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**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298

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**MITIGATION MONITORING AND  
REPORTING PROGRAM**

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**SAN DIEGO GAS & ELECTRIC COMPANY'S APPLICATION  
NO. 97-12-039 PROPOSAL FOR DIVESTITURE**

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**INTRODUCTION**

The purpose of this program is to describe the mitigation monitoring process for the project and to describe the role and responsibilities of the California Public Utilities Commission (CPUC) in ensuring the effective implementation of the mitigation measures adopted by the CPUC as part of the Mitigated Negative Declaration and Initial Study.

**California Public Utilities Commission (CPUC)**

The Public Utilities Code confers authority upon the CPUC to regulate the terms of service and safety, practices and equipment of utilities subject to its jurisdiction. It is the standard practice of the CPUC to require that mitigation measures stipulated as conditions of approval be implemented properly, monitored, and reported on. Section 21081.6 of the Public Resources Code requires a public agency to adopt a reporting and monitoring program when it adopts a mitigated negative declaration. The CPUC's adoption of the Mitigated Negative Declaration would not, in itself, adopt the mitigation measures. Only if the CPUC ultimately approves the project, and in so doing adopts the mitigation measures, would this Mitigation Monitoring and Reporting Program be implemented.

The reporting and monitoring program will also ensure that measures adopted to mitigate or avoid significant environmental impacts are implemented. The CPUC views the reporting and monitoring program as a working guide to facilitate not only the implementation of mitigation measures by the project proponents, but also the monitoring, compliance and reporting activities of the CPUC and any monitors it may designate.

**Project Description**

As part of its effort to "restructure" the state's electric utility industry, the CPUC identified the exercise of generation market power as a potential barrier to bringing competition into the state's

electric utility industry. In response to the CPUC's request, San Diego Gas & Electric Company (SDG&E) voluntarily applied to sell or "divest" the Encina and South Bay Power Plants, 17 additional combustion turbines (CTs) (the Encina and South Bay plants each have one CT as well), its 20 percent ownership interest in the San Onofre Nuclear Generating Station, the 24<sup>th</sup> Street Terminal Refueling Facility, and 11 long-term power purchase contracts as a means of reducing its market power in the electric generation marketplace in California (A.97-12-039).

In accordance with the California Environmental Quality Act (CEQA), the CPUC conducted an Initial Study of potential environmental impacts related to SDG&E's divestiture application. The CPUC used the Initial Study as a "decision point" document to determine that issuing a Mitigated Negative Declaration is the appropriate action under CEQA. Through this document, the CPUC determined that the actions taken as a result of approving SDG&E's divestiture application would have potentially significant impacts in the areas of:

- Air Quality
- Biological Resources
- Cultural Resources

In the limited instances where the environment could be potentially and significantly affected by divestiture, appropriate mitigation measures were recommended for adoption. Each of the identified impacts can be mitigated to avoid the impact or reduce it to a less than significant level.

### **Roles and Responsibilities**

As the lead agency under the California Environmental Quality Act (CEQA), the CPUC is required to monitor this project to ensure that the adopted mitigation measures are implemented effectively. The CPUC will be responsible for ensuring full compliance with the provisions of this monitoring program and has primary responsibility for implementation of the monitoring program. The purpose of this monitoring program is to document that the mitigation measures adopted by the CPUC are effectively implemented.

The CPUC has the authority to halt any activity associated with the divestiture of SDG&E's generation assets if the activity is determined to be a deviation from the approved project or adopted mitigation measures.

### **Mitigation Monitoring Table**

The table attached to this program presents a compilation of the Mitigation Measures in the Mitigated Negative Declaration. The purpose of the table is to provide a single comprehensive list of mitigation measures, effectiveness criteria, and timing.

## **Dispute Resolution Process**

The Mitigation Monitoring and Reporting Program is expected to reduce or eliminate many potential disputes. However, in the event that a dispute occurs, the following procedure will be observed:

Step 1: Disputes and complaints (including those of the public) shall be directed first to the CPUC's designated Project Manager for resolution. The Project Manager will attempt to resolve the dispute.

Step 2: Should this informal process fail, the CPUC Project Manager may initiate enforcement or compliance action to address the deviation from the proposed project or adopted Mitigation Monitoring and Reporting Program.

Step 3: If a dispute or complaint regarding the implementation or evaluation of the Mitigation Monitoring and Reporting Program or the Mitigation Measures cannot be resolved informally or through enforcement or compliance action by the CPUC, any affected participant in the dispute or complaint may file a written "notice of dispute" with the CPUC's Executive Director. This notice shall be filed in order to resolve the dispute in a timely manner, with copies concurrently served on other affected participants. Within 10 days of receipt, the Executive Director or designee(s) shall meet or confer with the filer and other affected participants for purposes of resolving the dispute. The Executive Director shall issue an Executive Resolution describing his decision, and serve it on the filer and the other participants.

Parties may also seek review by the CPUC through existing procedures specified in the CPUC's Rules of Practice and Procedure, although a good faith effort should first be made to use the foregoing procedure.

## Mitigation Monitoring Table

Impact	Mitigation Measure	Monitoring/ Reporting Action	Effectiveness Criteria	Timing
<b>AIR QUALITY</b>				
<p>Power plant NOx emissions under the 1999 A-Max case would be 5,364 tons per year, or 3,264 tons more than that assumed by the 1998 Update of the San Diego Air Pollution District <i>Regional Air Quality Strategy</i>. Given the extent to which 1999 A-Max NOx emissions estimates would exceed the assumptions in the 1998 Update, the project would be inconsistent with that plan; and as such, would have a significant effect. This effect would be temporary in that the boiler-specific standards would be in place by 2001 and these boiler-specific standards would reduce NOx emissions from the power plants to levels more consistent with those assumed in the plan.</p>	<p><b>4.5.a.1:</b> If, prior to the sale of either the Encina or South Bay Power Plants, SDAPCD has not adopted revisions to District Rule 69 that would extend the aggregate NOx emissions limit of 2,100 tons per year to the new owner or owners of the Encina and South Bay power plants through year 2000, then:</p> <p>To assure that NOx emissions from the electrical generating steam boiler units as operated by a new owner or owners would not significantly exceed NOx emissions that would have been generated by SDG&amp;E during the two-year period in which a new owner or owners would achieve compliance with unit-specific NOx standards, SDG&amp;E will request that SDAPCD modify the permits to operate the electrical generating steam boiler units at the Encina and South Bay Power Plants to include the following provisions:</p> <p>No person shall operate the Encina power plant unless such person has demonstrated that the aggregate annual emissions of nitrogen oxides (NOx), from all electrical generating steam boiler units at the power plant are not greater than 1,100 tons per year in calendar years 1999 and 2000, except for adjustments to allowable aggregate NOx emissions for force majeure natural gas curtailments as provided in Section (d)(4)(iv) of District Rule 69, and except as provided in Section (d)(5) of District Rule 69.</p>	<p>SDG&amp;E provides the CPUC mitigation monitor with a copy of either the revised Rule 69 or the modified permits to operate.</p>	<p>Documentation of delivery to the CPUC of revised Rule 69 or the modified permit to operate.</p>	<p>At least 10 business days prior to the transfer of title.</p>

Impact	Mitigation Measure	Monitoring/ Reporting Action	Effectiveness Criteria	Timing
<b>AIR QUALITY (cont.)</b>				
	<p>No person shall operate the South Bay power plant unless such person has demonstrated that the aggregate annual emissions of nitrogen oxides (NO<sub>x</sub>), from all electrical generating steam boiler units at the power plant are not greater than 1,000 tons per year in calendar years 1999 and 2000, except for adjustments to allowable aggregate NO<sub>x</sub> emissions for force majeure natural gas curtailments as provided in Section (d)(4)(iv) of District Rule 69, and except as provided in Section (d)(5) of District Rule 69.</p> <p>The transfer of title for the Encina and South Bay Power Plants will not occur until the plants' permits to operate have been modified in the manner described above.</p>			
<p>After calendar year 2000, under new ownership, an aggregate annual emissions limit for NO<sub>x</sub> would no longer apply and instead boiler-specific NO<sub>x</sub> emissions standards of 0.15 pound per megawatt-hour when burning natural gas and 0.40 pound per megawatt-hour when burning fuel oil, averaged over each calendar day, would apply. A possibility remains under a future low-cost fuel oil condition that new owners could burn large amounts of fuel oil. Although these levels are not expected to reach health risk significance thresholds, mitigation measures can limit this type of activity.</p>	<p><b>4.5.b.1:</b> If, prior to the sale of either the Encina or South Bay Power Plants, SDAPCD has not adopted revisions to District Rule 69 that would broaden the current restriction on fuel oil firing, then:</p> <p>To assure that health risks associated with emissions from the electrical generating steam boiler units as operated by a new owner(s) would not significantly exceed the risks from those units as operated by SDG&amp;E, SDG&amp;E will request that SDAPCD modify the permits to operate the electrical generating steam boiler units at the Encina and South Bay Power Plants to include the following provisions:</p> <p>A person shall not fire an electric power generating steam boiler at the Encina power plant with non-gaseous fuel after</p>	<p>SDG&amp;E provides the CPUC mitigation monitor with a copy of the modified permits to operate.</p>	<p>Documentation of delivery to the CPUC of the modified permit to operate.</p>	<p>At least 10 business days prior to the transfer of title.</p>

Impact	Mitigation Measure	Monitoring/ Reporting Action	Effectiveness Criteria	Timing
<b>AIR QUALITY (cont.)</b>				
	<p>January 1, 2001, unless gaseous fuel is not available because of a force majeure natural gas curtailment as defined in Section (c)(8) of District Rule 69.</p> <p>A person shall not fire an electric power generating steam boiler at the South Bay power plant with non-gaseous fuel after January 1, 2001, unless gaseous fuel is not available because of a force majeure natural gas curtailment as defined in Section (c)(8) of District Rule 69.</p> <p>The transfer of title for the Encina and South Bay Power Plants will not occur until the plants' permits to operate have been modified in the manner described above.</p>			
<b>BIOLOGICAL RESOURCES</b>				
<p>The Natural Communities Conservation Plan (NCCP) provides SDG&amp;E with a FESA Section 10(a) permit, which authorizes the incidental take of listed species if such take occurs during otherwise lawful activities. Although SDG&amp;E may assign its rights, interests, and/or obligations under the NCCP to a new owner, it does not have the power to assign its Section 10(a) permit to the new owner(s). The latter may obtain a new incidental take permit on the basis of the NCCP and Implementing Agreement upon satisfaction of the following requirements (SDG&amp;E, 1995b):</p> <ul style="list-style-type: none"> <li>• USFWS and CDFG approval.</li> <li>• Filing of an application for an incidental take permit by the assignee.</li> </ul>	<p><b>4.7.a.1:</b> Prior to the sale of any SDG&amp;E facility, the new owner(s) shall apply to the USFWS, CDFG, and other agencies for the reissuance of all non-transferable permits (e.g., FESA Section 10(a)) that are applicable to that facility, and will agree in writing to the respective regulatory agencies to abide by the provisions and requirements of the current permits in the interim.</p>	<p>SDG&amp;E will submit copies to the CPUC of requests for reissuance of all pertinent permits from the respective regulatory agencies and a written commitment by the new owner(s) to abide by the existing permit conditions prior to reissuance.</p>	<p>Documentation of delivery to the CPUC requests for reissuance of all pertinent permits from the respective regulatory agencies and a written commitment by the new owner(s) to abide by the existing permit conditions prior to reissuance.</p>	<p>At least five business days prior to transfer of title of the plant(s).</p>

Impact	Mitigation Measure	Monitoring/ Reporting Action	Effectiveness Criteria	Timing
<b>BIOLOGICAL RESOURCES (cont.)</b>				
<ul style="list-style-type: none"> <li>USFWS determination that the assignee is qualified to hold a permit.</li> <li>USFWS determination that SDG&amp;E is in full compliance with its permits.</li> </ul>				
<p>Should SDG&amp;E not assign, in part or whole, its rights, interests, and/or obligations under the NCCP to a new purchaser, or should the new owner(s) not obtain a new incidental take permit, the new owner(s) would be subject to take prohibitions under FESA/CESA and subsequent separate review of actions. Any unauthorized "take" of a listed species would constitute a significant impact.</p>	<p><b>4.7.a.2:</b> SDG&amp;E shall assign, and the assignee shall accept through affidavit, the following permits and agreements: oil spill contingency plans, current dredging permits, and NCCPs.</p>	<p>SDG&amp;E will provide the CPUC with a list of transferable permits, as well as documentation that such permits will be successfully transferred concurrent with the transfer of title of the plant(s).</p>	<p>Documentation of delivery to the CPUC of list of transferable permits, as well as documentation that such permits will be successfully transferred concurrent with the transfer of title of the plant(s).</p>	<p>At least five business days prior to transfer of title of the plant(s).</p>
<p>Access to California least tern nesting sites in the Chula Vista Wildlife Reserve is currently being controlled and limited by SDG&amp;E under an informal agreement with the Chula Vista Wildlife Reserve. Failure by a new owner to implement similar access restrictions could potentially result in increased human disturbance of the terns, constituting a significant impact on that species.</p>	<p><b>4.7.a.3:</b> The new owner(s) of the South Bay Power Plant shall enter into a formal agreement with the Chula Vista Wildlife Reserve to limit access to California least tern nesting sites on the portions of the cooling water dike falling within the Chula Vista Wildlife Reserve.</p>	<p>A copy of the access limitation agreement with the Chula Vista Wildlife Reserve regarding the Chula Vista Wildlife Reserve was provided to the CPUC.</p>	<p>Documentation that a copy of the agreement with the Chula Vista Wildlife Reserve regarding the Chula Vista Wildlife Reserve will be provided to the CPUC.</p>	<p>At least five business days prior to transfer of title of the plant(s).</p>
<p>SDG&amp;E currently has access to in-house biological and regulatory experts familiar with individual sites and the unique context of environmental protection at power stations. Important species and habitats in the vicinity of the project sites could be threatened in the future if new owners were unaware of the presence and sensitivity of such biological resources. This could be a significant impact.</p>	<p><b>4.7.a.4:</b> SDG&amp;E shall provide each new owner with all available information on special status species and habitat, as well as training documents regarding biological resources at the respective facilities. This will assist new owners in knowing the location of special status species and habitats, and in meeting their legal obligations regarding endangered, threatened, or rare species or their habitats.</p>	<p>SDG&amp;E will provide the CPUC mitigation monitor with disclosure forms signed by the new owner listing documents received to accomplish this condition.</p>	<p>Documentation of delivery to the CPUC mitigation monitor the disclosure forms signed by the new owner listing documents received to accomplish this condition.</p>	<p>At least five business days prior to transfer of title of the plant(s)</p>

Impact	Mitigation Measure	Monitoring/ Reporting Action	Effectiveness Criteria	Timing
<b>CULTURAL RESOURCES</b>				
<p>Although major construction or earthmoving activities would not occur as a result of the project, fencing may be constructed to separate divested properties from retained properties, and soil remediation activities may occur. Therefore, without mitigation, the project may have the potential to impact archaeological resources at the Encina and South Bay Power Plants and at the Division Substation and Naval Station CT facilities.</p>	<p><b>4.14.b.1:</b> SDG&amp;E shall prepare and certify its intent to comply with a program to address potential impacts to archaeological resources from SDG&amp;E actions related to the divestiture, such as soil remediation activities or minor construction to separate the properties. The program shall include provisions in SDG&amp;E construction documents and protocols for coordination with appropriate resource agencies. The program shall at a minimum include the following provisions:</p> <p>A qualified archaeologist shall monitor all earthmoving and soil remediation activities at the Encina and South Bay Power Plants and at the Division Substation and Naval Station CT facilities. The monitoring shall be consistent with relevant federal, state, and local guidelines. If previously unrecorded resources are discovered during any phase of construction or remediation, the monitor shall temporarily redirect construction to other areas and shall evaluate the resource's significance. If the resource is significant, data collection, excavation, or other standard archaeological or historical procedures shall be implemented to mitigate impacts, according to the archaeologist's direction. If human remains are encountered, the archaeologist shall contact the appropriate County Coroner immediately and security measures shall be implemented to ensure that burials are not vandalized until the decision of burial deposition has been made pursuant to California law. If human remains</p>	<p>The CPUC mitigation monitor's approval of SDG&amp;E's archaeological mitigation program and any subsequent reports.</p>	<p>Documentation of delivery to CPUC mitigation monitor all archaeological information.</p>	<p>At least 30 business days prior to transfer of ownership of the Encina and South Bay Power Plants and at the Division Substation and Naval Station CT facilities.</p>



Impact	Mitigation Measure	Monitoring/ Reporting Action	Effectiveness Criteria	Timing
<b>CULTURAL RESOURCES (cont.)</b>				
	are determined to be Native American interments, the Coroner shall contact the Native American Heritage Commission for determination as to reburial of remains. A report evaluating the find and identifying mitigation actions shall be submitted by the archaeologist to the California Public Utilities Commission (CPUC).			
An extensive record of buried prehistoric archaeological deposits exists for properties adjacent to, and in the vicinity of, the South Bay Power Plant and for the CT facilities at the Division Substation and Naval Station. It is not entirely clear whether these properties at the Division Substation and Naval Station have been completely surveyed for surface archaeological discoveries. Thus, the possibility for buried cultural deposits cannot be entirely ruled out.	<b>4.14.b.2:</b> SDG&E shall provide the new owner(s) of the Encina and South Bay Power Plants and the Division Substation and Naval Station CT facilities with SDG&E's archaeological resource informational materials and any training documents concerning the generating facilities. This measure will inform the new owner(s) of the locations of such resources and of their legal obligations regarding preservation of these resources.	SDG&E will provide the CPUC mitigation monitor with a disclosure form signed by the new owner and listing documents received to accomplish this action. A disclosure form will be provided for each specified generating facility.	Documentation of providing the CPUC mitigation monitor with a disclosure form signed by the new owner of each specified generating facility and listing documents received to accomplish this action.	At least 10 business days prior to the transfer of title for each generating facility.