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**VIA CERTIFIED MAIL AND FACSIMILE**

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**Re: Forest Plan Ruling and Sunrise Powerlink**

Dear Forest Service Officials:

We write on behalf of Backcountry Against Dumps, The Protect Our Communities Foundation, East County Community Action Coalition and Donna Tisdale to supplement our July 9 and September 23, 2009 letters to you opposing Forest Service approval of the Sunrise Powerlink transmission line ("Powerlink" or "Project") on the Cleveland National Forest.

This letter is intended to apprise you of our position that the recent ruling by the United States District Court setting aside the Forest Plans for the four Southern California National Forests necessitates an indefinite delay in any decision on whether the Powerlink should be approved across the Cleveland National Forest.

On September 29, 2009, Judge Marylyn Hall Patel ruled that the Forest Plans for the four Southern California National Forests ("Forest Plans"), including the Cleveland National Forest, were deficient in part due to the Forest Service's failure to adequately analyze and disclose in NEPA documents the cumulative effects of the Forest Plans' reclassification of thousands of acres of roadless areas with less protective zoning. See Judge Patel's Memorandum and Order in California Resources Agency et al. and Center for Biological Diversity et al. v United States Department of Agriculture et al., N.D. Calif. No. C 08-3884 MHP. According to the ruling:

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[The Forest Plan Final Environmental Impact Statement] does not, however, specifically analyze the cumulative impact or overall consequences to the forests or the national forest unit of extensively increasing the [Inventoried Roadless Areas] zoned to allow for potential road construction while recommending relatively few IRAs for wilderness protection . . . . The Forest Service abused its discretion by failing to address this issue in the FEIS. [*Id.*, slip op. at 22.]

We anticipate that a remedy to address this ruling will likely entail supplemental NEPA analysis to address this deficiency in the Forest Plans' Final Environmental Impact statement.

In the meantime, it is our position that the Forest Service cannot legally proceed to authorize the Powerlink across the Cleveland National Forest because the existing Powerlink FEIR/FEIS shows an option for expansion of the Powerlink through an inventoried roadless area contrary to the desires of Forest Service managers.

In our letter to you on September 23, 2009 we expressed concern that the U.S. Bureau of Land Management disregarded a specific request by the Forest Service that the Powerlink Environmental Impact Statement should exclude the Route D Alternative as a possible future expansion route due to conflicts with the Forest Plan and the Roadless Conservation Rule. *See* FEIR/EIS at page 3-145. Contrary to the Forest Service's request, this expansion route was retained in the Final EIR/EIS. *Id. e.g.* Figure E.1.1-6.

As a result, the Powerlink FEIS and the Forest Service's pending decision on the Powerlink are inextricably entangled in Judge Patel's ruling on the Forest Plans. Unless and until a supplemental NEPA analysis of cumulative impacts to inventoried roadless areas from the Forest Plans is prepared by the Forest Service, and the impacts of this Powerlink route are both fully addressed in a supplemental EIS, and avoided or mitigated to fully conform to the Forest Plan's requirements, the Forest Service may not authorize the Powerlink with its identified plans for expansion through an inventoried roadless area.

Thank you for considering our comments on this important matter.

Very truly yours,

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

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