studies and plans, such as that proposed by the applicant as revealed by Scoping Document 1, is illegal and inadequate under NEPA and CEQA. (See, e.g., 1 Kostka & Zischke, *Practice Under the California Environmental Quality Act* (CEB 2d Ed. (3/19 Update)), § 14.12, p. 14-19 ["Impermissible deferral can occur when an EIR calls for mitigation measures to be created based on future studies or describes mitigation measures in general terms but the agency fails to commit itself to specific performance standards."]; see *id.* at pp. 14-19 – 14-20 ["A mitigation measure calling for a mitigation plan to be devised on the basis of further study can also be found legally inadequate if it does not identify steps that might be taken to mitigate the impact once the study is completed."], and extensive case authorities cited.)

The EIS/EIR should include and meaningfully analyze and study among others, mitigation measures requiring transmission lines to be placed (1) **in routes completely outside the Cleveland National Forest**, and (2) underground (completely or in segments) where appropriate to minimize fire/safety impacts and avoid disturbing existing residential and commercial uses and sensitive natural and scenic resources located along the route.

The EIS/EIR must also explore a much broader range of project alternatives than seemingly contemplated by Scoping Document 1, and a much broader range than FERC's previous EIS assessed. Other than the "no action" alternative, FERC previously analyzed only one other project alternative, and that plan was substantially similar to the proposed project. At a minimum, FERC should explore fundamental project alternatives which might provide the desired power and or transmission grid benefits by some other method, as well as alternatives to the location and type of specific project elements such as the pumped storage, and transmission line components, as discussed above.

Specifically, in addition to the “no project” alternative, the Fernandez Parties request the EIS/EIR to explore the following project/project component alternatives:

(1) Hydroelectric Power – Eagle Mountain project;¹ (2) Energy Storage Devices/ Technologies – e.g., batteries, flywheels, compressed-air, fuel cells, etc.; (3) Transmission – “no wires” (e.g., roof top solar; wind turbines; conservation, energy efficiency, time of use billing to reduce peak energy demands; distributed generation); (4) alternative transmission line alignments, both wholesale alternative transmission alignments completely outside of the Cleveland National Forest (e.g., I-15 corridor or approved Sunrise Powerlink Transmission line [TE/VS Interconnect was considered an alternative to that project so that project should be considered an alternative to TE/VS]), as well as alternative line segments which are either re-routed or undergrounded to avoid disturbing existing residential and commercial uses and sensitive natural and aesthetic resources located along the route. Such meaningful alternatives could potentially avoid or significantly reduce many of the project’s foreseeable significant impacts.

F. GHG/Climate Change And Energy Efficiency Impacts

Because the LEAPS project would by some reports consume at least 25% more energy in its operation alone – i.e., its daily pumping and storage phase – than it would generate in its gravity-flow water release phase, it is a *net energy loser* and thus does not effectively promote or advance energy independence goals. Moreover, there is no assurance, evidence or requirement that the massive energy it will consume – in both construction and operation – will be from clean, nonpolluting and non-GHG emitting energy sources. These basic facts, combined with the massive nature and footprint of the project, give rise to serious impacts and concerns in two major areas of NEPA and CEQA concern: GHG emissions and energy efficiency.

Under NEPA, “[a] projection of a proposed action’s direct and reasonably foreseeable indirect GHG emissions may be used as a proxy for assessing potential climate effects. Direct effects are caused by the action and occur at the same time or place. 40 CFR 1508.8(a). Indirect effects are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. 40 CFR 1508.8(b). Following the rule of reason, agencies should assess effects when a sufficiently close causal relationship exists between the proposed action and the effect. . . . [¶] Agencies should attempt to quantify a proposed action’s projected direct and reasonably foreseeable indirect GHG emissions when the amount of those emissions is substantial enough to warrant quantification, and when it is practicable to quantify them using available data

¹ The Eagle Mountain pumped storage hydroelectric project (FERC #13123, proposed near the town of Eagle Mountain, just north of the unincorporated town of Desert Center, located within eastern Riverside County, California) is a particularly interesting alternative given that: it is further along in the entitlement/environmental review process; will store/generate up to 3 times more electricity; is environmentally superior due to the fact that it is proposed on a previously disturbed industrial site (mining pits) as opposed to pristine National Forest lands; will not utilize/impact a crucial natural waterway; and proposes far less transmission (13.5 miles of lines).

and GHG quantification tools. [Footnote: "For a listing of available GHG accounting methods and tools that agencies may consider using in their NEPA reviews see CEQ's Greenhouse Gas Accounting Tools web page (<https://ceq.doe.gov/guidance/ghg-accounting-tools.html>)."]" (84 Fed. Reg., No. 123, p. 30098 (June 26, 2019).)

The CEQA Guidelines require a good faith effort, based to the extent possible on scientific and factual data, to describe, calculate or estimate the amount of a project's GHG emissions. (14 Cal. Code Regs., § 15064.4(a).) "[P]lanning agencies . . . must ensure that CEQA analysis stays in step with evolving scientific knowledge and state regulatory schemes." (*Cleveland National Forest Foundation v. San Diego Association of Governments* (2017) 3 Cal.5th 497, 519.) When assessing the significance of GHG impacts, the CEQA Guidelines direct lead agencies to consider various factors, including: whether the project's emissions exceed a threshold of significance the agency determines applies; and the extent to which the project complies with regulations or requirements adopted to implement statewide, regional or local plans for GHG reduction or mitigation. (14 Cal. Code Regs., § 15064.4(b)(1)-(3); *Center for Biological Diversity v. California Department of Fish and Wildlife* (2015) 62 Cal.4th 204, 228-231 [discussing at length "potential pathways to [CEQA] compliance" as guidance for CDFW and other lead agencies evaluating cumulative significance of proposed projects' GHG emissions].) The CEQA Guidelines identify five general methods of GHG mitigation: (1) mitigation identified in an existing plan or program; (2) implementation of project design features; (3) off-site measures, including offsets not otherwise required²; (4) sequestration of GHG releases; and (5) specific project-by-project measures as identified in a general plan, long range plan, or plan for the reduction of GHG emissions. (14 Cal. Code Regs., § 15126.4(c).)

CEQA also requires an EIR to contain an energy impacts analysis discussing mitigation for significant impacts in that discrete impact area, including the "wasteful, inefficient and unnecessary consumption of energy." (*Ukiah Citizens for Safety First v. City of Ukiah* (2016) 248 Cal.App.4th 256, 261-262, citing *Tracy First v. City of Tracy* (2009) 177 Cal.App.4th 912, 930, quoting Pub. Resources Code, § 21100(b)(3).)

The LEAPS project will cause numerous direct and reasonably foreseeable indirect GHG emissions that must be analyzed, quantified and mitigated in the EIS/EIR. Construction of the project will require massive earth-moving, demolition and construction equipment that will use large amounts of diesel fuel and emit GHGs and other pollutants over the significant time period during which project excavation and construction will occur. Disposal of excavated soils by heavy dump trucks at distant disposal sites will further contribute. Helicopters used for project construction, repair and maintenance will consume massive amounts of aviation fuel purchased and consumed within the State of California, which will emit GHGs requiring quantification and analysis under the California Air Resources Board's 2017 Scoping Plan developed pursuant to AB 32 (the Global Warming Solutions Act of 2006). Maintenance,

² It should be noted that the requirements for off-site offsets to qualify as adequate mitigation are both complex and extremely stringent. (See, *Golden Door Properties, LLC v. County of San Diego* (4th Dist. 2020) 50 Cal.App.5th 467.)

monitoring and repair helicopters and ground vehicles, and project employee vehicles used to commute, will likewise consume substantial quantities of fossil fuels and result in significant GHG emissions over the life of the project's 30-plus years of operation. The massive tree and vegetation removal required for project construction and maintenance will release significant quantities of sequestered carbon, emitting further GHGs. And, of course, the electricity generated from off-site sources to power the project – a net energy loser – will likely result in further significant GHG emissions, as will the fossil-fuel burning back-up generators that will be needed to operate the LEAPS project during power outages. Wildfires foreseeably sparked by 32 miles of transmission lines – unwisely proposed to be routed through a pristine rugged, high-fire-danger National Forest prone to strong fire-spreading winds – will, so to speak, only throw fuel on the already out-of-control “GHG conflagration” this project will cause. It is plain to see that this unwise and wholly *unnecessary* project is nothing short of an unmitigable disaster from a climate change perspective.

And the same is true of the project's significant adverse energy consumption impacts. How can a supposed “hydroelectric power” or “power storage” project that is a substantial and continuing *net energy loser* be considered anything but the “poster-child” for the “wasteful inefficient and unnecessary consumption of energy”? *Res ipsa loquitur*.

In sum, the EIS/EIR's GHG/climate change and energy consumption and efficiency analysis must be complete, comprehensive, data-supported, and accurate, and in step with evolving scientific knowledge and regulatory schemes, to pass NEPA and CEQA muster and provide adequate information about and disclosure of the magnitude and nature of the project's significant impacts in these critically important areas.

G. Miscellaneous Site-Specific Comments

The project's proposed staging/helicopter refueling areas presents several unique potential adverse impacts. Specifically, numerous individuals (including the Fernandez Parties) use the meadow in this area (APN 101-110-26-00) to keep and train horses. These activities will be severely and adversely impacted by the project's proposed industrial equipment storage and noisy helicopter landing/refueling activities in this area. Moreover, mountain lions, mule deer and bobcats are frequently observed in this area. Accordingly, use of this particular area as proposed by the project implicates unique noise, biological and safety impacts.

Additionally, numerous major wildfires have occurred near or along the proposed transmission line route in the last two decades. Thus, there is a heightened potential for fire-related and public safety impacts associated with the proposed placement of the project's new high voltage transmission towers/lines, including the fact that construction, operation and/or maintenance of the towers/lines may – as numerous other recent utility-caused fires throughout the state of California have amply shown – cause additional deadly fires, impede fire suppression activities (especially when conducted by aircraft), or exacerbate existing evacuation constraints (only one way out in the area of the Fernandez Parties' and their neighbors' Tenaja-area property in case of emergency/natural disaster).

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Also, the project's proposed Case Springs Substation location near Camp Pendleton presents a number of questions and concerns, as does the fuzzy and uncertain project description with regard to whether a new Lake Substation will be constructed or utilization of SCE's existing Alberhill Substation will be made. As currently proposed, the transmission line will terminate in the south at Case Springs substation on land within the Fallbrook Land Conservancy's Margarita Peak property. This sort of industrial use is incompatible with the fundamental purpose of the Conservancy's open space/habitat preservation goals and may even be prohibited under deed restrictions associated with the Conservancy's 2007 acquisition of this property. The EIS/EIR needs to address and analyze this issue as the applicant includes no evidence that the Conservancy has entered into a formal contract to permit the siting and construction of this facility on its land, and includes no evidence regarding any conflicts between the proposed substation and deed restrictions intended to protect the Margarita Peak property, which the Conservancy considers its "landmark" preserve. Nor is there evidence of addressing potential transmission line and substation construction and operational impacts on Camp Pendleton's training operations in the area.

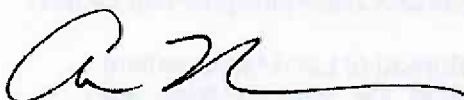
Further, as the property just south of the Fernandez Parties' property includes a private airstrip used by local landowners and public firefighting aircraft alike, the placement of high voltage transmission towers/lines adjacent to the airstrip may potentially adversely impact the continued use of this airstrip for these and other private and public/emergency purposes.

III. CONCLUSION

The LEAPS project has always been a completely unnecessary and terribly bad idea proposed in an even worse location. Given its nature and scope, preparing a legally adequate EIS/EIR for it will undoubtedly be a Herculean task, albeit one that is mandated by law so long as FERC is considering approval of a license. We look forward to FERC's preparation of a legally adequate and informative EIS/EIR with the full financial support of the applicant, so that FERC, the other involved public agencies, and the affected public can all be fully informed of the true nature and magnitude of this disastrous boondoggle's environmental and environmental justice impacts. Thank you for your consideration of the Fernandez Parties' scoping comments.

Very truly yours,

MILLER STARR REGALIA



Arthur F. Coon

AFC:klw

cc: See attached E-Mailing List

Letter to Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
August 4, 2020

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From: COB

Sent: Tuesday, August 4, 2020 10:45 AM

To: George Johnson (GAJohnson@RIVCO.ORG) <GAJohnson@RIVCO.ORG>; Young, Alisa <AYoung@RIVCO.ORG>; Perez, Juan <JCPEREZ@RIVCO.ORG>; District 4 Supervisor V. Manuel Perez (District4@RIVCO.ORG) <District4@RIVCO.ORG>; District2 <District2@Rivco.org>; District3 <District3@Rivco.org>; District5 <District5@Rivco.org>; Supervisor Jeffries - 1st District (district1@rivco.org) <district1@rivco.org>
Subject: August 4, 2020 Item 3.69 Public Comment on LEAPS Project (Arthur F. Coon, Miller Starr Regalia)

Greetings,

Forwarding email and attachment received via COB for August 4, 2020 Item No 3.69.

Filed with Agenda back-up.

Thank you kindly,

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From: Karen Wigylus <karen.wigylus@msrlegal.com>

Sent: Tuesday, August 4, 2020 9:05 AM

To: FERCOOnlineSupport@ferc.gov

Cc: Art Coon <arthur.coon@msrlegal.com>; Joan Fernandez <jfernandez@friesianfocus.com>; fernandez@activemotif.com; ClerkofBoard@aqmd.gov; airinfo@sdccounty.ca.gov; clerk@sandag.org; helpline@arb.ca.gov; AskR5@wildlifeca.gov; AskRegion6@wildlife.ca.gov; geoffrey.dryvynsyde@cpuc.ca.gov; christine.hammond@cpuc.ca.gov; spencer.kenner@water.ca.gov; rb9_questions@waterboards.ca.gov; Jeremey.Haas@waterboards.ca.gov; David.Bricker@dot.ca.gov; Kenneth.Foster@slc.ca.gov; jeremy.brown@calepa.ca.gov; jevans@biologicaldiversity.org; ssmith@murrietaCA.gov; calvarez@lake-elsinore.org; COB <COB@RIVCO.ORG>; xavier.becerra@doj.ca; governor@governor.ca.gov; gavin.newsom@gov.ca.gov; senator@feinstein.senate.gov; senator@harris.senate.gov; Jolyn.murphy@mail.house.gov; francine@busby.mail.house.gov; senator.melendez@senate.ca.gov; assemblymember.brough@assembly.ca.gov; BLM_CA_Web_SO@blm.gov; opp-contact@waterboards.ca.gov; Hope.Smythe@waterboards.ca.gov; region8info@waterboards.ca.gov; R5@fs.fed.us; meghan_snow@fws.gov; publicaffairs.spl@usace.army.mil; r9.info@epa.gov

Subject: LEAPS Project (P-14227-003) Letter to Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission dated 8/4/2020

This email is sent on behalf of Arthur F. Coon.

Please direct all replies to Art at Arthur.coon@msrlegal.com.

Thank you, Karen.

Karen Wigylus | Miller Starr Regalia

Legal Assistant to Arthur F. Coon / David E. Harris / Matthew C. Henderson / Brian D. Shaffer

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From: Hunting, Viola <vhunting@blm.gov> **On Behalf Of** SO_Public_Room, BLM_CA

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Sent: Tuesday, August 4, 2020 4:43 PM

To: FERC Online Support <FERCOnlineSupport@ferc.gov>; Karen Wigylus <karen.wigylus@msrlegal.com>; Novosak, Brian A <bnovosak@blm.gov>

Cc: Art Coon <arthur.coon@msrlegal.com>; Joan Fernandez <jfernandez@friesianfocus.com>; fernandez@activemotif.com; ClerkofBoard@aqmd.gov; airinfo@sdccounty.ca.gov; clerk@sandag.org; helpline@arb.ca.gov; AskR5@wildlifeca.gov; AskRegion6@wildlife.ca.gov; geoffrey.dryvynsyde@cpuc.ca.gov; christine.hammond@cpuc.ca.gov; spencer.kenner@water.ca.gov; rb9_questions@waterboards.ca.gov; Jeremey.Haas@waterboards.ca.gov; David.Bricker@dot.ca.gov; Kenneth.Foster@slc.ca.gov; jeremy.brown@calepa.ca.gov; jevans@biologicaldiversity.org; ssmith@murrietaCA.gov; calvarez@lake-elsinore.org; COB <COB@RIVCO.ORG>; xavier.becerra@doj.ca; governor@governor.ca.gov; gavin.newsom@gov.ca.gov; senator@feinstein.senate.gov; senator@harris.senate.gov; Jolyn.murphy@mail.house.gov; francine@busby.mail.house.gov; senator.melendez@senate.ca.gov; assemblymember.brough@assembly.ca.gov; BLM_CA_Web_SO <BLM_CA_Web_SO@blm.gov>; opp-contact@waterboards.ca.gov; Hope.Smythe@waterboards.ca.gov; region8info@waterboards.ca.gov; R5@fs.fed.us; Snow, Meghan K <meghan_snow@fws.gov>; publicaffairs.spl@usace.army.mil; r9.info@epa.gov

Subject: Re: [EXTERNAL] RE: LEAPS Project (P-14227-003) Letter to Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission dated 8/4/2020

Hello, I am forwarding your email to Brian Novosak, Wildlife Biologist. Thank you.

From: Shirley Armstrong (CTR) <Shirley.Armstrong@ferc.gov> on behalf of FERC Online Support <FERCOnlineSupport@ferc.gov>

Sent: Tuesday, August 4, 2020 10:07 AM

To: Karen Wigylus <karen.wigylus@msrlegal.com>; FERC Online Support <FERCOnlineSupport@ferc.gov>

Cc: Art Coon <arthur.coon@msrlegal.com>; Joan Fernandez <jfernandez@friesianfocus.com>; fernandez@activemotif.com <fernandez@activemotif.com>; ClerkofBoard@aqmd.gov <ClerkofBoard@aqmd.gov>; airinfo@sdccounty.ca.gov <airinfo@sdccounty.ca.gov>; clerk@sandag.org <clerk@sandag.org>; helpline@arb.ca.gov <helpline@arb.ca.gov>; AskR5@wildlifeca.gov <AskR5@wildlifeca.gov>; AskRegion6@wildlife.ca.gov <AskRegion6@wildlife.ca.gov>; geoffrey.dryvynsyde@cpuc.ca.gov <geoffrey.dryvynsyde@cpuc.ca.gov>; christine.hammond@cpuc.ca.gov <christine.hammond@cpuc.ca.gov>; spencer.kenner@water.ca.gov <spencer.kenner@water.ca.gov>; rb9_questions@waterboards.ca.gov <rb9_questions@waterboards.ca.gov>; Jeremey.Haas@waterboards.ca.gov <Jeremey.Haas@waterboards.ca.gov>; David.Bricker@dot.ca.gov <David.Bricker@dot.ca.gov>; Kenneth.Foster@slc.ca.gov <Kenneth.Foster@slc.ca.gov>; jeremy.brown@calepa.ca.gov <jeremy.brown@calepa.ca.gov>; jevans@biologicaldiversity.org <jevans@biologicaldiversity.org>; ssmith@murrietaCA.gov <ssmith@murrietaCA.gov>; calvarez@lake-elsinore.org <calvarez@lake-elsinore.org>; cob@rivco.org <cob@rivco.org>; xavier.becerra@doj.ca <xavier.becerra@doj.ca>; governor@governor.ca.gov <governor@governor.ca.gov>; gavin.newsom@gov.ca.gov <gavin.newsom@gov.ca.gov>; senator@feinstein.senate.gov <senator@feinstein.senate.gov>; senator@harris.senate.gov <senator@harris.senate.gov>; Jolyn.murphy@mail.house.gov <Jolyn.murphy@mail.house.gov>; francine@busby.mail.house.gov <francine@busby.mail.house.gov>; senator.melendez@senate.ca.gov

8/4/20 3.69

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r9.info@epa.gov <r9.info@epa.gov>

Subject: [EXTERNAL] RE: LEAPS Project (P-14227-003) Letter to Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission dated 8/4/2020

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From: Karen Wigylus <karen.wigylus@msrlegal.com>
Sent: Tuesday, August 04, 2020 12:05 PM
To: FERC Online Support <FERCOnlineSupport@ferc.gov>
Cc: Art Coon <arthur.coon@msrlegal.com>; Joan Fernandez <jfernandez@friesianfocus.com>; fernandez@activemotif.com;
ClerkofBoard@agmd.gov; airinfo@sdccounty.ca.gov; clerk@sandag.org; helpline@arb.ca.gov; AskR5@wildlifeca.gov;
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publicaffairs.spl@usace.army.mil; r9.info@epa.gov
Subject: LEAPS Project (P-14227-003) Letter to Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission dated 8/4/2020

This email is sent on behalf of Arthur F. Coon.
Please direct all replies to Art at Arthur.coon@msrlegal.com.
Thank you, Karen.

Karen Wigylus | Miller Starr Regalia

Legal Assistant to Arthur F. Coon / David E. Harris / Matthew C. Henderson / Brian D. Shaffer

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