

MINUTE ITEM

22

W 23658

W 23621

Fong

Griggs

Meier

Small

**CERTIFY AN ENVIRONMENTAL IMPACT REPORT,
APPROVE LEASES FOR RIGHT-OF-WAY USE AND INDUSTRIAL USE,
APPROVE DELEGATION OF AUTHORITY**

Dwight Sanders asked Mary Griggs, Project Officer, to present Calendar Item 22, to be followed by Ron Small, staff counsel, who will address the items more related to the use of the school lands in the project.

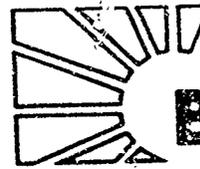
Ms. Griggs introduced several letters of comment from various parties.

Scott Doksansky, Executive Director of the Barstow Area Chamber of Commerce, read into the record a letter from the city manager of the City of Barstow, Eric Ziegler, urging the Commission to deny certification of the lease as the Chamber of Commerce would prefer the pipeline to go north of the city as opposed to where it is slated in the south.

Commissioner Manning questioned why this particular location was chosen. Mr. Ferguson, attorney for the Mojave Pipeline Company, stated that to the best of his recollection the Bureau of Land Management and their comments on the original EIS/EIR recommended that a utility corridor be followed to the south of the city rather than the north of the city. The route they are following is also a utility corridor. Also Mojave is required to follow that route by one of the specific mitigation measures required by FERC.

After considerable discussion it was adopted 2-0 that the staff recommendation be approved.

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The City of

BARSTOW

California

March 1, 1991

State Lands Commission
1807 Thirteenth Street
Sacramento, CA 95814

Re: Item 22, March 6, 1991 Agenda
Mojave Pipeline Company EIR 400

Honorable Commission:

It is with a sense of deep frustration that the following letter is written.

The City of Barstow has been commenting on and following this project since February of 1986, when the first scoping meeting was conducted in Barstow on what was then referred to as the Mojave-Kern River-El Dorado Environmental Impact Report. We submitted comments at that time on issues that should be addressed in the EIR.

Since that time, the following has occurred:

- 1) April 15, 1987 - Written comments submitted to the Federal Energy Regulatory Commission (FERC) on the EIR/EIS. FERC is the lead agency.
- 2) January, 1988 - Received Final EIR/EIS. Barstow's comments were not addressed.
- 3) January 26, 1988 - Spoke with Robert Arvedlund, Federal Energy Regulatory Commission about the failure of the EIR/EIS to address Barstow's comments. He suggested I send another copy to his attention and he would make them part of the record.
- 4) January 26, 1988 - Mailed another copy of the comments to FERC. No response.
- 5) February, 1990 - A representative of Mojave Pipeline Company came to Barstow with a preliminary pipeline route. This particular route did not coincide with previous proposals to place the pipeline in the BLM utility corridor north of Barstow. Mojave Pipeline was advised in writing (copy attached).

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March 1, 1991

- 6) March, 1990 - Same comments reiterated to the Fluor Daniel Company. Copies sent to State Land Commission and Federal Energy Regulatory Commission. No response.
- 7) January 24, 1991 - Mojave Pipeline Company graciously delivers a copy of Mojave-Kern River Pipeline Projects - Environmental Impact Report Amendment (State Lands Commission). Unfortunately the final date for comments was January 18, 1991. Why was Barstow not in the distribution list for this revised EIR?
- 8) February 11, 1991 - Comments sent to Al Powers (Mojave Pipeline) and the State Lands Commission.
- 9) February 21, 1991 - Final EIR amendment received. Barstow's comments not addressed.

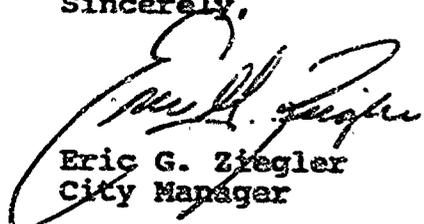
As I think you can see, this whole EIR process has been fatally defective from beginning to end, both in process and in substance.

The Mojave Pipeline route crosses an active fault (Lenwood), which is on the Alquist-Priolo Special Studies Zone Maps of the State Division of Mines and Geology. There is a considerable amount of residential development, both existing and planned, in the area of West Main Street where the pipeline will be constructed. These impacts are not addressed in the EIR.

Given the foregoing, we urge the Commission to deny certification of EIR 400, Mojave-Kern River Pipeline Projects.

The City of Barstow remains ready and willing to discuss the impacts and alternatives of this project.

Sincerely,



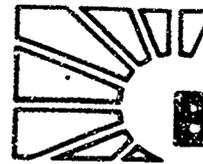
Eric G. Ziegler
City Manager

EGZ:jb

Enclosures: Copies of All Correspondence

Enclosures

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The City of

BARSTOW

California

February 11, 1991

Al Powers
Field Services Coordinator
Mojave Pipeline Operating Company
P.O. Box 10269
Bakersfield, CA 93389-0269

Dear Mr. Powers:

Thank you for hand delivering a copy of the Environmental Impact Report Amendment for the Mojave-Kern River Pipeline Projects on January 24, 1991. It is unfortunate that the final date for comments appears to have been January 18, 1991.

As we have pointed out in previous correspondence, the City of Barstow feels that additional pipelines should utilize the existing utility corridor north of Barstow. The Lenwood Interchange area is in the process of being developed as prime commercial and industrial property, which could be impacted by the alignment of a pipeline through this area. There is a considerable amount of residential development, both existing and planned, near the intersection of Lenwood Road and West Main Street.

We also continue to be concerned with the geology of the area. Even with mitigation and safety measures, potential pipe rupture or displacement due to potential activity on the Lenwood fault would constitute a good reason for routing this pipeline away from population concentrations.

We have also been advised by a property owner in the area that the route now under easement is not the route shown on Map 9 in this amended EIR.

If we may provide any additional information in this matter, please feel free to call.

Very truly yours,

Paul Warner
Planning Director

PW:lc

cc: Mary Griggs, State Lands Commission
Eric Ziegler

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The City of
BARSTOW
California

March 28, 1990

Al Powers
Fluor Daniel, Inc.
One Fluor Daniel Drive
Sugar Land, TX 77478

RE: Transmission Pipeline Proposals through the Lenwood
area of Barstow - Your Inquiry of March 23, 1990

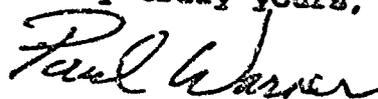
Attached is a letter which was sent to Mojave Pipeline on
February 7, 1990 regarding natural gas transmission lines
through Lenwood.

As we indicated in this letter, the Lenwood Interchange area
is in the process of being developed as prime commercial and
industrial property. Routing of a pipeline through this
area has the potential to split properties and render them
undevelopable. A McDonald's and Pilot Oil Travel Center
have already been constructed in this area.

As we also noted, this pipeline alignment was never
contained in any environmental documentation received by the
City of Barstow. Additionally, you should be aware that
there is a considerable amount of residential development
near the intersection of Lenwood Road and Main Street.

The City of Barstow feels that any additional pipelines in
this area should utilize the existing utility corridor north
of Barstow.

Very truly yours,



Paul Warner
City Planner

PW:lc

cc: Eric Ziegler
Johnny Tan
Mary Griggs, State Land Commission
Robert Arvedlund, F.E.R.C.

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The City of
BARSTOW
California

February 7, 1990

Mojave Pipeline Operating Company
P.O. Box 10269
Bakersfield, CA 93389
Attention: Dennis Egger, Survey Manager

RE: Proposed Mojave Pipeline

Enclosed are copies of the City of Barstow's Development Constraints Map, showing the location of all earthquake faults and fault traces which traverse the City, and the State of California Special Studies Zone (Alquist Priolo), showing the Lenwood Fault. The Lenwood Fault has been upgraded to active fault status and is currently a special studies zone of the State Division of Mines and Geology.

Also enclosed is a site development plan for development of the northwest quadrant of Lenwood Road and Interstate 15. Please note that Pilot Oil and McDonald's have already been developed.

Additional transmission pipelines through the Lenwood area would be inconsistent with both the Barstow General Plan and the Lenwood Specific Plan. The Lenwood Interchange area is in the process of being developed as prime commercial and industrial property.

The proposed routing of a pipeline through this area was never submitted the City of Barstow for review and approval. The City of Barstow attended scoping meetings on the Mojave-Kern River-El Dorado Environmental Impact Report, reviewed the Draft Environmental Impact Report and submitted comments to the Federal Energy Regulatory Commission (which were never responded to). Additionally, it is noted that the pipeline alignments for the Mojave project (as shown in the EIR) were all shown north of Barstow.

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Mojave Pipeline Operating Co.

February 7, 1990

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NOTE 9A B

I hope this information is of assistance to you in your engineering work. Please call if we can be of any additional assistance.

Very truly yours,



Paul Warner
City Planner

PW:lc

CC: City Manager
City Engineer

Encl:

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The City of
BARSTOW
California

January 26, 1988

Robert Arvedlund
Federal Energy Regulatory Commission
825 North Capitol Street, N.E.
Washington, D.C. 20426

Re: Environmental Impact Report/
Statement for Mojave-Kern River-El Dorado
Natural Gas Pipeline Projects

Dear Sir:

Attached are the comments which the City of Barstow sent to the Commission in April of 1987. I appreciate your cooperation in making them part of the record, and addressing or mitigating these concerns as appropriate.

If we may be of any further assistance in this matter, please feel free to contact us.

Sincerely,


Paul Warner
City Planner

/s

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MINUTE PAGE	619

The City of
BARSTOW
California

April 15, 1987

Office of the Secretary
Federal Energy Regulatory Commission
825 North Capitol Street, N.E.
Washington, D.C. 20426

Re: Environmental Impact Report Statement for Mojave-Kern River-El Dorado
Natural Gas Pipeline Projects

The City of Barstow, California has reviewed this draft EIR and has the following comments:

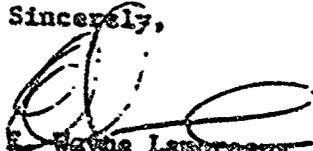
1) Traffic delays in the Barstow area are listed as a cumulative impact on page 4-280 of Volume 1. The magnitude of these delays needs to be described, so that the impact to Barstow can be adequately assessed. In addition to a more definitive description, the City of Barstow would ask that mitigation measures be proposed to minimize these delays, that these measures be approved by the City of Barstow and that the cost of providing these measures be borne by the applicant.

2) On Page 4-180 of Volume 1, watering is proposed to be the mitigation measure for fugitive dust. Given the wind patterns in the Barstow area, this may not be totally adequate. Recent pipeline trenching has shown this to be the case. If watering is utilized, how many watering trucks will be utilized per construction spread, and at what frequency will the water be applied?

We appreciate the opportunity to respond to this Environmental Impact Report/Statement and would appreciate receiving a copy of the Final EIR, including any responses to comments received.

If we may be of any further assistance in this matter, please feel free to contact us.

Sincerely,


E. Wayne Lamberson
City Manager

jb

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THE *Paragon* COMPANIES

March 5, 1991

Mr. Leo McCarthy
1807 - 13th Street
Sacramento, CA 95814

RE: Agenda Item No. 22

Dear Mr. McCarthy:

After reviewing the Order of Business for the Wednesday, March 6th Public Meeting, it is my belief that the documents are incomplete and require further review.

The areas of my concern are:

- 1) The pipeline bisects a large area of population without concerns for property lines or proposed planning areas.
- 2) The pipeline in Barstow area runs across the Lenwood Fault through the Alquist-Preiolo Special Study Zone. This zone has been shown to be an active fault area and I question the wisdom of a major gas line through this fault zone.
- 3) I question proper sequa notification in compliance with the review process relative to the concerns of the City of Barstow.

It is my suggestion that more environmental assessment is needed before approval.

Thank you for your consideration of my proposal.

Sincerely,

PARAGON HOMES, INC.

Brian Catalde

BC/dh

C: Brenda Duncan, Calendar Coordinator
Gray Davis, State Controller, Commissioner
Thomas W. Hayes, Director of Finance, Commissioner

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THE *Paragon* COMPANIES

March 5, 1991

Mr. Gray Davis
1807 - 13th Street
Sacramento, CA 95814

RE: Agenda Item No. 22

Dear Mr. Davis:

After reviewing the Order of Business for the Wednesday, March 6th Public Meeting, it is my belief that the documents are incomplete and require further review.

The areas of my concern are:

- 1) The pipeline bisects a large area of population without concerns for property lines or proposed planning areas.
- 2) The pipeline in Barstow area runs across the Lenwood Fault through the Alquist-Preiolo Special Study Zone. This zone has been shown to be an active fault area and I question the wisdom of a major gas line through this fault zone.
- 3) I question proper sequa notification in compliance with the review process relative to the concerns of the City of Barstow.

It is my suggestion that more environmental assessment is needed before approval.

Thank you for your consideration of my proposal.

Sincerely,

PARAGON F/RES, INC.

Brian Catalde

BC/dh

C: Brenda Duncan, Calendar Coordinator
Leo McCarthy, Lieutenant Governor, Chairman
Thomas W. Hayes, Director of Finance, Commissioner

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THE *Paragon* COMPANIES

March 5, 1991

Mr. Thomas Hayes
1807 - 13th Street
Sacramento, CA 95814

RE: Agenda Item No. 22

Dear Tom:

After reviewing the Order of Business for the Wednesday, March 6th Public Meeting, it is my belief that the documents are incomplete and require further review.

The areas of my concern are:

- 1) The pipeline bisects a large area of population without concerns for property lines or proposed planning areas.
- 2) The pipeline in Barstow area runs across the Lenwood Fault through the Alquist-Preiolo Special Study Zone. This zone has been shown to be an active fault area and I question the wisdom of a major gas line through this fault zone.
- 3) I question proper sequa notification in compliance with the review process relative to the concerns of the City of Barstow.

It is my suggestion that more environmental assessment is needed before approval.

Thank you for your consideration of my proposal.

Sincerely,

PARAGON HOMES, INC.

Brian Catalde

BC/dh

C: Brenda Duncan, Calendar Coordinator
Leo McCarthy, Lieutenant Governor, Chairman
Gray Davis, State Controller, Commissioner

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THE *Paragon* COMPANIES

March 5, 1991

Ms. Brenda Duncan
1807 - 13th Street
Sacramento, CA 95814

RE: Agenda Item No. 22.

Dear Ms. Duncan:

After reviewing the Order of Business for the Wednesday, March 6th Public Meeting, it is my belief that the documents are incomplete and require further review.

The areas of my concern are:

- 1) The pipeline bisects a large area of population without concerns for property lines or proposed planning areas.
- 2) The pipeline in Barstow area runs across the Lenwood Fault through the Alquist-Preiolo Special Study Zone. This zone has been shown to be an active fault area and I question the wisdom of a major gas line through this fault zone.
- 3) I question proper sequa notification in compliance with the review process relative to the concerns of the City of Barstow.

It is my suggestion that more environmental assessment is needed before approval.

Thank you for your consideration of my proposal.

Sincerely,

PARAGON HOMES, INC.

Brian Catalde

BC/dh

C: Leo T. McCarthy, Lieutenant Governor, Chairman
Gray Davis, State Controller, Commissioner
Thomas W. Hayes, Director of Finance, Commissioner

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DANA LATHAM (1888-1974)

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March 5, 1991

VIA TELECOPY AND FEDERAL EXPRESS

Ms. Mary Griggs
Project Manager
State Lands Commission
1807-13th Street
Sacramento, CA 95814

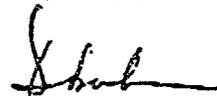
Re: Mojave-Kern River Pipeline Project Comments to FEIR/S

Dear Ms. Griggs:

As you know, we represent Robert and Melissa Sutton, owners of the CZQ Ranch located in Kern County, California (the "Suttons"). This letter serves to inform you that, assuming that the Sutton Ranch Reroute reflected on page G-63 of the Final Amendment is approved, the Mojave Pipeline Company, Kern River Gas Transmission Company and the Suttons will have reached a mutually satisfactory accord relating to the issues raised in the comments as they pertain to the CZQ Ranch by virtue of pending agreements between the parties.

Thank you for your cooperation.

Very truly yours,



Deborah S. Siegel
of LATHAM & WATKINS

cc: Michael Ferguson, Esq.
Thomas V. DeNatale, Jr., Esq.
Allan J. Abshez, Esq.
Robert & Melissa Sutton
John A. Woodward, Esq.

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March 4, 1991

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VIA TELECOPY AND FEDERAL EXPRESS

Ms. Mary Griggs
State Lands Commission
1087 13th Street
Sacramento, California 95814

Re: Mojave Kern River Pipelines Projects, Comments
re Environmental Impact Report for Proposed Amendment
SCH 85081912, SCH 90021170, File Ref: W 30038

Dear Griggs:

We represent Robert and Melissa Sutton (the "Suttons"), owners of the CZQ Ranch located in Kern County, California. The Suttons have separately submitted to Commission staff extensive comments and objections to the Draft and Final EIR for the proposed Amendment to the Mojave/Kern Natural Gas Pipeline Project (which comments were dated January 18, 1991 and March 4, 1991) (the "Project"). In addition to these many objections, the Suttons wish to bring to each Commissioner's personal attention a critical issue whose deficient treatment in the documentation of this Project should lead the State Lands Commission to disapprove the Project, or to delay decision to permit subsequent environmental analysis and public comment.

THE DRAFT AND FINAL EIR FOR THE PROJECT COMPLETELY
FAILED TO ADDRESS POTENTIAL RISKS TO PUBLIC SAFETY
WHICH MAY ARISE FROM AN EXPLOSION OF A
HIGH-PRESSURE NATURAL GAS PIPELINE.

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Ms. Mary Griggs
March 4, 1991
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In 1985 in Beaumont Kentucky, a smaller pipeline than is now proposed by Mojave/Kern, ruptured due to corrosion. The rupture tore out 29 feet of the pipe, blew apart 16 feet of a 36 inch diameter casing pipe that surrounded the carrier, blasted an opening across Kentucky State Highway 60 and cut out a crater 90 feet long, 38 feet wide and 12 feet deep. 5 persons were killed and 3 were injured in a house 320 feet north of the rupture and numerous buildings and parked cars were destroyed. Special Report 219, Pipelines and Public Safety, Transportation and Research for the National Research Council, Washington D.C. (1988).

The environmental documentation before the Commission completely conceals and fails to address such impacts. The Final EIR merely states "[i]t is possible for accidents to occur resulting in the release of natural gas. If subjected to an ignition source, this released gas can burn and/or explode." The Final EIR goes on to recite that all required engineering precautions will be taken. This is a glib and shallow treatment of a very serious subject.

As evidenced by the Beaumont, Kentucky incident, high pressure natural gas pipelines do fail despite engineering precautions. When high-pressure natural gas pipelines fail, their effects can be catastrophic and result in death and destruction far beyond minimal easements, such as those which are being acquired in connection with the Mojave/Kern Pipeline. The Final EIR indicates that Mojave/Kern currently intends to place the pipeline within 50 feet of existing and future residences.

To protect the public safety of the citizens of California, the Commission should demand that potential risk of upset impacts be candidly disclosed in full detail as required by CEQA, and that they be studied and critiqued with the benefit of public review. As lead agency within California, the Commission should require that such study include a consideration of increasing the size of pipeline easements to ensure adequate clear-zones which will protect the lives and property of the citizens of California along the entirety of the pipeline route in California. This issue assumes special importance because clear-zone standards for high pressure natural gas pipelines have not been addressed by other federal or California state regulations to date.

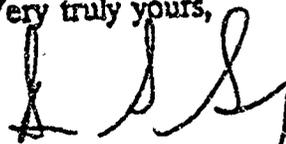
The Suttons are confident that the Commission will fulfill its responsibility by disapproving the Project, and will not permit the critical issue of public safety and the many other issues raised by the Suttons to be swept under the rug in favor of the narrow interests of private enterprise. That this issue has been

LATHAM & WATKINS

Ms. Mary Griggs
March 4, 1991
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brought to light at this late date is regrettable but chiefly attributable to the defective project documentation and the procedures used in permitting this Project, which have denied the public meaningful information and opportunity to comment.

Very truly yours,



Deborah S. Siegel
of LATHAM & WATKINS

cc: Mr. & Mrs. Robert Sutton (via messenger)
Dan Lungren, Esq., California Attorney General (via telecopy & messenger)
Mr. Charles Warren, Executive Director, SLC

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DANA LATHAM (1808-1874)

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March 4, 1991

BY FEDERAL EXPRESS

Ms. Mary Griggs
Project Manager
State Lands Commission
1807 13th Street
Sacramento, California 95814

Re: Mojave-Kern River Pipeline Project (the "Project")

Dear Ms. Griggs:

As you know, we represent Robert and Melissa Sutton, owners of the CZQ Ranch (the "Suttons"), located in Kern County, California. In addition to renewing their objections under their initial set of comments, the Suttons are filing this second set of comments to point out some of the many inadequacies of the responses contained in the Final Environmental Impact Report (the "Final EIR"). The most basic inadequacy is that the SLC has not prepared and circulated for public review a Revised Draft EIR in accordance with the requirements of the California Environmental Quality Act ("CEQA"). In addition, as discussed in the many examples below, despite an effort to make them appear long and detailed, the responses contained in the Final EIR are substantively flawed because they: (a) frequently contain

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Ms. Mary Griggs
March 4, 1991
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conclusory statements unsupported by factual information in violation of CEQA Guidelines Section 15088; (b) fail to provide detailed responses and thereby allow stubborn problems or serious criticism to be "swept under the rug," People v. County of Kern, 39 Cal.App.3d 830, 841 (1974); (c) rely on future studies and fail to provide currently requested analysis, EPIC, Inc. v. Johnson, 170 Cal.App. 3d 604 (1985); (d) fail to provide responses which are specifically tailored to the comment, question or unique concern raised, Clary v. County of Stanislaus, 118 Cal.App.3d 348 (1981); or (e) attempt to rely on boilerplate statements such as 'the project as conditioned should adequately mitigate any adverse effect' or 'the project will conform with all applicable regulations,' Gallegos v. State Board of Forestry, 76 Cal.App.3d 945 (1978). These additional deficiencies should lead the SLC to decline to certify the Final EIR.

THE SUTTON RANCH REROUTE

The Suttons appreciate that the Commission has modified the Project to change the route of the pipeline across the CZQ Ranch as reflected in the Final EIR for the Amendment. As we indicated earlier, the originally proposed route would have devastated an important and sensitive oak tree habitat. Clearly, the reroute is a feasible mitigation measure of the type which

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should have been identified by the Draft EIR. The modification of the route, however, while clearly feasible and appropriate, does not alleviate the Suttons' other concerns with the Project and the environmental review (or lack thereof) which has taken place to date. For all of the other reasons set forth below, a Revised Draft EIR should be prepared and circulated for public review and comment, describing the environmental effects of the Project not only along the reroute through the CZQ Ranch, but across all of the route within California.

PUBLIC SAFETY CONCERNS

THE DRAFT AND FINAL EIR FOR THE PROJECT COMPLETELY FAILS TO ADDRESS POTENTIAL RISKS TO PUBLIC SAFETY WHICH MAY ARISE FROM A POTENTIAL EXPLOSION OF A HIGH-PRESSURE NATURAL GAS PIPELINE.

In 1985 in Beaumont Kentucky, a smaller high-pressure natural gas pipeline than now proposed by Mojave/Kern, ruptured due to corrosion. The rupture tore out 29 feet of the pipe, blew apart 16 feet of a 36 inch diameter casing pipe that surrounded the carrier, blasted an opening across Kentucky State Highway 60 and cut out a crater 90 feet long, 38 feet wide and 12 feet deep. 5 persons were killed and 3 were injured in a house 520 feet north of the rupture and numerous buildings and parked cars were

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destroyed. Special Report 212, Pipelines and Public Safety,
Transportation and Research for the National Research Council,
Washington D.C. (1988).

The environmental documentation before the SLC completely conceals and fails to address such impacts. The Final EIR merely states "it is possible for accidents to occur resulting in the release of natural gas. If subjected to an ignition source, this released gas can burn and/or explode." The Final EIR goes on to recite that all required engineering precautions will be taken. This is a glib and shallow treatment of a very serious subject.

As evidenced by the Beaumont, Kentucky incident only six years ago, high pressure natural gas pipelines do fail despite engineering precautions. When high-pressure natural gas pipelines fail, their effects can be catastrophic and result in death and destruction far beyond minimal easements, such as those which are being required in connection with the Mojave/Kern Pipeline. The Final EIR indicates that Mojave/Kern currently intends to place the pipeline within 50 feet of existing and future residences. To protect the public safety of the citizens of California, the Commission should demand that potential risk of upset impacts be candidly disclosed in full detail as required by CEQA, and that they be studied and critiqued with the benefit of public review. As lead agency within California, the SLC

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should require that such study include a consideration of increasing the size of pipeline easements to ensure setbacks which will protect the lives and property of the citizens of California along the entire pipeline route in California. This issue assumes special importance because safety setback standards for high pressure natural gas pipelines have not been addressed by other federal or California state regulations to date.

GENERAL COMMENTS

Initially, the Suttons request clarification of the staff's responses to comments which contain certain conflicting positions. For example, staff's response to the Landsberger comments concerning access to properties states that permission is not required to enter the property while staff's response to the Suttons comment number 2 indicates that court ordered permission to access the CZQ Ranch was required. Aside from this contradiction, there is absolutely no excuse for the lack of thorough, comprehensive studies on the CZQ Ranch and other portions of the route in California before the Draft EIR was published. Indeed, a few site-specific studies were conducted at the CZQ Ranch for the first time in January of this year in response to the Suttons comments which revealed significant new biotic information. It would violate CEQA to approve a Final EIR based on incomplete studies conducted within two months of

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approval of the Final EIR. Since the public did not have an opportunity to review and comment on the substantial changes indicated by the results of these studies, as well as the rest of staff's errata in the Final EIR, the Final EIR should not be certified.

The following numbered paragraphs correspond to the paragraph numbers of staff's responses to the Suttons initial set of comments.

1. Staff's responses indicate that Mr. Denatale, Mojave's attorney, provided Mr. Woodward, Mr. Sutton's attorney with certain information, including FERC orders, however it fails to answer the specific question in this comment which asked why the Draft EIR, the most critical document necessary for adequate review (and which was then circulating for public comment), was not distributed to the Suttons or Mr. Woodward, nor were they informed of any proceedings before the SLC. The Suttons have serious concerns that the Draft EIR proceedings, the Suttons' only meaningful opportunity to comment on the destruction of portions of their property, were concealed from the Suttons. Responses which are not specifically tailored to the comment or question raised are inadequate. Unique concerns must be addressed. Clardy v. County of Stanislaus, supra.

2. As indicated in staff's responses, the Suttons request an explanation as to why environmental surveys were

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conducted on January 23, 24 and 25 of 1991. It is obvious that these studies on the CZQ Ranch would not have been conducted in absence of the Suttons' comments. This study alone revealed significant new environmental information, such as the presence of nine raptor nests on the CZQ Ranch alone, where the Draft EIR had indicated no (0) raptor nests along the entire route within California. It is equally obvious that because of the methodology underlying the Draft EIR, most other properties in California have been similarly overlooked and understudied. Please see the attached assessment of Fugro-McClelland West, consultants who accompanied Mojave's consultants on the site visit. It does not take an expert to know that aerial surveys and reading literature are no substitute for site-specific analysis. If this project is progressing to the Commission level for final approval on March 6, 1991, applicant should have conducted comprehensive environmental analysis on the entire pipeline route long before five weeks prior to potential final approval. Under CEQA, the results of these studies are required to be circulated for the public to review and for agency comment. These CEQA procedures are conspicuously and illegally absent.

3. While you have explained the reasons for avoiding El Dorado Alternative B, the responses still do not explain why El Dorado Alternative A (through the Mojave Desert) or C was not utilized as the primary route for the pipeline. As

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indicated in staff's responses, among others, Alternative C would be 3.3 miles shorter than the Main El Dorado Route, have four fewer miles of potentially unstable slopes and impact 32 fewer acres of soils with poor reclamation potential. If differences between these routes are "so minor that no preference be assigned," then why not use another route that does not impact the valley oaks, Tehachapi Slender Salamander, not to mention the land use conflicts associated with the El Dorado Mainline route? Responses which are not specifically tailored to the comment or question raised are inadequate. Unique concerns must be addressed. Cleary v. County of Stanislaus, supra. Again, the Suttons request a complete, not partial, response tailored to the question, and further request that this information be provided in a Revised Draft EIR to allow public comment and agency review.

Furthermore, staff states that the data in the Draft EIR were specifically prepared to provide detailed site-specific information on biological and cultural resources which were not available in the 1987 FEIR/S. The Suttons request an explanation why no such studies were conducted on their property until late January of 1991 and also whether other properties have been subjected to this piecemeal methodology.

4. The Suttons renew their comments and believe that the Revised Draft EIR must be recirculated. In addition, under Laurel Heights, if impacts associated with the utilization

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of natural gas beyond those discussed in the EIR are reasonably foreseeable (as they are by virtue of the altered project description in the proposed Amendment) these impacts must be addressed. The Suttons request an explanation of these impacts.

Again, as indicated above and below, the Suttons did not receive responses tailored to their comments. CEQA Guidelines Section 15088 requires that comments be responded to in detail, with good faith reasoned analysis. Detailed responses are required to keep "stubborn problems or serious criticisms from being swept under the rug." People v. County of Kern, supra.

5. Literature and map searches are not adequate to address environmental impacts on property. Under CEQA, comprehensive site-specific studies are required even for the most modest development projects in California. The Suttons would like an explanation as to how detailed current biological, hydrological, cultural and paleontological assessments of the property can be accomplished solely through maps, literature and aerial photographs. Notwithstanding the foregoing, the Suttons would like an explanation as to why Oak Flat, a valley of oaks which may represent an extreme taxa for the community was not discovered through staff's methodology. Undoubtedly, the accuracy of these superficial survey methodologies are suspect and should not be relied upon by the Commission in acting on this

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important project. Site-specific work should be done on the Sutton Ranch Reroute, the remaining portion of the route within California, and should be presented in a Revised Draft EIR for public comment and agency review.

Further, staff's responses do not specifically address the Suttons questions. For example, staff's responses do not provide an analysis of the requested studies for issues such as wetlands, streams, sensitive plants, and raptors. Staff's purported methodology of "worst case" scenario assessments has only resulted in outlines of areas that should have been studied but have not been. Therefore, staff, the Commission and the public have no real awareness of impacts. If pipeline construction occurs and significant impacts are found, the ramifications of these impacts will be past the point of public comment and agency review. Deferring environmental assessment to a future date explicitly runs counter to the policy of CEQA; CEQA requires environmental review at the earliest feasible stage in the planning process. Pub. Res. Code § 21003.1, Sundstrom, supra. The EIR is an "alarm bell" whose purpose is to alert the public and its responsible officials to environmental changes before they have reached "ecological points of no return." The Suttons are fearful that if the project is approved, this irreversible momentum will lead to significant environmental impacts which could have been avoided or mitigated.

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6. Staff's response that mitigation measures refer to guidelines of other agencies presumes that no public review of these mitigation measures is warranted. Under CEQA, this is an incorrect presumption. The Suttons renew their comment.

7. Contrary to staff's response, Page C4-5 of the Final EIR states that oaks encountered within the right of way with a trunk diameter greater than 24 inches shall be avoided. In addition, such section states that all construction in the vicinity of oaks shall occur outside of the drip line. To ensure proper evaluation and mitigation of the Sutton Ranch Reroute, the Suttons request an analysis of the current number of oaks which will be impacted and appropriate mitigations.

8. Because the cumulative impacts of oak removal based on the number of trees to be removed is reasonably foreseeable, Staff's answer is nonresponsive. Laurel Heights. If site-specific studies had been conducted and contained in the Draft EIR, this information would have been known. The Suttons renew their comment.

9. The Suttons renew their comment. Driving and field spot checks do not constitute adequate environmental assessment. In addition, new information about the painted monkeyflower, a rare and endangered species, is significant, and, although staff states that this information was omitted, this new information,

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as well as other new information in the Final EIR should be circulated for public review and agency comment.

In addition, the methodology for the biological review of the CZQ Ranch was inappropriate. Please see the attached assessment of Fugro-McClelland West, consultants who accompanied Mojave's consultants on their February 9th and 10th visits to the CZQ Ranch. As indicated in Fugro-McClelland's report, what site-specific environmental review of the CZQ Ranch that has occurred does not meet the standards of CEQA. The Suttons fear that other portions of the pipeline were also analyzed in this defective manner. If more property owners were made aware of the pipeline crossing their properties by personal notice, more careful environmental review would have occurred. The Suttons request that such notice be provided in conjunction with their request for a Revised Draft EIR. Responses to detailed comments with statements similar to the "plan as finally amended should adequately mitigate any adverse effect" as provided here are conclusory and inadequate. Gallejos v. State Board of Forestry, SUPRA.

10. Staff's answer is nonresponsive. The Draft EIR requires a five day survey period for the Tehachapi Slender Salamander which has not yet been conducted. In addition, during times of environmental stress such as drought, organisms will persist in refugia of less than ideal habitat that contain.

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essential elements for completion of their lifecycle (Fugro-McClelland West). There is a canyon on the CZQ which will be crossed by the pipeline which contains all of these necessary elements identified by staff's experts as habitat for the salamander (Fugro-McClelland West). Where objections have been lodged regarding future studies, and requested analysis has not been provided, the Final EIR has been found invalid for inadequate response to comments. EPIC, Inc. v. Johnson, supra. The Suttons request an explanation as to why this five day study has not occurred prior to the proposed final approval of the project.

11. The Suttons renew their comments. The limited scope of staff's and applicant's surveys are hopelessly inadequate for sensitive animals. It appears that only a cursory records search was the basis for the identification of all potentially occurring sensitive animals. In the brief time that Fugro-McClelland West studied the area, a number of concerns surfaced for which the Final EIR provides no documentation. For example, at least four species of migratory bats live in trees that would be removed because of the pipeline. Furthermore, the Final EIR nowhere mentions Tehachapi Pocket Mouse and the Tehachapi Mountain Silverspot Butterfly, a federal candidate for listing as endangered. The Suttons request that a thorough analysis of these sensitive animals be conducted in the

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Revised Draft EIR. Staff's deferral of analysis to future studies limits option for avoidance and mitigation because an alignment has already been approved and adopted. This is in direct contravention of CEQA.

12. Staff indicates nine raptor nests were located on the CZQ Ranch during the January, 1991 survey. This is new information not included in the FEIR. For example, Page 5-6 still indicates that no (0) raptor nests will be impacted in California. This statement is inaccurate. The Suttons request an explanation of the impacts on raptor nests on the rest of the pipeline. Under CEQA, the public has a right to review and comment on these potential impacts, as well as the new information that the staff provided in the response. If nine nests were discovered on one property during a late study in a drought period out of season, how many nests would have been discovered had site-specific study been conducted throughout California?

13. Staff's answer does not address impacts to this valuable habitat, even though there is a current plan to release Condors to reestablish them in the area (Furgo-McClelland West). The Suttons renew their comment.

14. Wetland impacts warrant site-specific review; none was conducted on the CZQ Ranch. Cumulative impacts to wetland habitats must be analyzed by the Commission as lead agency before

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the Final EIR is approved. Such analysis may not be deferred to the Army Corps or CDFG, which will act as responsible agencies. The Suttons renew their comment.

15. Staff's answer is nonresponsive. The Office of Historic Preservation has informed us that Mojave/Kern has yet to initiate Section 106 compliance. The Suttons renew their comment.

16. Staff's answer is nonresponsive; several steep slopes exist on the CZQ Ranch. Deferring determination of types of slope instability and as staff states, rerouting the pipeline to avoid the active slides upon finding them during construction, violates CEQA. Project shaping choices should be made long before actual construction. The Suttons renew their comment.

17. Staff admits that the Final EIR inadequately assesses fault crossings. See also response to Comment 1. The Suttons renew their comment.

18. Staff's answer is nonresponsive, general and addresses only construction impacts on short-term land use, not impacts to long-term land use caused by the pipeline. The Suttons renew their comment.

19. Staff's answer admits that the crossing of Stallion Springs II is prohibited. The Suttons renew their comment.

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20. Staff's comment that land use impacts of the pipeline are negligible are conclusory and inadequate. Gallegos v. State Board of Forestry, supra. The Final EIR merely provides a description of land uses not a discussion of impacts to land uses as required by CEQA. The Suttons renew their comment, particularly in view of the public safety issues discussed above.

21. The Suttons renew their comment; Staff's response is vague. Portions of the CZQ Ranch are zoned residential and do have utility rights of way. In addition, as discussed earlier, critical safety issues, such as setback issues are nowhere addressed in the Final EIR. Indeed, the Final EIR indicates that some houses are going to be within 50 feet of the pipeline.

22. Staff's answers are nonresponsive. The Final EIR merely describes land uses, it does not discuss impacts. The Suttons renew their comment.

23. Staff suggests that routes need not follow existing linear facilities if there is an environmentally preferable alternative. The CZQ Ranch is not an environmentally preferable alternative to any existing linear facilities. The Suttons once again request an answer as to why existing linear facilities were not utilized in their area. Detailed responses are required to keep "stubborn problems or serious criticisms from being swept under the rug." People v. County of Kern, supra.

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24. Staff's answers are only partially responsive; there are other existing linear facilities in the Tehachapi area which could have been followed. The Suttons renew their comment and request an explanation as to why these linear routes were not followed.

25. Staff's answers are nonresponsive; if additional roads are necessary, their impacts should be analyzed in the EIR prior to, not after, project approval.

26. Staff's answer is not complete; the Construction, Operation and Maintenance Plan was promulgated in February of 1991 and was not subject to public review and comment. The Revised Draft EIR should include this Plan.

27. See Comment 28 below.

28. Staff's answer is nonresponsive; Mr. DeNatale and Mr. Ferguson, lawyers for Mojave were present at a meeting held at the offices of Latham & Watkins wherein three Mojave agents indicated that the right of way would be 200 to 300 feet on portions of the CZQ Ranch. Since the project applicants specifically stated that enlarged right-of-ways would be required, such right-of-way is reasonably foreseeable (Laurel Heights) and the Suttons hereby request that the project description be appropriately modified and that the right-of-way issue be properly analyzed in the Revised Draft EIR.

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29. Staff's answer is nonresponsive as it nowhere discusses the non-bypass agreements. Responses which are not specifically tailored to the comment or question raised are inadequate. Unique concerns must be addressed. Clery v. County of Stanislaus, supra.

30. Staff's answer is nonresponsive, a Revised Draft EIR is warranted to address the environmental impacts of the non-EOR market delivery points. FERC's monitoring the requirements for construction of new delivery lines is inadequate and violative of CEQA. The public has a right to review and comment in a Revised Draft EIR and impacted landowners should be notified of the whereabouts of these new delivery lines. Project approval should be withheld until a project definition adequate for the purposes of assessing environmental impacts is prepared.

31. Staff's answer is nonresponsive. See enclosed biological assessment. In addition, no-site specific biological or cultural specific studies were done on the CZQ Ranch until the end of January, 1991. The Suttons renew their comment.

32. Staff's answer is nonresponsive, particularly in view of the apparent total lack of on-site study throughout the route of the pipeline in California. For example, as to raptors alone, if 9 raptor nests were discovered on the CZQ Ranch alone after a belated site visit in response to the Suttons comments, what is the foreseeable cumulative impact to raptors ~~all along~~

Ms. Mary Griggs

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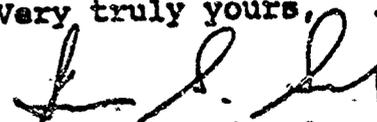
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the pipeline route? The Final EIR further admits that 10% of the pipeline has yet to be surveyed at all. This is unacceptable. Gallegos, SUPRA.

CONCLUSION

The Suttons have submitted these additional comments in the hopes of building the most comprehensive and thorough data base for a decision that will have a major effect on the environment and public safety of the citizens of the State of California. The Commission's modification of the Project to incorporate the Sutton Ranch Reroute as reflected in the Final EIR is a first step towards responsible compliance with CEQA, but many other issues remain to be addressed---particularly the critical issue of public safety. Until adequate documentation addressing such issues is prepared and circulated for public review, the Project should not be approved.

Very truly yours,



Deborah S. Siegel
of LATHAM & WATKINS

Enclosure

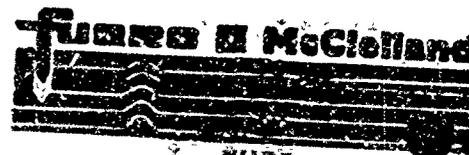
cc: Dan Lundgren, Esq., California Attorney General
(w/enclosure; via Federal Express)
Mojave Pipeline Operating Company
(w/enclosure; via telecopy)

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FUGRO-McCLELLAND (WEST), INC.



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Latham & Watkins
Attorneys at Law
633 West Fifth Street, Suite 4000
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February 13, 1991

Attention: Ms. Deborah Siegel

Subject: Biological Resources of CZQ Ranch
Summary of Findings, February 9-10 Site Visit

Ms. Siegel:

The purpose of this letter is to provide you and Mr. Robert Sutton the owner of the subject property, with an account of our observations made during the biological reconnaissance of an alternative pipeline route. The new alternative alignment was walked over the course of two days and the project biologists (representing the EIR consultant or the project proponent) were consulted when the opportunity arose. Comments are provided below, grouped according to general topic.

1. Chronology

On Saturday, February 9, Biological Services staff from Fugro-McClelland arrived at the project site (Saxia Road south of Giraudo Road) where surveyor's teams, pipeline representatives and biologists were assembled. We introduced ourselves and indicated the reason for our presence, which was to observe the survey and assess whether the information gathered was of appropriate detail. Further, we indicated that we believed that there had been inadequacies in the EIR and that we would serve as a "control" to review biological reports incorporated into environmental documents so that field observations were properly reported. We stated that we had no intention of challenging the expertise of the field biologists, nor did we wish to provide them with guidance on the conduct of their work.

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U.S. operating companies in California, Louisiana, Missouri, and Texas
International operating companies in Australia, Belgium, Brunei, Canada, Germany, Hong Kong, Indonesia, Japan,
Malaysia, The Netherlands, Saudi Arabia, Singapore, United Kingdom, and United Arab Emirates.

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The project biologists (Uptain, Mitchell, Meese) spoke among themselves and some time later informed me that they would drop off a car at the far end of the survey route and return to Sasia Road to commence their survey. This sequence was then altered in that Uptain indicated that he would not be working that day. We were unable to locate Mitchell and/or Meese the remainder of the day, but understand that they walked the eastern portion of the alternative route.

On February 10, Meese and Mitchell were not seen at the project site, but we were informed by the pipeline representative (Sokol) that they would be surveying the extreme western end of CZQ Ranch and continuing off the ranch onto adjacent lands. Hansen and Uptain (herpetologist and wildlife biologist) started their survey near Sasia Road. During the time it took to park a car at Jack Springs and return to the Sasia Road access to CZQ Ranch, the survey team (Uptain, Hansen, Sokol) had progressed approximately two miles along the southern ranch boundary. Fugro-McClelland staff, along with Mr. and Mrs. Sutton located the survey team on the slope leading into an unnamed canyon above the terminus of Jack Springs Road.

On the eastern slope of the canyon, Hansen and Uptain left the alignment identified by flagging and proceeded to the head of the canyon (northward). The biologists did not respond to calls from Sokol for approximately one-half hour, although they were apparently within earshot, according to Mrs. Sutton who observed them (and could hear Sokol) in the area. When they finally responded, Sokol requested that they return to the canyon to speak with Mr. Sutton and his representatives (Fugro-McClelland). Mr. Sutton became upset because the biologists were not surveying the identified alignment and expressed his dissatisfaction to Sokol and the biologists. To resolve the situation, the biologists descended into the canyon and briefly examined conditions in the drainage for suitable habitat for the Tellichapi slender salamander. Following this, the biologists continued westward off the Suttons' property and we terminated our conduct of field observations.

2. Adequacy of Surveys

As representatives of the landowner, our greatest concern is for the level of detail to which the route surveys were conducted. It appears that the botanist, wildlife biologist and herpetologist were surveying only for specific taxa (species or subspecies of plants or animals).