



**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

**FILED**

10-15-09  
01:50 PM

In the Matter of the Application of SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) for a Certificate of Public Convenience and Necessity Concerning the Tehachapi Renewable Transmission Project (Segments 4 through 11).

Application 07-06-031  
(Filed June 29, 2007)

**MOTION OF  
THE CITY OF CHINO HILLS  
FOR ACCEPTANCE OF LATE FILED EXHIBIT  
INTO THE RECORD OF THE PROCEEDING**

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Date: October 15, 2009

Attorneys for the City of Chino Hills

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

In the Matter of the Application of SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) for a Certificate of Public Convenience and Necessity Concerning the Tehachapi Renewable Transmission Project (Segments 4 through 11).

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Pursuant to Rule 11.1 of the Rules of Practice and Procedure of the Public Utilities Commission of the State of California (Commission), the City of Chino Hills (the City or Chino Hills) moves for the admission into the record of this proceeding late filed exhibit Chino Hills - 84, an October 7, 2009, Letter from Mark Hensley, City Attorney, Chino Hills, to Robert Romero, Project Manager, Department of Toxic Substance Control, with attachments (October 7 Letter), and an October 13, 2009, responsive letter from Manny Alonzo, Unit Chief, Department of Toxic Substance Control, to Michael Fleager, City Manager, Chino Hills (October 13 Letter), appended to this Motion.

**I. INTRODUCTION AND REQUEST FOR RELIEF**

Proposed Segment 8A of Southern California Edison Company's (SCE) Tehachapi Renewable Transmission Project runs through the City of Chino Hills, behind the homes of approximately 1000 residents on a narrow 150 foot wide right-of-way. The City has proposed an alternate route for Segment 8A, Alternative 4CM, an element of which would necessitate the construction of a switching station on property owned by Aerojet-General Corporation (Aerojet). For over 15 years, Aerojet has been undertaking a series of unit closures and corrective actions required by the federal Resources Conservation and Recovery Act (RCRA) and by a Consent

Agreement reached with DTSC which have related to soil and ground water conditions as well as the presence of “munitions and explosives of concern” (MEC) on portions of the Aerojet property. Given this activity, a substantial amount of the record of this proceeding was devoted to the issue of the use of the Aerojet property for Alternative 4CM; namely whether the area of the property which would be used for Alternative 4CM contains MEC and how much time it will take for DTSC to perform a “carve out” – i.e., a process whereby DTSC would authorize removal from the RCRA facility of that portion of the Aerojet property which SCE would use for transmission infrastructure and access roads under the Alternative 4CM. The October 13 Letter addresses these two issues, and represents DTSC’s position thereon, after having received clarification regarding the potential location of transmission infrastructure facilities on its property as part of Alternative 4CM, as set forth in the October 7 Letter. Given the importance of the issues surrounding the use of the Aerojet property to the Commission decision regarding the most appropriate route for Segment 8A of the TRTP, the direct relevance of these letters to those issues, as well as the Commission’s previous recognition that admittance of additional record evidence may be necessary to protect Chino Hills’ due process rights, as addressed below, the City of Chino Hills respectfully requests the admittance of Chino Hills Exhibit 84 into the record of this proceeding, and its consideration in the Commission’s deliberations on the appropriate route for Segment 8A of the TRTP.

## **II. PREDETERMINED PROCEDURES MANDATE ADMITTANCE OF THE OCTOBER 13 LETTER**

A significant amount of prepared testimony was submitted in this proceeding on the issues pertaining to the use of the Aerojet property<sup>1</sup> and the better part of a hearing day was

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<sup>1</sup> See, e.g., Exhibit Aerojet-01; Exhibit Aerojet-02; Exhibit Aerojet-03; Exhibit Aerojet-04; Exhibit Chino Hill-08; Exhibit Chino Hills-14; Exhibit Chino-Hills-77.

devoted to the cross examination of the witnesses whose expert testimony was devoted to these issues.<sup>2</sup> Subsequent to such cross examination, and the dismissal those witnesses, Counsel for Aerojet requested acceptance into the record of a July 29, 2009 Letter from J.T. Lieu, Unit Chief, DTSC, to Mark Hensley, City Attorney, Chino Hills, which addressed both the issues of the presence of MEC and the necessary time frame for a carve out (July 29 Letter). The substance of the letter was, to a degree, inconsistent with information which DTSC had provided Chino Hills in the past, and to which Chino Hills witness Douglas LaBelle had testified.

This July 29 Letter was admitted into the record as Aerojet Exhibit 8 subsequent to the following on-record discussion:

ALJ KOLAKOWSKI: We are back on the record.

The counsel for Aerojet has indicated that as a follow-up -- following up on all of yesterday's testimony regarding the Department of Toxic Substance Control and the timeline that they will need in order to resolve certain questions regarding that property, a letter showed up unfortunately right after all the testimony was completed that relates to some of the questions that were being discussed. Since none of the witnesses yesterday are going to be reappearing, what I have indicated is that -- and there needs to be some way to get this into the record -- I have indicated that what I would like to do is to have Aerojet prepare a declaration, serve it on the Service List. I will then sub -- at a later date identify it as an exhibit if that's going to be admitted, which I'm assuming at this point it would be, and that the City of Chino Hills would have an opportunity to file any arguments regarding that subsequently so that their due process rights are not impaired by being confronted with a document after they had an opportunity to have witnesses discuss it on the stand. And do I understand that that approach is acceptable to all the parties? I think everybody was in agreement that that made sense. Am I correct, Mr. Donnelly?

MR. DONNELLY: It does. So the only piece that's missing is I will not have moved the declaration with the exhibit into the record. As I understand it, your Honor, as long as I serve it on the list, you will then consider it.

ALJ KOLAKOWSKI: I will then do that on my motion --

MR. DONNELLY: Okay.

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<sup>2</sup> Tr. Vol. 10, pp. 1369 -1545.

ALJ KOLAKOWSKI: -- in a subsequent ruling, or you can, if you wish, move to have it considered and attach the declaration and then people can file comments on it.

MR. DONNELLY: Okay.

ALJ KOLAKOWSKI: If you do not, if you merely serve it, I can do it on my own. If you want to make the motion yourself to make sure that it gets made, you can do that.

MR. DONNELLY: Can I do that by letter, your Honor, just a letter that I serve?

ALJ KOLAKOWSKI: No, if you move, then it should be a formal motion to be filed with our Docket Office.

MR. DONNELLY: Okay.

ALJ KOLAKOWSKI: And so I believe that Edison was fine with --

MS. GODFREY: No objection, your Honor.

ALJ KOLAKOWSKI: -- with any approach that would get this into the record. No. Because this supports their case. ***And I understand that the City of Chino Hills has some concerns about this document, but you would be fine with it, if I understand correctly, as long as you have an opportunity to address your concerns and perhaps supplement the record.***

MS. ARMSTRONG: Correct.

ALJ KOLAKOWSKI: Okay. So that's how I think we're going to handle this document.<sup>3</sup>

Upon actual motion by Aerojet Counsel for admittance of the letter into the record, the following on-record discussion and ruling by the ALJ occurred:

ALJ KOLAKOWSKI: And I believe that Mr. Donnelly would like to move that into the record.

MR. DONNELLY: That's true, your Honor. And attached to the declaration is a letter dated July 29, 2009, from J. T. Liu, L-i-u, of DTSC, to Mark Hensley, City Attorney for the City of Chino Hills. And, yes, your Honor, we do move Aerojet-08 into the evidentiary record.

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<sup>3</sup> Transcript Vol. 10, p. 1641, line 3 to p. 1643, line 7 (emphasis added).

ALJ KOLAKOWSKI: What I'm going to do is I'm going to receive this into the record, and I'm going -- however, as *I mentioned earlier, if the City of Chino Hills wishes to introduce any additional information, argument, testimony later, there will be an opportunity to do so. And at that time, if you wish to introduce something else, we can arrange to make sure that it gets appropriately either into the record or can be argued in an appropriate place. But I do not want your due process rights to go away because of this letter this has come in at the last moment.*<sup>4</sup>

As noted by the Assigned ALJ, given the last minute admittance of the July 29 Letter, with no opportunity for the City to seek clarification from DTSC prior to the close of hearing, the City's due process rights would be violated absent the opportunity to submit additional information. Through late filed Exhibit 84, the City seeks to provide this additional information to clarify DTSC's position on the two critical issues pertaining to the Aerojet property.

**III. NO PARTY WILL BE UNDULY PREJUDICED BY THE ADMITTANCE OF THE EXHIBIT**

No party will be unduly prejudiced through admittance into the record of late filed Exhibit 84. Since the end of hearings, the City has been diligently pursuing with DTSC a clarification of the July 29 Letter. This was made known to the parties by way of an August 4, 2009 Letter from Mark Hensley, City Attorney, Chino Hills to Karen Baker and John Scandura of DTSC which sets forth the City's concern that the information set forth in the July 29 Letter appeared contradictory to the information previously provided the City by DTSC, and its request for resolution of these apparent contradictions. This letter was admitted into the record as Chino Hills Exhibit 80. The October 13 Letter is the result of Chino Hills' efforts to clarify the information contained in the July 29 Letter.

Moreover, all parties were aware that admittance of Aerojet Exhibit 8 (the July 29 Letter) into the record was made with the proviso that the City of Chino Hills would be provided the

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<sup>4</sup> Id., p. 1727, line 21 to p. 1728, line 12 (emphasis added)

opportunity to address its concerns regarding the accuracy of the information contained in the July 29 letter and to “perhaps supplement the record.” Through this motion, the City seeks to avail itself of the procedural rights which it was afforded, and which all parties were aware.

**IV. CONCLUSION**

For the reasons set forth above, the City of Chino Hills respectfully requests that the Commission grant this motion, provide for Chino Hills Exhibit 84 to be admitted into the record of this proceeding, and its consideration in the Commission’s deliberations on the appropriate route for Segment 8A of the TRTP.

Respectfully submitted this October 15, 2009 at San Francisco, California.

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By /s/ Jeanne B. Armstrong  
Jeanne B. Armstrong

Counsel for the City of Chino Hills

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

In the Matter of the Application of SOUTHERN  
CALIFORNIA EDISON COMPANY (U-338-e) for a  
Certificate of Public Convenience and Necessity  
Concerning the Tehachapi Renewable Transmission  
Project (Segments 4 through 11)

Application No. 07-06-031  
(Filed June 29, 2007)

**EXHIBIT 84**

**OF THE CITY OF CHINO HILLS**

**JENKINS & HOGIN, LLP**  
A LAW PARTNERSHIP

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MARK D. HENSLEY  
BRADLEY E. WOHLBERG  
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MHENSLEY@LOCALGOVLAW.COM

October 7, 2009

Via Email and Facsimile

Robert Romero, Project Manager  
Department of Toxic Substances Control  
5796 Corporate Avenue  
Cypress, California 90630

**Re: Aerojet General Corporation-Chino Hills Facility  
(EPA ID NO. CAD981457302)**

Dear Mr. Romero:

I would like to thank you and the other Department of Toxic Substances Control ("DTSC") staff members for taking the time to meet with City of Chino Hills' representatives last Thursday. As you know, the City has been attempting to clear up some confusion regarding the potential of locating transmission lines, a switching station, and access thereto on the Aerojet Property as part of the Tehachapi Renewable Transmission Project ("TRTP") under review by the California Public Utilities Commission.

Enclosed is a letter dated October 7, 2009 from the City's consultant, Michael Short of Parsons Engineering, addressing whether there are ordinance related hazards on the Aerojet property that affect its suitability for the City's proposed alternative for the TRTP project. In short, Mr. Short concludes that with normal mitigation measures in place and subject to the facilities being located on the property as outlined in his letter, there are no significant impediments for utilizing the Aerojet property for the City's proposed alternative. As we discussed, we are asking DTSC to inform us of whether you agree with his assessment. Of course, it is understood that DTSC is not providing any opinion with regard to what route is the best route to be utilized for the TRTP project.

**JENKINS & HOGIN, LLP**

October 7, 2009

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Subject to DTSC being provided with a survey map showing the areas to be released for construction activities (consistent with the description in Mr. Short's letter) as well as a fact sheet outlining the facilities to be built and the general methods of construction, this letter confirms the following statements made by DTSC at our meeting last Thursday. First, to comply with the California Environmental Quality Act ("CEQA") in releasing the subject property from the Resource Conservation and Recovery Act ("RCRA"), DTSC could either rely on the CEQA documentation and determination made by the California Public Utilities Commission on the TRTP or file its own Notice of Exemption. Second, DTSC could provide a RCRA release for the subject property within approximately 45 to 60 days from the time DTSC is provided with the survey and fact sheet information.

Time being of the essence, the City is requesting that DTSC provide a response letter by October 13, 2009 confirming Mr. Short's assessment of the Aerojet property as well as the time frame for the RCRA release outlined in this letter.

Sincerely,



Mark D. Hensley  
City Attorney  
CITY OF CHINO HILLS

- c: Mike Fleager, City Manager  
Elizabeth Calciano, Deputy City Attorney  
John Scandura, Performance Manager  
J.T. Liu, Unit Chief, Brownsfield and Environmental Restoration Program  
Jim Austreng, Senior Hazardous Substances Engineer  
Christine Brown, Hazardous Substances Engineer  
Debra Schwartz, Senior Staff Counsel

October 7, 2009

Jenkins & Hogin, LLP  
ATTN: Mr. Mark Hensley  
Manhattan Towers  
1230 Rosecrans Avenue, Suite 100  
Manhattan Beach, CA 90266

Subject: Ordnance Clearance Requirements Associated with Alternative Route 4CM

Mr. Hensley,

I have reviewed existing documents to determine if there is a potential ordnance hazard related to the installation of the switching station, access roads and transmission lines proposed for Alternative 4CM to the Tehachapi Renewable Transmission Project. The primary reference used in the review was the Geomatrix Consultants Inc. Conceptual Site Model (CSM) for Munitions and Explosives of Concern (MEC), for the Aerojet Chino Hills Property dated August 24, 2006 ("CSM Report"). A secondary reference used was the Munitions and Explosives of Concern Data Gap Report prepared by Weston and dated August 15, 2007 ("MEC Data Gap Report"). The proposed Alternative Route 4CM, including the proposed access roads, are in a location that minimizes any ordnance related hazardous components being encountered.

The only areas of concern are illustrated in Attachment 1. The main access roadway shown to the north of the switching station, which runs horizontally to the switching station, runs through an area where a small amount of ordnance items, components and ordnance related debris were previously encountered. These items were found on the surface or near the surface in an area located close to the road and were more than likely kick-outs from Areas 3, 9 and 19 and Arena Test Area 12. These Areas were constructed and utilized after the road was built. Therefore, if the existing roadway in this area remains as is or is graded and/or re-surfaced, there is no requirement for construction support. ***If, and only if, the roadway is to be expanded in width,*** this area will require construction support provided by two unexploded ordnance (UXO) technicians.

The roadway leading into the switching station in a southerly direction and the switching station area will require a surface sweep by a five-man team of UXO technicians. If no ordnance items are encountered in the surface sweep, then construction support will not be needed. If ordnance items are encountered in this sweep, then construction support will be required during the roadway improvements and earth moving for the switching station.

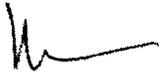
Parsons

All other areas in which transmission lines or roads are constructed in support of the installation of the transmission lines are presumed to be free of ordnance and do not require any surface clearance or construction support. In the unlikely event ordnance is encountered in these areas, construction support and/or surface clearance will be required.

As previously stated and agreed to, in order to ensure the construction crews safety, I highly recommend that an ordnance recognition course be given to all site personnel as a precaution.

If you have any questions please do not hesitate to contact me at (678) 969-2451 Office or (404) 387-0798 Cell.

Sincerely yours,



Parsons  
Michael E. Short  
Technical Director

Attachment 1



# CITY OF CHINO HILLS

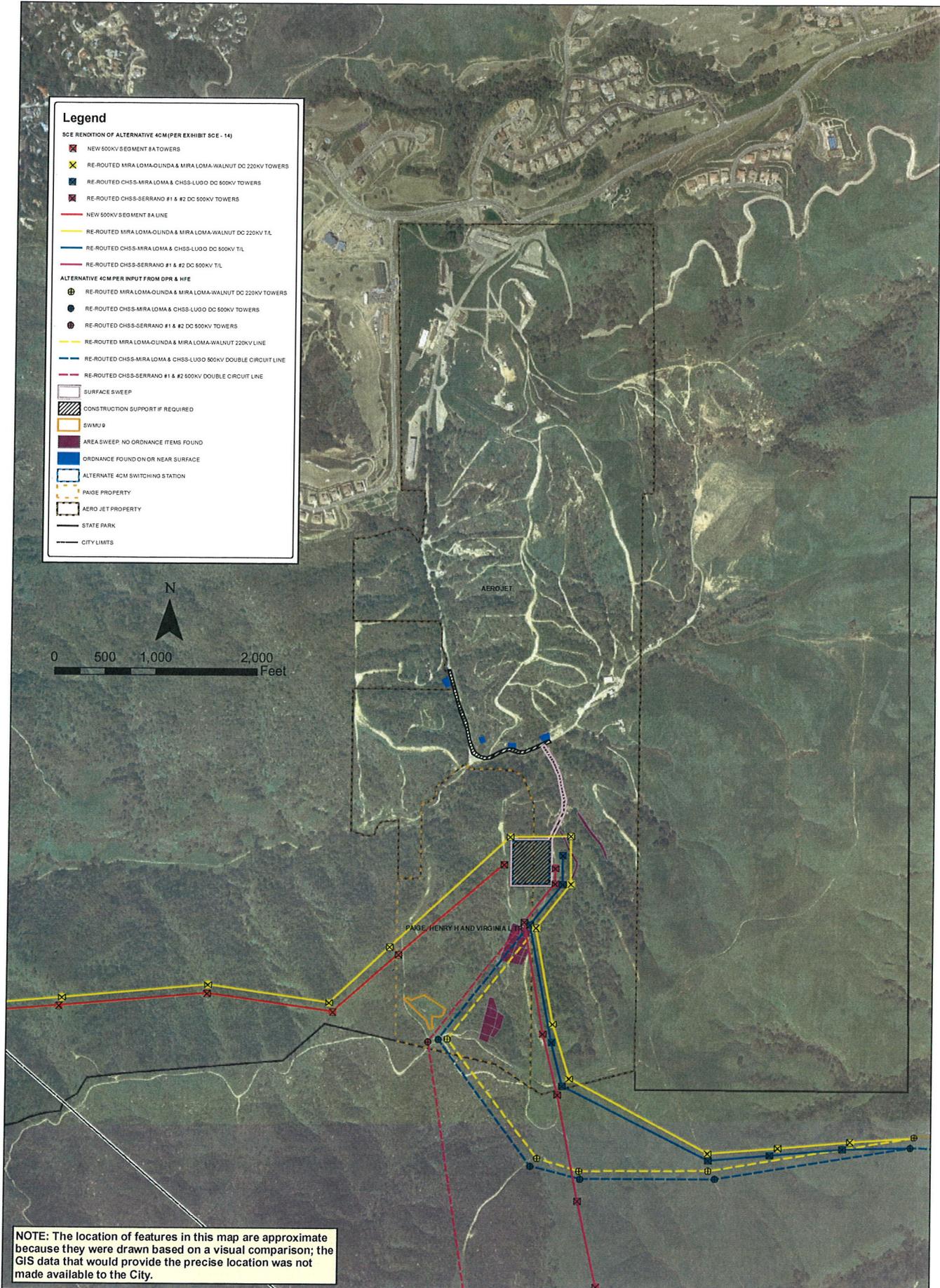
## Surface Sweep & Construction Support if Required

### Legend

- SCS RENOVATION OF ALTERNATIVE 4CM (PER EXHIBIT SCE - 14)
- NEW 500KV SEGMENT 8A TOWERS
  - RE-ROUTED MIRA LOMA-OLINDA & MIRA LOMA-WALNUT DC 220KV TOWERS
  - RE-ROUTED CHSS-MIRA LOMA & CHSS-LUGO DC 500KV TOWERS
  - RE-ROUTED CHSS-SERRANO #1 & #2 DC 500KV TOWERS
  - NEW 500KV SEGMENT 8A LINE
  - RE-ROUTED MIRA LOMA-OLINDA & MIRA LOMA-WALNUT DC 220KV T/L
  - RE-ROUTED CHSS-MIRA LOMA & CHSS-LUGO DC 500KV T/L
  - RE-ROUTED CHSS-SERRANO #1 & #2 DC 500KV T/L
- ALTERNATIVE 4CM PER INPUT FROM DPR & MFE
- RE-ROUTED MIRA LOMA-OLINDA & MIRA LOMA-WALNUT DC 220KV TOWERS
  - RE-ROUTED CHSS-MIRA LOMA & CHSS-LUGO DC 500KV TOWERS
  - RE-ROUTED CHSS-SERRANO #1 & #2 DC 500KV TOWERS
  - RE-ROUTED MIRA LOMA-OLINDA & MIRA LOMA-WALNUT 220KV LINE
  - RE-ROUTED CHSS-MIRA LOMA & CHSS-LUGO 500KV DOUBLE CIRCUIT LINE
  - RE-ROUTED CHSS-SERRANO #1 & #2 500KV DOUBLE CIRCUIT LINE
- SURFACE SWEEP
  - CONSTRUCTION SUPPORT IF REQUIRED
  - SWMU'S
  - AREA SWEEP, NO ORDNANCE ITEMS FOUND
  - ORDNANCE FOUND ON OR NEAR SURFACE
  - ALTERNATE 4CM SWITCHING STATION
  - PAGE PROPERTY
  - AERO JET PROPERTY
  - STATE PARK
  - CITY LIMITS



0 500 1,000 2,000 Feet



NOTE: The location of features in this map are approximate because they were drawn based on a visual comparison; the GIS data that would provide the precise location was not made available to the City.



## Department of Toxic Substances Control



Linda S. Adams  
Secretary for  
Environmental Protection

Maziar Movassaghi, Acting Director  
5796 Corporate Avenue  
Cypress, California 90630



Arnold Schwarzenegger  
Governor

October 13, 2009

Mr. Michael S. Fleager  
City Manager  
City of Chino Hills  
14000 City Center Drive  
Chino Hills, California 91709

PROPOSED SOUTHERN CALIFORNIA EDISON TRANSMISSION LINES, AEROJET  
GENERAL CORPORATION, CHINO HILLS FACILITY (EPA ID NO. CAD981457302)

Dear Mr. Fleager:

This is in response to the October 7, 2009 letter from Mr. Mark Hensley, requesting that the Department of Toxic Substances Control (DTSC) state whether it concurs with a letter dated October 7, 2009 from the City's consultant, Michael Short of Parsons Engineering, regarding the Proposed Southern California Edison Tehachapi Renewable Energy Transmission Project (TRTP). The letter addresses whether there are ordnance related hazards on the Aerojet property that affect its suitability for the City's proposed alternative for the TRTP project. Mr. Short concludes that with normal mitigation measures in place and subject to the facilities being located on the property as outlined in his letter, there are no significant impediments for utilizing the Aerojet property for the City's proposed alternative.

DTSC concurs with Mr. Short's letter, with the following addition: In the bottom of the second paragraph, he states- "**If, and only if, the roadway is to be expanded in width**, this will require construction support provided by two unexploded ordnance (UXO) technicians." DTSC wishes to add that at least one of the two on-site UXO technicians performing this task must meet the minimum qualifications for a Technician III as defined in the Department of Defense Explosive Safety Board's Technical Papers (TP)# 18 - MINIMUM QUALIFICATIONS FOR UNEXPLODED ORDNANCE (UXO) TECHNICIANS AND PERSONNEL (see: <http://www.ddesb.pentagon.mil/techpapers.html> ), with the other Technician having the qualifications of at least a Technician II level.

This concurrence does not constitute an endorsement of the City's proposed route for the TRTP, nor does it constitute a RCRA Corrective Action Completion Determination for the parcel that would be used for the route. A Corrective Action Complete Determination releases the owner/operator of a RCRA permitted facility from liability

and constitutes a discretionary action under CEQA. To initiate the Corrective Action Complete Determination, the facility owner/operator must provide the following items to DTSC:

**A Corrective Action Complete Determination Request from the owner/operator of the parcel**

This request must include a description of the Corrective Action performed to date at Areas of Concern (AOCs) or Solid Waste Management Units (SWMU) at the site which have received a satisfactory No Further Action concurrence from the Department. Underground Storage Tanks should have a No Further Action concurrence from the Regional Water Quality Control Board or the delegated Local agency. No Further Action concurrence documents should be included in the request as part of the appendix or attachment. A summary table is recommended when there are a large number of AOCs/SWMUs. It is crucial that the information in this request be factual and accurate, and matches the legal description and the map(s) mentioned below. DTSC will not initiate the public comment period until those requisites are met. However, DTSC will be available to help consultants to ensure that the information is factual and accurate.

**Legal description**

A metes and bounds description of the parcel(s) covered by the proposed Corrective Action Complete Determination performed and signed by a registered Land Surveyor.

**Map(s)**

One or more map(s) as necessary, to visualize the parcel(s) proposed for Corrective Action Complete Determination in the context of the entire RCRA permitted facility.

**Fact Sheet**

A document describing the proposed Corrective Action Complete Determination, including the history of the site, corrective action completed at AOCs/SWMUs on the parcel, and any other pertinent information. The target audience of this Fact Sheet is the general public and serves the requirements of CEQA.

**Public Notice**

The owner/operator must public notice the Fact Sheet and other CEQA documents in a major newspaper and also maintains a document repository for the public to access the documents referenced in the Fact Sheet.

DTSC also wishes to add that the 45 to 60 day timeline mentioned in your letter for a Corrective Action Complete Determination after submission and completion of the survey and fact sheet information is contingent upon the number of comments received during the public notice comment period.

Mr. Michael S. Fleager  
October 13, 2009  
Page 3

If you have any questions regarding this letter, please do not hesitate to contact me at (714) 484-5425, or the project Manager, Robert Romero, at (714) 484-5316.

Respectfully,



Mr. Manny Alonzo  
Unit Chief  
Brownfields and Environmental Restoration Program - Cypress Office

cc: Mr. J. T. Liu, Cheif  
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Mr. Michael S Fleager  
October 13, 2009  
Page 4

cc: Mr Robert Romero  
Brownfields and Environmental Restoration Program  
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Mr. Mark D. Hensley  
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Ms. Elizabeth M. Calciano  
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1230 Rosecrans Avenue, Suite 110  
Manhattan Beach, California 90266

Mr. Scott Goulart  
Aerojet  
P.O. Box 13222  
Sacramento, California 95813-6000

**CERTIFICATE OF SERVICE**

I, Melinda LaJaunie, certify that I have on this 15<sup>th</sup> day of October 2009 caused a copy of the foregoing

**MOTION OF THE CITY OF CHINO HILLS FOR ACCEPTANCE OF LATE  
FILED EXHIBIT INTO THE RECORD OF THE PROCEEDING**

to be served on all known parties to A.07-06-031 via email to those listed with email on the most recent service list on the CPUC website, and via U.S. mail to those without email service. I also caused courtesy copies to be hand-delivered as follows:

Commissioner Dian Grueneich  
California Public Utilities Commission  
505 Van Ness Avenue, Room 5200  
San Francisco, CA 94102

ALJ Victoria S Kolakowski  
California Public Utilities Commission  
505 Van Ness Avenue, 5<sup>th</sup> Floor  
San Francisco, CA 94102

I declare on penalty of perjury under California law that the foregoing is true.  
Executed this 15<sup>th</sup> of October 2009 at San Francisco, California.

/s/ Melinda LaJaunie  
Melinda LaJaunie

## Service List – A.07-06-031 (Updated August 11, 2009)

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PUC/X111825.v1