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NATIONAL PARKS CONSERVATION ASSOCIATION

Protecting Parks for Future Generations

February 13, 2009

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

Camilla Williams
Division of Water Rights
State Water Resources Control Board
1001 I Street, 14th Floor
Sacramento, CA 95814

Re: Scoping of environmental issues for the licensing of the Eagle Mountain Pumped Storage Project (P-13123-000)

Dear Ms. Bose and Ms. Williams:

On behalf of our more than 340,000 members, the National Parks Conservation Association (NPCA) would like to thank you for the opportunity to provide recommendations to be included in the Environmental Impact Statement (EIS) for the proposed Eagle Mountain Pumped Storage Project (P-13123-000). Our members care deeply for America's shared natural and cultural heritage that is preserved by units of the National Park System.

Eagle Crest Energy Company (ECEC) has proposed their 1,300-megawatt (MW) Eagle Mountain Pumped Storage Project for an area immediately adjacent to Joshua Tree National Park. Joshua Tree National Park was established by Act of Congress in 1994 to preserve and protect the natural and cultural resources of the California Desert. With over 1.3 million visitors each year, two intact desert ecosystems meeting in a distinct transition zone, the resultant richness in biodiversity, thousands of years of cultural history, and vast areas of federally designated wilderness—including wilderness areas to the immediate north and south of the proposed project area—Joshua Tree National Park is one of the iconic parks in the National Park Service system.

The Eagle Mountain Pumped Storage Project proposes to mine 25,000 acre-feet of groundwater from the Chuckwalla Basin aquifer, and deposit this water in two depleted mining pits in the former Eagle Mountain Mine in Riverside County, California, immediately adjacent to Joshua Tree National Park. The water would flow downhill to the lower pit at times of peak energy demand, generating energy for sale and consumption. At times of non-peak demand, the water

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would be pumped uphill, back to the depleted mine pit that is higher in elevation. This project is proposed to occupy federal lands currently administered by the Bureau of Land Management (BLM) and private lands currently owned by Kaiser Eagle Mountain, LLC—assuming such lands would be available for the Eagle Mountain Pumped Storage Project.

Considering the proximity of this proposed project to Joshua Tree National Park, NPCA has serious concerns that must be addressed in an EIS for the proposed project:

- Purpose and Need. The project as described during scoping meetings on January 15 and 16, 2009 is both a net energy loss, and a net water loss. The project has also been characterized by proponents ECEC as a renewable energy project, as it has the potential to store energy from wind-based sources, which are typically off-peak sources of power. An EIS for the Eagle Mountain Pumped Storage Project must first demonstrate that there is a significant need for the storage of wind energy resources. This is particularly relevant in light of adjacent applications for solar energy projects, which can provide needed peak energy sources. Is there enough excess wind energy to justify a pumped storage project of this scale? If existing wind energy is already being consumed by ratepayers, is it responsible and prudent to develop a project that requires 25,000 acre-feet of groundwater before it even begins to generate power? If there is not an immediate need for the project, is it responsible to risk negative impacts to the resources of Joshua Tree National Park?

- Groundwater and subsidence impacts. The Metropolitan Water District of Southern California (Metropolitan), in its comments on the Draft Licensing Agreement (DLA) made on behalf of ECEC to FERC, stated "In the past, ECEC sought Metropolitan's consent to use CRA [Colorado River Aqueduct] water to fill its reservoirs. Metropolitan declined the request, as such water has been required to meet the water supply demands of its member agencies. Moreover, Section 131 of the Metropolitan Water District Act (Cal. Stat. 1969, Chapter 209) precludes Metropolitan from selling water outside of its service area… Metropolitan has made no commitment whatsoever to supply water for the proposed project." This statement indicates that the only water alternative under consideration for the proposed project is to pump 25,000 acre-feet of groundwater from the Chuckwalla Basin aquifer. Based on the technical feasibility report prepared by Metropolitan in May 1998, the Pinto Basin aquifer within Joshua Tree National Park and the Chuckwalla Basin aquifer are in hydrologic communication with each other. Any anticipated impacts associated with a drawdown of water in the Chuckwalla Basin will likely have an impact on groundwater within Joshua Tree National Park's boundary. What are the potential impacts to the Pinto Basin aquifer? The water for ECEC's project is proposed for storage in an industrial mine pit, which lies upon a fault. The risk for contamination must be analyzed. What are the constituents contained in the residual ore bodies? For example, would pyrite and gypsum in magnetite-rich ore bodies lead to acidic leachate and a significant risk of groundwater contamination? Would reservoirs of the proposed size create pressure on the crystalline basement and transmit contaminants

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to the Pinto Basin aquifer? Would this pressure potentially produce polluted seeps or springs within the Pinto Basin of Joshua Tree National Park, threatening the park's wildlife or world-class paleontological resources in this area? Or would subsidence occur in the Pinto Basin simultaneous with drawdown in the Chuckwalla Basin? If subsidence occurred in the Pinto Basin, what would be the impact to biotic systems and individual species? Joshua Tree National Park is critical habitat for the desert tortoise (Gopherus agassizi), federally listed as a threatened species under the Endangered Species Act. Would subsidence in areas of the Pinto Basin create low points that would be subject to flooding during periods of precipitation? Would tortoise burrows and habitat be negatively impacted by subsidence and flooding?

- Ecological considerations of vast reservoirs in the desert. Many resource managing federal agencies in the greater California desert, concentrated under the Desert Manager's Group, and following the lead of the U.S. Fish and Wildlife Service, are currently working in cooperation to address the issue of subsidization of desert ravens. Desert ravens are of particular concern because of their propensity to prey on juvenile desert tortoises, previously identified in this letter as a threatened species. Ravens are intelligent and opportunistic scavengers, and there is a reasonable expectation that subsidizing their water supply could have a negative impact on desert tortoises both within Joshua Tree National Park and on adjacent land. What are the potential impacts from the proposed project on the subsidization of ravens? What are the resultant impacts on desert tortoises and other native prey species such as the endangered Coachella Valley fringe-toed lizard? What are the impacts of vast, previously non-existent reservoirs on other opportunistic predators such as coyotes and their resultant prey species?

- Wilderness impacts. As the development proposed by this project is adjacent to Joshua Tree National Park's federally designated wilderness, we recommend that those preparing the EIS conduct a thorough review of The Wilderness Act of 1964 before preparing this environmental document, as mandated by the National Environmental Policy Act:

  Public Law 88-577, 88th Congress, S. 4

  Sec. 2. (a) In order to assure that an increasing population, accompanied by expanding settlement and growing mechanization, does not occupy and modify all areas within the United States and its possessions, leaving no lands designated for preservation and protection in their natural condition, it is hereby declared to be the policy of the Congress to secure for the American people of present and future generations the benefits of an enduring resource of wilderness…

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DEFINITION OF WILDERNESS

(c) A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain. An area of wilderness is further defined to mean in this chapter an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions and which (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable; (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation; (3) has at least five thousand acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition; and (4) may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value.

The fundamental question with regard to the Wilderness Act of 1964 is: What is the potential of this project to degrade the wilderness values of Joshua Tree National Park? Some questions to help steer this analysis include: What is the potential to of the proposed project to degrade dark night sky values? What are the impacts to natural soundscapes? What are the associated impacts to park visitors seeking a wilderness experience?

- Cumulative Impacts. The National Environmental Policy Act requires a thorough analysis of cumulative impacts in an EIS. The proposed project is in the same immediate area as the proposed Eagle Mountain landfill. NPCA has consistently and successfully opposed the ill-conceived Eagle Mountain landfill project as illegal and environmentally inappropriate for this area adjacent to Joshua Tree National Park. In September 2005, U.S. District Judge Robert J. Timlin issued a much-anticipated ruling in NPCA's and other plaintiff's favor by overturning a federal land exchange needed for the development of the Eagle Mountain landfill. Landfill proponents and the Bureau of Land Management have appealed the decision in the U.S. Court of Appeals for the Ninth Circuit. NPCA remains committed to its position that the proposed Eagle Mountain landfill is illegal. As long as the case remains in appeal, however, FERC is required by law to consider the cumulative impacts of a landfill and a massive pumped storage project in the same immediate area. The cumulative impacts of the potential subsidization of ravens, the cumulative impacts on the threatened desert tortoise and biotic communities, the cumulative impacts on wilderness values, and the cumulative impacts on groundwater must all be considered and analyzed.

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