

SYCAMORE-PEÑASQUITOS 230kV TRANSMISSION LINE PROJECT

SAN DIEGO GAS & ELECTRIC COMPANY'S COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT REPORT

San Diego Gas & Electric Company (“SDG&E”) appreciates the opportunity to provide comments to the California Public Utilities Commission (“CPUC”) on the Draft Environmental Impact Report (“DEIR”) for the Sycamore Peñasquitos 230kV Transmission Line Project (“Proposed Project”).

Several of SDG&E’s comments address important legal issues, including the selection of alternatives, assessment of significant impacts, and imposition of mitigation measures. SDG&E requests that the CPUC incorporate the following information into the Final Environmental Impact Report (“FEIR”).

SDG&E’s Proposed Project would construct a new 230kV transmission line between the existing Sycamore Canyon Substation and the existing Peñasquitos Substation. DEIR p.2-2. The Proposed Project would include four electric transmission segments.

- Segment A (Sycamore Canyon Substation to Carmel Valley Road) would involve building approximately 8.31 miles of new 230kV overhead transmission and communication lines and relocating existing transmission lines and underground connections. *Id.*
- Segment B (Carmel Valley Road) would involve building approximately 2.84 miles of new 230kV underground transmission lines with fiber optic cable, with a cable pole at either end of Segment B. DEIR p. 2-3.
- Segment C (Carmel Valley Road to Peñasquitos Junction) would involve installing approximately 2.19 miles of new 230kV overhead conductor on existing steel lattice structures, reconductoring and consolidating two existing 230kV lines on the same structures, and replacing communication line. DEIR p. 2-3.
- Segment D (Peñasquitos Junction to Peñasquitos Substation) would involve installing approximately 3.34 miles of new 230kV overhead conductor on existing lattice towers, reconductoring and consolidating two existing 69kV power lines onto new structures, and replacing communication line. *Id.*
- In addition to these transmission segments, the Proposed Project would also include modifications at five existing substations (Sycamore Canyon, Peñasquitos, Chicarita, San Luis Rey, and Mission) and minor modifications to existing transmission line facilities. DEIR p. 2-4.

The CPUC has articulated alternatives to the Proposed Project that would connect the Sycamore Substation to the Peñasquitos Substation in a different manner than the Proposed Project would connect those substations. The California Independent System Operator (“CAISO”) has previously determined that a 230kV transmission line connecting Sycamore to Peñasquitos is necessary. SDG&E has conducted preliminary evaluations of Alternatives 3, 4, and 5 and determined that any of them (or the 3/4 combination), or the cable pole alternatives (Alternatives 1, 2a, and 2b) would most likely be feasible and achieve the project objectives, with certain modifications, all as discussed in greater detail in Section I, below.

Regardless of the alternative that is ultimately selected, SDG&E requests the following revisions to certain impact analyses in alignment with the California Environmental Quality Act (“CEQA”), as explained in Section II, below. First, SDG&E plans to rely on the SDG&E Subregional Natural Community Conservation Plan (“NCCP”) with regard to construction, operation, and maintenance impacts on biological resources. Second, certain mitigation measures should be revised to ensure that they are feasible, proportionate, and consistent with existing requirements. Third, the impact analyses and significance thresholds that the CPUC uses to evaluate impacts should align with CEQA. Fourth, the CPUC should not require duplicative and potentially inconsistent review and approval of the Proposed Project. SDG&E also requests that certain inaccuracies in the DEIR be corrected in the FEIR, as set forth in the attached charts of proposed line revisions.

This comment letter, the Detailed Comment Table (Attachment A), and the other attached materials more fully describe SDG&E’s concerns and include proposed modifications to the mitigation measures and DEIR to address these concerns. SDG&E believes that none of the information in these comments would trigger recirculation of the DEIR. SDG&E appreciates the CPUC’s review and consideration of these comments and looks forward to working with the CPUC in furtherance of this important project.

I. Comments on Alternatives to the Proposed Project.

The Proposed Project was part of the CAISO’s competitive solicitation process because the project was deemed to be a reliability driven project with policy benefits. SDG&E proposed a project to the CAISO that balanced environmental impacts, cost, schedule, and community impacts, among other considerations. The CAISO selected SDG&E as the Project Sponsor. SDG&E believes that the CAISO decision was based, in part, on the balance of factors which would contribute to a successful project.

SDG&E is pleased that, as indicated by the project objectives, the CPUC’s Energy Division concurs with the CAISO that a new 230kV transmission line connecting Sycamore Canyon Substation to Peñasquitos Substation is necessary, as indicated. DEIR p. ES-8. It appears that all of the retained alternatives that were analyzed in the DEIR, with the exception of the No Project Alternative, meet the basic objectives of the Proposed Project. Moreover, based on SDG&E’s review of the project alternatives analyzed in the DEIR, SDG&E currently believes all of the alternatives should be considered feasible as long as certain issues identified herein are addressed and key assumptions hold true.

SDG&E has reviewed the alternatives that the CPUC articulated and analyzed in the DEIR. SDG&E's review focused on CEQA and overall company, CAISO and state-mandated factors including feasibility, schedule and costs. SDG&E believes the Commission should be aware of this relevant information before it makes a decision on this critical reliability project.

It is useful for this discussion to reiterate the CAISO's requirements for the project's in-service date. The CAISO has determined that the project must be in service by May 2017. This has been a functional specification for the project since the competitive bidding process. It is SDG&E's understanding that this in-service date is necessary for the CAISO's planning processes and therefore, meeting the in-service date falls under the CPUC's own Project Objective 1, which focuses on meeting CAISO planning criteria for system reliability. *See*, DEIR p. ES-8.

The following sections outline issues related to feasibility, schedule, and cost for the Proposed Project, Alternative 5, a combination of Alternatives 3 and 4 ("Alternative 3/4"), Alternative 4, the cable pole alternatives, and the No Project Alternative. These issues for the CPUC's consideration are based on the information contained in the DEIR and current conditions, as well as preliminary designs for the alternatives.

A. Proposed Project

As outlined more fully below, the Proposed Project: (1) could be located adjacent to another project; (2) should be able to use the NCCP; (3) could create significant impacts in the Coastal Zone; (4) would require only minor design refinements; (5) could be constructed within the CAISO's original schedule (depending upon the CPCN process); and (6) would have the lowest cost among the retained alternatives. The costs and schedule would be affected if the NCCP could not be relied upon.

Nearby Project. Since the DEIR was released, SDG&E and Southern California Gas filed a CPCN for the Pipeline Safety and Reliability Project ("PSRP"). SDG&E notes that the Proposed Project would overlap with the PSRP Option 1 for approximately 0.21 miles. Preliminary constructability review suggests that both projects can be accommodated.

NCCP. The DEIR indicates that the CPUC is uncertain whether SDG&E will be able to rely on the NCCP for take coverage for the Proposed Project. *See*, DEIR p. 4.1-42.¹ If SDG&E cannot rely on the NCCP or an amended NCCP for take coverage, then it would need to apply for and obtain incidental take permits from the California Department of Fish and Wildlife and the United States Fish and Wildlife Service (together referred to as the "Wildlife Agencies"). These processes are lengthy, and could delay the process by between 2 and 5 years. This, in turn, would delay construction of the Proposed Project such that it would not be possible to meet the CAISO's in-service date requirements in 2017.

¹ SDG&E strongly objects to this, as explained in detail below.

Coastal Commission. It is SDG&E's understanding that the California Coastal Commission has recently indicated that it would prefer SDG&E to pursue an alternative that would have fewer impacts in the Coastal Zone than would the Proposed Project. This could affect the feasibility of the Proposed Project. SDG&E respectfully requests that the CPUC consider any comments from the Coastal Commission.

Minor Design Revisions. If the CPUC determined to approve the Proposed Project, SDG&E would respectfully request a few minor design revisions, all as more particularly described in Attachment B, "Minor Design Refinements." When SDG&E's engineering team continued final design of the grading plans, they identified opportunities to optimize previously identified access (spur roads), work pads, and retaining wall configurations with minor design refinements. Together, these refinements are anticipated to reduce the overall impacts to habitat for biological resources by about an acre.

Project Schedule. The design for the Proposed Project is nearly complete, so minimal additional design would be required prior to construction. Construction of overhead lines, like those comprising most of the Proposed Project, typically proceeds more quickly than underground construction. For these reasons, the Proposed Project would meet the CAISO in-service date requirement of May 2017.²

Estimated Costs. The cost estimate for the Proposed Project is approximately \$134.5 million. This includes the use of existing rights-of-way and franchise rights so that SDG&E does not incur the costs of acquiring additional land and limits the need for additional access road construction. This estimate also includes the use of existing utility infrastructure, which avoids costs associated with installing new structures. Finally, overhead construction is less expensive per mile than is underground construction. Because the Proposed Project has the smallest proportion of underground construction, it minimizes the overall per mile costs.

It should be noted that specific environmental issues and mitigation measures could significantly impact the Proposed Project's cost estimate. If SDG&E cannot rely on the NCCP or an amended NCCP, the additional permitting for incidental take coverage and the acquisition costs for mitigation could cost approximately \$3.9 million. Mitigation Measure Biology-7 regarding nesting birds, as written in the DEIR, would increase the estimated cost by approximately \$1.9 million. *See* Comment #91.³ Furthermore, certain other mitigation measures would also increase costs.

² This schedule assumes that the final CPCN and Notice to Proceed are obtained no later than June 2016 and that the project can rely on the NCCP for incidental take coverage. If the Project cannot rely upon the NCCP, the schedule would be extended by 2 to 5 years.

³ References to comment numbers herein refer to the row numbers in the Detailed Comment Table, attached hereto as Attachment A.

B. Alternative 5.

Although SDG&E anticipates that Alternative 5 is likely to be feasible from a technical and legal perspective, the company has identified a few factors that would need to be resolved in order to facilitate such feasibility. These include transmission planning issues (NERC compliance), design, the existing structural adequacy of existing TL 23013 structures, and working with Caltrans regarding the crossing of Interstate 15 (“I-15”).

As identified in the DEIR, Alternative 5 is the environmentally superior alternative. As outlined more fully below, it (1) presents some transmission planning issues to be resolved, (2) should be able to use the NCCP, (3) would create the fewest potential impacts in the Coastal Zone of any retained alternative, and (4) could benefit from minor design refinements. However, Alternative 5 could not be constructed within the CAISO’s original schedule, and would have the highest cost among the retained alternatives. The costs and schedule would be further affected if the NCCP could not be relied upon.

Transmission Planning Issues. Although Alternative 5 is generally feasible, it raises a few transmission planning concerns. The DEIR articulates CPUC Project Objectives 1 and 2 as follows:

CPUC Project Objective 1: Maintain long-term grid reliability in the absence of San Onofre Nuclear Generating System generation

CPUC Project Objective 2: Deliver energy more efficiently to the load center in San Diego

DEIR p. ES-78.

Alternative 5 generally meets these objectives. However, Alternative 5 differs in some significant ways from the Proposed Project, and those differences have potential reliability impacts that should be considered before a final route is selected.

This alternative, as configured in the DEIR, would install a section of the new Proposed Project’s 230kV line on existing structures for approximately two miles south of Peñasquitos Substation. The other line occupying this structure line is TL23013, which connects Peñasquitos and Old Town Substations. The concurrent outage of the Proposed Project and TL23013, under the system configuration proposed by SDG&E, would result in an overload of TL13810, an existing 138kV circuit connecting Peñasquitos and Friars Substation. The CAISO has approved a project (Mission-Peñasquitos (“MS-PQ”) 230kV line) in the CAISO’s 2014/2015 planning cycle to mitigate multiple post-contingency overloads, including this one, and to meet the CAISO’s planning standard for avoiding load shed in dense urban areas. Under the configuration as proposed by SDG&E, the combined outages of the Proposed Project and TL23013 is a non-simultaneous, or N-1-1 contingency, as there are no common structures and thus no common mode of failure. NERC planning criteria allows for the assumption of operator intervention between the loss of each transmission line, permitting generation adjustments after the first contingency to prevent the second contingency from causing a thermal violation.

In contrast, the Alternative 5 configuration would place both 230kV lines on common structures, thus creating the possibility of a common-mode failure and changing the concurrent outage of both lines from an N-1-1 event to an N-2, or simultaneous, event. This is a more severe contingency, and does not permit the assumption of operator intervention to mitigate potential overloads. SDG&E performed a brief load flow analysis and determined that an overload of approximately 108% of the emergency rating would occur on TL13810 for this N-2 contingency in 2019. SDG&E also confirmed that the system can be readjusted as a temporary measure until the approved MS-PQ project is complete and in service.

Thus, in order to fully meet the project objectives, one of the following strategies would be required if the Alternative 5 route is constructed until the completion of the permanent mitigation in the form of the MS-PQ 230kV transmission line:

- 1) Limiting import and adjusting San Diego generation so as to prevent the post-contingency overload of TL13810 following the N-2 contingency. This would prevent the thermal violation on TL13810, but would increase the risk of requiring a non-economic dispatch across many hours, potentially resulting in significant congestion costs and partially defeating the purpose of the Proposed Project's new 230kV line.
- 2) Installation of a system protection scheme (or SPS) to shed load following the N-2 contingency until the MS-PQ 230kV project is in service. This strategy would also prevent the thermal violation on TL13810, but would increase the risk of load shedding in a densely populated urban area.

It would be necessary to address this thermal violation (also known as a "NERC violation") as soon as Alternative 5 goes into service in order to realize the benefits of the Proposed Project and meet the project objectives. A similar mitigation would also be required for the Proposed Project as proposed by SDG&E; however, that mitigation would simply be to readjust generation and import following the first N-1 contingency, which would limit the re-dispatch and congestion costs to only a few hours per year. Ratepayers would then immediately realize the benefits of the Proposed Project.

Nearby Project. Since the DEIR was released, SDG&E and Southern California Gas filed a CPCN for the Pipeline Safety and Reliability Project ("PSRP"). SDG&E notes that the proposed PSRP route would overlap with Alternative 5 for approximately 3.2 miles. Preliminary constructability review suggests that both projects can be accommodated.

NCCP. The DEIR indicates that the CPUC is uncertain whether SDG&E will be able to rely on the NCCP for take coverage for the Proposed Project. *See*, DEIR p. 4.1-42.⁴ SDG&E and the Wildlife Agencies have calculated that there is sufficient take coverage remaining under the NCCP to pursue the Proposed Project, and even if there were not, there would certainly be enough take coverage remaining to cover Alternative 5, which would have a much smaller effect on biological resources than the Proposed Project. DEIR p. 6-23. If, however, SDG&E cannot rely on the NCCP or an amended NCCP for take coverage, then it would need to apply for and obtain incidental take permits from the Wildlife Agencies. These processes are lengthy, and can take between 2 and 5 years, thereby delaying construction even further beyond the CAISO's in-service date requirements in 2017.

Coastal Commission. SDG&E understands that the Coastal Commission has indicated that Alternative 5 is its preferred alternative to the Proposed Project. The Coastal Commission believes that Alternative 5 minimizes adverse impacts to coastal resources. This could affect the feasibility of Alternative 5 relative to other alternatives. SDG&E respectfully requests that the CPUC consider any comments from the Coastal Commission.

Caltrans Approval. With regard to crossing I-15 (Alternative 5), it may be difficult, if not impossible, to obtain Caltrans approval for the 4-pole design that places structures within the "clover" portion of the on-ramp/off-ramp. SDG&E has suggested alternative options for the Alternative 5 crossing of the I-15 that are considered more likely to obtain Caltrans approval. These options are further described in Attachment B.

Minor Design Revisions. SDG&E would respectfully request a few minor design revisions, all as more particularly described in Attachment B, if the CPUC determines to approve Alternative 5. The engineering team has identified opportunities to shift certain cable poles to more optimum locations. With regard to crossing I-15, it appears that it may be feasible to construct the crossing underground through vacant cells in the Pomerado/Miramar Bridge that spans over the I-15. Alternatively, there is a way to design the I-15 crossing with potentially only two structures, rather than the four structures currently included within Alternative 5, which would avoid putting permanent structures in Caltrans right-of-way. SDG&E believes that these refinements would improve the likelihood of Caltrans approval for the crossing and would reduce the permanent visual impact from new overhead structures. SDG&E suggests these crossing options be included within the Final EIR as the preferred I-15 crossings for Alternative 5. The underground crossing through the bridge would result in less impacts to biological and visual resources than the current design within the DEIR.

Project Schedule. Approving Alternative 5 would likely cause an approximate 10-16 month delay in the project in-service date. Alternative 5 would need to be fully designed and engineered, which is anticipated to take 8 to 10 months to complete. It would also require additional pre-construction work, including potholing, before construction could begin. Once construction began, it would take longer than constructing the Proposed Project would because it generally takes longer to construct underground transmission lines than it does overhead lines. There are a couple of additional permitting requirements that would need to be met with

⁴ SDG&E strongly objects to this, as explained in detail below.

Alternative 5, including a Caltrans permit for the I-15 crossing and potential City of San Diego requirements for construction in the public right of way. Together, these factors combine to create a strong likelihood that Alternative 5 could not be constructed before the CAISO in-service date of May 2017.⁵

Estimated Costs. The cost estimate for Alternative 5 is approximately \$259.7 million. The cost of this alternative is therefore significantly higher than the Proposed Project primarily because it significantly increases the proportion of underground construction for the new 230kV transmission line and is the longest undergrounding route among the retained alternatives.

It should be noted that specific environmental issues and mitigation measures could impact Alternative 5's cost estimate beyond the amounts estimated herein. If SDG&E is not allowed to rely upon the NCCP, the additional permitting for incidental take coverage and the acquisition costs for mitigation could cost approximately \$2.1 million. Mitigation Measure Biology-7 regarding nesting birds, as written in the DEIR, would increase the estimated cost by about \$0.9 million. *See* Comment #91. Furthermore, certain other mitigation measures would also increase costs.

C. Alternative 3/4.

SDG&E anticipates that the combination of Alternative 3 and 4 ("Alternative 3/4") is likely to be feasible from a constructability and legal perspective. However, Alternative 3/4 could not be constructed within the CAISO's original schedule, and would have the second highest cost among the retained alternatives. The costs and schedule would be further affected if the NCCP could not be relied upon.

Nearby Project. Since the DEIR was released, SDG&E and Southern California Gas filed a CPCN for the Pipeline Safety and Reliability Project ("PSRP"). SDG&E notes that the first alternative to the proposed PSRP route would overlap with Alternative 3/4 for approximately 0.7 miles. Preliminary constructability review suggests that both projects can be accommodated.

NCCP. The DEIR indicates that the CPUC is uncertain whether SDG&E will be able to rely on the NCCP for take coverage for the Proposed Project. *See*, DEIR p. 4.1-42.⁶ SDG&E has calculated that there is sufficient take coverage remaining under the NCCP to pursue the Proposed Project, and even if there were not, there would certainly be enough take coverage remaining to cover Alternative 3/4, which would have a smaller effect on biological resources than the Proposed Project. DEIR p. 6-14, -18. If, however, SDG&E cannot rely on the NCCP or

⁵ This schedule is based upon a number of key assumptions: 1) SDG&E begins engineering in December of 2015, 2) SDG&E is able to obtain timely approval from other key agencies including Caltrans and the California Coastal Commission, 3) the CPUC approves the CPCN and SDG&E receives the Notice to Proceed no later than June of 2016, and 4) assumes that the project can rely on the NCCP for incidental take coverage. If the Project cannot rely upon the NCCP, the schedule would be extended by 2 to 5 years.

⁶ SDG&E strongly objects to this conclusion as explained in detail below.

an amended NCCP for take coverage, then it would need to apply for and obtain incidental take permits from the Wildlife Agencies. These processes are lengthy, and can take between 2 and 5 years, thereby delaying construction beyond the CAISO's in-service date requirements in 2017.

Coastal Commission. SDG&E understands that the Coastal Commission has indicated that Alternative 4 (and therefore also Alternative 3/4) would be more protective of coastal resources than the Proposed Project, but less protective than Alternative 5. This could affect the feasibility of Alternative 3/4 relative to other alternatives. SDG&E respectfully requests that the CPUC consider any comments from the Coastal Commission.

Minor Design Revisions. SDG&E would respectfully request a few minor design revisions, all as more particularly described in Attachment B, if the CPUC determines to approve Alternative 3/4. The engineering team has identified opportunities to shift certain cable poles to more optimum locations to reduce the amount of work required to construct the project.

Mitigation Measure Air-5. The CPUC has drafted Mitigation Measure Air-5 to address potential air quality impacts associated with simultaneous underground construction of the 230kV underground duct bank with the 69kV underground duct bank. DEIR p. 4.13-51. As currently written, this mitigation measure would add approximately 6 months to the construction schedule, thereby delaying project completion beyond the CAISO in-service date. If the project cannot be completed within the CAISO timeline, then it does not meet the CPUC's own Objective 1 focuses on meeting CAISO planning criteria for system reliability. DEIR p. ES-8. SDG&E respectfully requests that if the CPUC determines to approve Alternative 3/4, then it revise Mitigation Measure Air-5 as specified in Comment #202, allowing simultaneous underground construction so long as it would not result in an exceedance of emission thresholds⁷.

Project Schedule. Approving Alternative 3/4 would likely cause an approximately 6 - 9 month delay in the project in-service date. Alternative 3/4 would need to be fully designed and engineered, which SDG&E anticipates would take approximately 8 to 10 months to complete. It would also require additional pre-construction work, including potholing, before construction could begin. Once construction began, it would take longer than constructing the Proposed Project would because it generally takes longer to construct underground than it does overhead. There are a couple of additional permitting requirements that would need to be met with Alternative 3/4, including a Caltrans permit and potential City of San Diego requirements for construction in the public right of way. Together, these factors combine to create a strong likelihood that Alternative 3/4 could not be constructed before the CAISO in-service date of May 2017. The schedule problems would be exacerbated if the CPUC does not revise Mitigation Measure Air-5, as recommended above.⁸

⁷ While SDG&E has not analyzed potential construction phasing for this alternative, SDG&E has assumed that implementation of a revised Mitigation Measure Air-5 could potentially reduce the delay by half (i.e. 3 months).

⁸ This schedule is based upon a number of key assumptions: 1) SDG&E begins engineering in December of 2015, 2) SDG&E is able to obtain timely approval from other key agencies including Caltrans and the California Coastal Commission, 3) the CPUC approves the CPCN and SDG&E receives the Notice to Proceed no later than June of

Estimated Costs. The cost estimate for Alternative 3/4 is approximately \$223.3 million. This alternative is significantly higher than the Proposed Project and less than Alternative 5 primarily because it has the second longest underground segment among the retained alternatives.

It should be noted that specific environmental issues and mitigation measures could impact Alternative 3/4's cost estimate beyond the amounts estimated herein. If SDG&E cannot use the NCCP or an amended NCCP, the additional permitting for incidental take coverage and the acquisition costs for mitigation could cost approximately \$2.6 million. Mitigation Measure Biology-7 regarding nesting birds, as written in the DEIR, would increase the estimated cost by about \$1.1 million. *See* Comment #91. Furthermore, certain other mitigation measures would also increase costs.

D. Alternative 4.

SDG&E anticipates that Alternative 4 is likely to be feasible. As outlined more fully below, Alternative 4 reduces additional costs more than the Alternative 3/4, but does not reduce potential environmental impacts as much as the Alternative 3/4. Alternative 4 could not be constructed within the CAISO's original schedule, and would have the third highest cost among the retained alternatives. The costs and schedule would be further affected if the NCCP could not be relied upon.

NCCP. The DEIR indicates that the CPUC is uncertain whether SDG&E will be able to rely on the NCCP for take coverage for the Proposed Project. *See*, DEIR p. 4.1-42.⁹ If SDG&E cannot rely on the NCCP or an amended NCCP for take coverage, then it will need to apply for and obtain incidental take permits from the Wildlife Agencies. These processes are lengthy, and can take between 2 and 5 years, thereby delaying construction beyond the CAISO's in-service date requirements in 2017.

Coastal Commission. SDG&E understands that the Coastal Commission has indicated that Alternative 4 would be more protective of coastal resources than the Proposed Project, but less protective than Alternative 5. This could affect the feasibility of Alternative 4. SDG&E respectfully requests that the CPUC consider any comments from the Coastal Commission.

Mitigation Measure Air-5. The CPUC has drafted Mitigation Measure Air-5 to address potential air quality impacts associated with simultaneous underground construction of the 230kV underground duct bank with the 69kV underground duct bank. DEIR p. 4.13-51. As currently written, this mitigation measure would add approximately 6 months to the construction schedule, thereby delaying project completion beyond the CAISO in-service date. If the project cannot be completed within the CAISO timeline, then it does not meet the CPUC's own Objective 1 focuses on meeting CAISO planning criteria for system reliability. DEIR p. ES-8.

2016, 4) revision of Mitigation Measure Air-5 allows for a shortened schedule (3 month delay); and 5) that the project can rely on the NCCP for incidental take coverage. If the Project cannot rely upon the NCCP, the schedule would be extended by 2 to 5 years.

⁹ SDG&E strongly objects to this conclusion as explained in detail below.

Mitigation Measure Air-5 as specified in Comment #202, allowing simultaneous underground construction so long as it would not result in an exceedance of emission thresholds¹⁰.

Project Schedule. Approving Alternative 4 would likely cause an approximately 4 - 7 month delay in the project in-service date. Alternative 4 would need to be fully designed and engineered. It would also require significant pre-construction work, including potholing, before construction could begin. Once construction began, it would take longer than constructing the Proposed Project would because it generally takes longer to construct underground than it does overhead. There is the potential for additional City of San Diego requirements for construction in the public right of way. Together, these factors combine to create a strong likelihood that Alternative 4 could not be constructed before the CAISO in-service date of May 2017. The schedule problems would be exacerbated if the CPUC did not revise Mitigation Measure Air-5, as recommended above.¹¹

Estimated Costs. The cost estimate for Alternative 4 is approximately \$208.6 million. This alternative is significantly higher than the Proposed Project and less than Alternative 3/4. Alternative 4 of the DEIR includes a very similar route to the Proposed Project with the exception of the last segment into Peñasquitos Substation. Alternative 4 proposes to take both existing 69kV lines from overhead to underground, creating a vacant space on the existing towers and also eliminating the need to install some of the new 69kV overhead structures required under the Proposed Project. Although it typically is less expensive to underground 69kV when compared to 230kV, underground is still more expensive to underground the 69kV rather than construct it overhead. This resulted in an increased overall cost estimate when compared to the Proposed Project.

It should be noted that specific environmental issues and mitigation measures could significantly impact Alternative 4's cost estimate beyond the amounts estimated herein. If SDG&E cannot use the NCCP or an amended NCCP, the additional permitting for incidental take coverage and the acquisition costs for mitigation could cost approximately \$3.7 million. Mitigation Measure Biology-7 regarding nesting birds, as written in the DEIR, would increase the estimated cost by about approximately \$1.7 million. *See* Comment #91. Furthermore, certain other mitigation measures would also increase costs.

¹⁰ While SDG&E has not analyzed potential construction phasing for this alternative, SDG&E has assumed that implementation of a revised Mitigation Measure Air-5 could potentially reduce the delay by half (i.e. 3 months).

¹¹ This schedule is based upon a number of key assumptions: 1) SDG&E begins engineering in December of 2015, 2) SDG&E is able to obtain timely approval from the California Coastal Commission, 3) the CPUC approves the CPCN and SDG&E receives the Notice to Proceed no later than June of 2016, 4) revision of Mitigation Measure Air-5 allows for a shortened construction schedule (3 month delay); and 5) that the project can rely on the NCCP for incidental take coverage. If the Project cannot rely upon the NCCP, the schedule would be extended by 2 to 5 years.

E. Cable Pole Alternatives.

SDG&E anticipates that the cable pole alternatives (Alternatives 1, 2a, and 2b) may be feasible. They would have similar environmental impacts, schedules, and costs to the Proposed Project.

NCCP. The DEIR indicates that the CPUC is uncertain whether SDG&E will be able to rely on the NCCP for take coverage for the Proposed Project. *See*, DEIR p. 4.1-42.¹² If SDG&E cannot rely on the NCCP or an amended NCCP for take coverage, then it will need to apply for and obtain incidental take permits from the Wildlife Agencies. These processes are lengthy, and can take between 2 and 5 years, thereby delaying construction beyond the CAISO's in-service date requirements in 2017.

Land Rights. Most of the cable pole alternatives would require additional, new rights. For example, SDG&E has overhead rights within the existing corridor/right-of-way, but those existing rights would need to be amended to include underground rights in order to construct the cable pole alternatives. Additional rights would need to be acquired for the sections of underground that would go outside of the existing overhead right-of-way and to Carmel Valley Road (applicable to Alternatives 2a and 2b). Indeed, one of the original reasons for not selecting DEIR Alternatives 2a and 2b was that in order to connect the underground segment to Carmel Valley Road on the south side, SDG&E would need to acquire right-of-way from the City of San Diego, from within the Black Mountain Open Space Preserve. It is uncertain whether the City would agree to such acquisition.

Project Schedule. All of the proposed cable pole alternatives for the eastern end of Segment B of the Proposed Project would have negligible impacts on the schedule as each could slightly minimize underground lengths.¹³

Estimated Costs. All of the proposed cable pole alternatives for the eastern end of Segment B of the Proposed Project would have negligible impacts on the cost as each could slightly minimize underground lengths but conversely would require additional land rights.

F. No Project Alternative.

SDG&E disagrees with the comparison between the No Project Alternative and the Proposed Project. *See* DEIR p. 6-29. The comparison ignores the critical inquiry as to whether the No Project Alternative would meet basic project objectives. *See* CEQA Guideline §15126.6(a). Because the No Project Alternative does not meet the basic project objectives, it should not rank higher than the Proposed Project.

¹² SDG&E strongly objects to this conclusion as explained in detail below.

¹³ This schedule is based upon a number of key assumptions: 1) SDG&E is able to obtain timely approval from the California Coastal Commission, 2) the CPUC approves the CPCN and SDG&E receives the Notice to Proceed no later than June of 2016, 3) the City of San Diego approves new ROW within the Black Mountain Open Space Preserve; and 4) that the project can rely on the NCCP for incidental take coverage. If the Project cannot rely upon the NCCP, the schedule would be extended by 2 to 5 years.

II. Comments on CEQA Analysis.

SDG&E has reviewed the environmental analysis in the DEIR and offers the following comments in response.

A. SDG&E Will Comply with the NCCP to Ensure that Impacts to Covered Species Are Less than Significant.

The NCCP authorizes incidental take of covered species. The Wildlife Agencies jointly confirmed in a letter dated June 29, 2015, that sufficient take coverage under the NCCP is available for the Proposed Project. *See* Attachment C. The Wildlife Agencies based this confirmation on an independent and comprehensive audit of incidental take authorization under the NCCP, together with SDG&E's assessment of the Proposed Project's impacts to natural habitat, which was 29.4 acres.

The assessment of 29.4 acres that SDG&E provided to the Wildlife Agencies reflected project refinements that SDG&E made to reduce impacts to natural habitat relative to the impacts initially identified in the PEA. Before the DEIR's release, SDG&E also provided this assessment of 29.4 acres to the CPUC in responses to data requests.

The project refinements resulted in a reduction of impacts by more than half. Nevertheless, the DEIR states that SDG&E's compliance with the NCCP is uncertain. *See, e.g.*, DEIR pp. 4.1-34, 4.1-41 to -42. The DEIR then determines that SDG&E's Applicant Proposed Measures ("APMs"), including implementation of the NCCP in APM BIO-2, will not reduce Impact BIO-1, BIO-4, BIO-5, BIO-6, and BIO-8 to less than significant and that mitigation measures are needed to do so. *See id.* pp. 4.1-44 to 45.

SDG&E agrees with the Wildlife Agencies' confirmation about the NCCP and disagrees with the DEIR's treatment of the NCCP and APM BIO-2. SDG&E understands, however, that the CPUC must make its own determination under CEQA about the Proposed Project's impacts to biological resources. SDG&E has therefore provided clarifying information on the NCCP and APM BIO-2 below for the CPUC's consideration in preparing the FEIR.

1. SDG&E Will Implement the Operational Protocols in the NCCP Regardless of the Mechanism for Take Authorization.

First, SDG&E would like to make a clarification about the operational protocols included in APM BIO-2, which are the operational protocols identified in Section 7.1 of the NCCP. Regardless of whether sufficient take coverage under the NCCP is available for the Proposed Project, and regardless of whether SDG&E and the Wildlife Agencies amend the NCCP, SDG&E has committed to implement the operational protocols during construction and operations and maintenance of the Proposed Project to avoid and minimize impacts to biological resources.

The NCCP explains that these operational protocols “represent an environmentally sensitive approach to traditional utility construction, maintenance and repair Activities recognizing that slight adjustments in construction techniques can yield major benefits for the environment.” NCCP at p. 103. These operational protocols have effectively avoided and minimized impacts to biological resources since the NCCP’s inception in 1995. SDG&E implements these operational protocols on a wide variety of ground disturbing work, even when the work does not trigger the need for incidental take authorization under the NCCP.

Since SDG&E has committed to implementing the operational protocols during construction and operations and maintenance of the Proposed Project, mitigation measures in lieu of the operational protocols as written in APM BIO-2 are unnecessary, duplicative, and potentially contradictory. SDG&E requests that the FEIR maintain the operational protocols as written in APM BIO-2 and delete Mitigation Measures 1a, 1c, 1d, 1e, 1f and 1g and MM Biology 2, regardless of the mechanism for take authorization. SDG&E has proposed specific revisions in its comment table. *See* Comment #66.

2. SDG&E’s Assessment of Impacts to Natural Habitat Appropriately Reflects the NCCP’s Treatment of Repairs to Existing Access Roads.

The DEIR assumes that improvements to access roads would establish: (a) a minimum road width of 14 feet; and (b) a 2-foot wide buffer beyond the 14-foot width on each side of the road. *See* DEIR p. 2-37. This results in a total width of 18 feet. The DEIR also assumes that widening the access roads to 14 feet and creating a 2-foot buffer on either side of the road would create permanent impacts to natural habitat that would require mitigation. *See* DEIR p. 4.1-42.

These assumptions are flawed in two critical ways. First, the assumption of a 2-foot wide buffer on each side of the road beyond the original width of 14 feet is erroneous because SDG&E does not expect to create or use such a wide access corridor. SDG&E’s extensive experience constructing electric lines shows that this buffer is unnecessary, particularly along the entirety of the access corridor. One of the operational protocols in Section 7.1.1 of the NCCP requires SDG&E to drive in designated areas only, which would preclude using a 2-foot wide buffer on each side of the road. *See* NCCP at p. 103.

Second, the assumption that road repairs would create permanent impacts is wrong because the NCCP does not count repairs to existing access roads as new impacts to natural habitat. Instead, the NCCP recognizes that repairs have already been deducted from the impact cap and mitigated when calculating permanent impacts from establishing the existing access roads.

As the NCCP explains, the original “grading and clearing of electric substation pads, gas facilities, or access roads may result in permanent disturbance.” *Id.* at p. 76. Once these permanent impacts are deducted from the impact cap and mitigated, they should not be deducted from the impact cap and mitigated a second time.

The NCCP has therefore already accounted for repairs within the original width of 14 feet in the calculation of permanent impacts and mitigation associated with establishing the existing

access roads. The NCCP therefore does not treat repairs within the original width of existing access roads as a new impact to natural habitat. This avoids double counting under the impact cap and in the calculation of mitigation.

Treating repairs within the original width of 14 feet as new impacts to natural habitat is inconsistent with the NCCP. This treatment also disregards the confirmation by the Wildlife Agencies—the very agencies charged with compliance with the NCCP—that sufficient take coverage under the NCCP is available for the Proposed Project.

This inconsistency with the NCCP and disregard for the Wildlife Agencies’ confirmation is impermissible under the *San Diego Gas & Electric Company Subregional Natural Community Conservation Plan Implementing Agreement/CESA Memorandum of Understanding* (Implementing Agreement). See Attachment D. Section 6.3 of the Implementing Agreement states:

[The Wildlife Agencies] also agree that they will not seek to impose additional protective, mitigation or conservation measures upon SDG&E, as a result of its Activities for the protection, preservation or conservation of any Covered Species or their Habitat through any other agency which may have permitting, approval or discretionary regulatory authority over any of SDG&E’s Activities and which is not a party to this Agreement. As a responsible, trustee or cooperating agency under CEQA, NEPA, or any other wildlife protection law, [the Wildlife Agencies] will notify the lead federal or state agency that they consider *any protective, mitigation or conservation measures otherwise required for any impact to or Incidental Take of any Covered Species or their Habitat resulting from SDG&E Activities, satisfied by SDG&E’s compliance with this Agreement, the Take Authorizations and the Subregional Plan.*

Implementing Agreement § 6.3 at 17-18 (emphasis added). See Attachment D.

Under the Implementing Agreement, the CPUC must accept the NCCP’s treatment of repairs to existing access roads within the original width of 14 feet and cannot count them as new impacts to natural habitat when determining whether the NCCP provides sufficient take authorization for the Proposed Project. To maintain consistency with the NCCP and the Implementing Agreement, the CPUC should revise the assumptions about impacts from repairs within existing access roads in the FEIR to be consistent with SDG&E’s estimate.

3. The Take Coverage Remaining Under the NCCP Provides Sufficient Flexibility for Unknown Contingencies.

The DEIR states that the “CPUC has determined that SDG&E’s compliance with the 1995 NCCP over the life of the Proposed Project is uncertain and cannot be relied upon” for four

reasons. DEIR p. 4.1-42. The first reason regarding access roads is discussed above. The other three reasons are as follows:

- assuming the wildlife agencies would consider and account for construction access road impacts as take under the NCCP, the remaining allowable habitat impact acreage would only be 2.2 acres, and if the wildlife agencies exclude access road impacts from NCCP take accounting, only 7.4 acres, leaving little flexibility for unknown contingencies;
- NCCP impact coverage is required by three other current SDG&E projects that may have increased habitat impact coverage requirements over the estimates provided by SDG&E; and
- other SDG&E projects and operation and maintenance activities could also reduce the available NCCP habitat impact coverage depending on the timing of such activities relative to implement of the four projects noted above.

Id.

These concerns are unwarranted. As previously noted, the Wildlife Agencies—the very agencies charged with compliance with the NCCP—confirmed that sufficient take coverage under the NCCP is available for the Proposed Project after accounting for the three other SDG&E projects. In their June 29, 2015 letter to SDG&E and copying the CPUC, the Wildlife Agencies stated:

By this letter we confirm that sufficient take acreage is available to SDG&E to cover the four projects pending California Public Utilities Commission (CPUC) approval that were previously identified in our May 21, 2015 letter, and will rely, or are relying, on the NCCP take authorizations to ensure compliance with the Federal Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), the California Endangered Species Act (Fish and Game Code § 2050 et seq.), and the NCCP program.

Letter from Karen A. Goebel & Gail K. Sevrens to Scott Pearson re: Take Authorization Under the SDG&E Subregional Natural Community Conservation Plan, dated June 29, 2015. *See* Attachment C.

Second, SDG&E's impacts to natural habitat for operations and maintenance activities recently have been less than two acres per year. SDG&E therefore does not anticipate that operations and maintenance activities would deplete the remaining 7.4 acres at a pace that would preclude relying on the NCCP for the Proposed Project.

Third, the remaining 7.4 acres is approximately 25% of the 29.4 acres that SDG&E's estimates for the Proposed Project's impacts to natural habitat. Rather than leaving little flexibility for unknown contingencies, this 25% is a large contingency.

Fourth, as SDG&E has stated in responses to data requests, SDG&E has committed to remaining under 29.4 acres for impacts to natural habitat for the Proposed Project. If unknown impacts arise at certain construction sites for the Proposed Project, SDG&E will reduce impacts at other construction sites for the Proposed Project to maintain that commitment.

The FEIR should therefore find that APM BIO-2, which consists of implementing the NCCP, is feasible and will reduce Impact BIO-1, BIO-4, BIO-5, BIO-6, and BIO-8 to less than significant. Under this approach, the CPUC would delete Mitigation Measures 1a, 1c, 1d, 1e, 1f and 1g. SDG&E has proposed specific revisions in its comment table.

4. The FEIR Should Recognize that the NCCP Provides More than Sufficient Take Coverage for the Alternatives 3, 4, and 5.

Notably, Alternatives 3, 4, and 5 each has substantially fewer impacts to natural habitat than the Proposed Project. While the NCCP provides sufficient take authorization for the Proposed Project, the take authorization remaining under the NCCP would be substantially larger if the CPUC were to approve one of these alternatives.

SDG&E therefore requests that the FEIR find that APM BIO-2 will reduce Impact BIO-1, BIO-4, BIO-5, BIO-6, and BIO-8 to less than significant for Alternatives 3, 4, 5. The FEIR would then delete Mitigation Measures Biology-1a, 1c, 1d, 1e, 1f and 1g for these alternatives. The SDG&E has proposed specific revisions in its comment table.

B. Certain Mitigation Measures Should be Revised to Ensure That They Are Feasible, Proportionate, and Consistent with Existing Requirements.

Under CEQA, mitigation measures must be "feasible." CEQA Guideline § 15126.4(a). "Feasible" means "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors." *Id.* § 15364. Where SDG&E is already required to take a particular action, a mitigation measure that requires a different, conflicting action is not feasible because SDG&E cannot implement contradictory measures. Moreover, repetitive actions would duplicate efforts and waste resources.

The DEIR includes several mitigation measures that duplicate or conflict with existing requirements. These mitigation measures should be revised to align with the applicable regulations so that they are feasible for SDG&E to implement.

1. Certain Biological Mitigation Measures Overlap and Conflict with the Regulatory Framework.

SDG&E follows its NCCP, the Low-Effect Habitat Conservation Plan for the Issuance of an Incidental Take Permit Under Section 10(a)(1)(B) of the Endangered Species Act for the Federally Endangered Quino Checkerspot Butterfly (“QCB HCP”), and all applicable laws and regulations governing impacts to biological resources, including the federal Endangered Species Act and California Endangered Species Act. Together, these requirements provide a comprehensive regulatory framework for managing impacts on biological resources.

a. Because the NCCP Provides a Comprehensive Framework for Managing Impacts on Biological Resources, Biological Mitigation Measures Beyond NCCP Requirements are Unnecessary and Should be Removed.

The NCCP provides a comprehensive program for avoidance and minimization of, and compensation for, SDG&E’s impacts to covered species and their habitats. It includes tried and tested measures that are feasible and effective in managing impacts on biological resources. The NCCP itself specifies, “[i]t is intended that the subsequent environmental reviews [under CEQA] use this Plan to evaluate the impacts to covered species and their habitats.” NCCP p. vii. Along the same lines, the CEQA Appendix G inquiry anticipates the need for proposed projects to comply with the existing resource agency determinations. Sample question IV(f) asks whether a given project will “[c]onflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.”

Instead of relying on the NCCP and the Wildlife Agencies’ expertise and analysis regarding biological mitigation, however, the DEIR includes mitigation measures that overlap and conflict with the applicant proposed measures (“APMs”) and the existing regulatory framework. These measures go beyond what is required by CEQA.

Courts have repeatedly upheld the use of mitigation measures that simply require compliance with federal and state Endangered Species Acts as follows: It is acceptable mitigation to require compliance with an NCCP. *Defend the Bay v. City of Irvine* (2004) 119 Cal.App.4th 1261, 1276. It is also enough to require the implementation of mitigation measures that have been set forth in a biological opinion pursuant to a federal Section 7 consultation. *Fort Mojave Indian Tribe v. Department of Health Services* (1995) 38 Cal.App.4th 1574, 1603-4. A commitment to avoid take and conduct Section 7 consultation has been upheld as “adequate mitigation under CEQA.” *North Coast Rivers Alliance v. Marin Municipal Water District Bd. Of Directors* (2013) 216 Cal.App.4th 614, 648. It has even been considered adequate to comply with future, potential consultations. *Rialto Citizens for Responsible Growth v. City of Rialto* (2012) 208 Cal.App.4th 899, 945-47. *See also, Defend the Bay*, 119 Cal.App.4th at 1276.

Under these standards, it is sufficient to require SDG&E to comply with the NCCP, which has been sanctioned by both the U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife. No additional mitigation is required for special status species

that are covered by the NCCP. In other words, impacts to such special status species should be considered less-than-significant after the APMs are applied.

SDG&E therefore respectfully requests that the mitigation measures either be deleted or be revised to exactly align with the NCCP so that they match the existing regulatory framework and are clear and able to be implemented. Mitigation Measures Biology 1-a, 1-c, 1-d (#2-4, 6-11, 13-15, and 17-22), 1-f (#2), and 1-g (#1-2) are duplicative of, but not identical to, the operations and maintenance APMs implementing the NCCP. Deleting or revising these measures will make sure that they correspond with the Wildlife Agencies' determinations. It will ensure that there is a single, enforceable set of compliance and reporting measures that is internally consistent. Such clarity will eliminate conflicting standards and facilitate SDG&E's reporting and CPUC's monitoring of compliance. The particular line edits to accomplish this task are provided in the attached table at Comment #66.

b. Mitigation Measure Biology-5 conflicts with the QCB HCP and should be deleted.

In addition to conflicting with the NCCP requirements, certain other biological mitigation measures conflict with the QCB HCP. As provided in the QCB HCP, any impacts to Quino checkerspot butterfly ("QCB") or QCB habitat that may be caused by the Proposed Project would be less than significant, and SDG&E's compliance with the QCB HCP will fully mitigate any such impacts. Therefore, no additional QCB mitigation measures are necessary. SDG&E accordingly requests that the discussion of Impact Bio-2, QCB (DEIR p. 4.1-68) be revised and Mitigation Measure Biology-5 be removed.

The QCB HCP dates back to 2007 and provides incidental take coverage for QCB. The incidental take coverage applies to all of SDG&E's "Activities" in the "Plan Area," as each term is defined in the HCP. "Activities" include "all current and future activities of SDG&E, arising out of or in any way connected with the siting, (including any site assessment, surveying, testing, or planning), design, installation, construction, use, maintenance, repair and removal of Facilities within the Plan Area, or any activities associated with the acquisition of property rights in relation thereto." QCB HCP p. 29. The definition of "Facilities" includes electric transmission systems. QCB HCP pp. 29-30. The Plan Area is the area depicted in Figure 1 of the QCB HCP. In sum, the QCB HCP "cover[s] impacts to QCB or QCB habitat within the boundaries of the Plan Area associated with 1) new electrical transmission line facilities..." QCB HCP p. 30.

The Proposed Project activities are covered by the QCB HCP's definition of "Activities," and all of the Proposed Project work will take place within the Plan Area. Thus, the QCB HCP applies to the Proposed Project.

The DEIR concludes that even after SDG&E complies with the QCB HCP, there will be significant impacts to QCB and its habitat, and includes mitigation measures to address such impacts. DEIR p. 4.1-68. This is not the case. The U.S. Fish and Wildlife Service, as the agency responsible for implementing the federal Endangered Species Act, has determined that by implementing the QCB HCP, SDG&E will have mitigated any impacts on the QCB. As a

threshold matter, however, the HCP is a “low-effect” HCP because it only involves “minor or negligible effects...” QCB HCP p. 2.

The HCP itself explains that impacts would be less than significant:

The impacts to QCB from covered activities under the Plan are expected to be insignificant because the Plan prioritizes the avoidance and minimization of impacts, and unavoidable impacts from covered activities would generally be very small. The Plan further provides offsetting mitigation for any unavoidable impacts, including situations for which mitigation is not required under the Act (e.g., mitigation for suitable but unoccupied habitat). Additionally, the covered activities are spread over a broad natural landscape, which reduces the significance of potential impacts on natural areas. The potential impacts of operation and maintenance activities are also spread over time, which has the potential to limit population-level effects and to allow opportunity for habitat re-establishment. This Plan also provides for mitigation for temporary impacts to QCB habitat even though SDG&E must conduct in-place restoration of temporary impacts consistent with their existing 1995 Subarea Plan.

QCB HCP p. 11. Moreover, by definition, any approved HCP must minimize and mitigate the impacts of any taking to the maximum extent practicable. 16 U.S.C. 1539(a)(2)(B). Therefore, the U.S. Fish and Wildlife Service has determined that SDG&E’s implementation of the QCB HCP will fully mitigate any impacts to QCB or QCB habitat that would be caused by the Proposed Project.

There is no need for additional mitigation measures to reduce any less-than-significant impacts that may be caused by the Proposed Project. Therefore, SDG&E respectfully requests that the discussion of Impact Bio-2, QCB (DEIR p. 4.1-68) be revised and Mitigation Measure Biology-5 be removed, as explained in Comments #70, 71, 72, and 78. Mitigation Measure Biology-5 conflicts with the existing regulatory scheme by requiring a pre-activity survey where none is otherwise required by the QCB HCP. DEIR p. 4.1-72.

2. Certain Other Mitigation Measures Should Also Be Revised To Align With Existing Requirements, Standards, Construction Realities, and Infrastructure and Water Constraints.

Certain other mitigation measures should be revised to align with existing requirements, standards, construction realities, and infrastructure and water constraints.

The aesthetics mitigation measures requiring irrigated landscaping should be revised to account for the lack of irrigation water in remote locations. Mitigation Measure Aesthetics-2 requires that all retaining walls be planted with native vegetation. DEIR p. 4.2-72. This is not feasible because many of these are remote sites where there is no irrigation water. Without

irrigation water, vegetation is unlikely to become established. Nonetheless, pursuant to the terms of the mitigation measure, the unirrigated plants would continually need to be replaced. *Id.* Drought conditions do not support the use of irrigation water to support the long-term success of landscaping in these areas. Therefore, the requirement to landscape the retaining walls should be eliminated. *See* Comment #232. Mitigation Measure Aesthetics-4, requiring irrigated landscaping at all cable poles should similarly be revised because cable poles may be located in remote locations where no irrigation water is available. *See* Comment #234.

Mitigation Measure Aesthetics-3 requires a color treatment plan for all new structures. DEIR p. 4.2-72 to -73. SDG&E's current design standard, which is incorporated into APM AES-5 (*see* DEIR p. 4.2-19), utilizes dull-galvanized steel instead of painted poles. The dull-galvanized poles are a neutral color that blends with a variety of different backgrounds in the surrounding environment. The use of such poles reduces overall environmental impacts because they do not require paint during construction, and they do not require re-painting as time goes on. Using dull-galvanized steel also reduces visual impacts both prior to and after repainting because the color of painted poles tends to fade over time, making it difficult to match colors and thereby minimize impacts. SDG&E requests that the requirement for any color treatment or color treatment plan for dull-galvanized structures be eliminated. SDG&E further requests that the requirement to prepare additional photo simulations be eliminated. SDG&E's original photo simulations illustrated what the dull-galvanized structures would look like in the surrounding environment. Additional simulations (a third round of project simulations) would be redundant.

Mitigation Measure Cultural Resources-4 (DEIR p. 4.3-35 to -36) addresses the discovery of human remains. This is generally governed by California law, including Public Resources Code §5097.98. This Mitigation Measure should be slightly revised to align with the requirement in that code section that if a most likely descendant does not make a recommendation regarding discovered remains within 48 hours, the remains must be reinterred in the property. Pub. Res. Code §5097.98(e).

Mitigation Measure Hydrology-4 (DEIR p. 4.6-51) restricts construction of underground lines to dry conditions. As drafted, this Mitigation Measure does not reflect the regulatory scheme that governs the construction of underground lines. This regulatory framework includes the CGP, the San Diego Regional Water Quality Control Board's ("SDRWQCB") Waste Discharge Requirements ("WDRs), and federal Clean Water Act ("CWA) Section 404 permits and Section 401 certifications administered by the United States Army Corps of Engineers ("USACE").

The Proposed Project will be constructed in compliance with the CGP. Furthermore, activities within state-only water features, including creeks and natural drainages, will be conducted pursuant to WDRs (or a waiver of such requirements) set forth by the SDRWQCB. Activities within waters of the United States will be conducted pursuant to Section 404 permits and Section 401 certifications.

As set forth in Comment #250, SDG&E respectfully requests that Mitigation Measure Hydrology-4 be revised to reflect the regulatory framework governing construction of underground lines. This change in the Mitigation Measure is important because although all of

SDG&E's work will be conducted in accordance with the regulations, certain construction methods that could be required (for instance, the use of horizontal directional drilling ("HDD") or jack and bore) may need to continue during rain events. This would be permissible under the existing regulations, but not under Mitigation Measure Hydrology-4 as drafted.

Mitigation Measure Noise-2 limits "night and weekend" construction activities. DEIR p. 4.8-34. To the extent that this prohibits construction on Saturdays, it conflicts with the local noise ordinances in the City of San Diego and the City of Poway. San Diego Municipal Code §59.5.0404(a) permits construction noise on Saturdays, as does Poway Municipal Code §8.08.100(A). The DEIR's restrictions on construction noise should be modified to align with these local noise ordinances by permitting construction noise Monday through Saturday, and only limiting work on nights and Sundays.

Mitigation Measure Air-4 requires prior review and approval of all construction equipment before construction of the project can begin. DEIR p. 4.13-44. It does not provide the necessary flexibility to revise the equipment list and make adjustments as circumstances require. The nature of construction projects makes it infeasible to seek review and approval so far in advance of any particular piece of equipment being used. Equipment use depends upon the availability and sourcing of particular construction equipment. It also depends upon the contingencies that arise during construction. Therefore, it is not possible to identify every piece of equipment that might be used, for however short a time period, during the entire scope of construction. Doing so more than 30 days before overall construction commences is even more infeasible. Contractors must have the flexibility to bring on and replace construction equipment as needed throughout the duration of construction. Mitigation Measure Air-4 should therefore be revised to accommodate reasonable flexibility. SDG&E notes that it does not object to reporting the full list of off-road construction equipment utilized, and the specifications of that equipment. *See Comment #200, 201.*

Mitigation Measure Utilities-1 requires that SDG&E use only reclaimed, non-potable water during construction activities (e.g., dust control and soil compaction). DEIR p. 4.17-29. This is not feasible because reclaimed, non-potable water may not be available for use. There is increasing demand for reclaimed, non-potable water from competing users, and the supply may not be available to meet this growing demand. A number of infrastructure constraints limit the quantity of reclaimed, non-potable water that is available: there are not currently reclaimed water distribution pipelines in the Proposed Project area; there are not enough reclaimed water fill stations; and there are limits on reclamation plant maintenance and capacity. SDG&E will use reclaimed, non-potable water to the extent feasible, but it cannot ensure that it will be available to meet the needs of the Proposed Project during construction. Mitigation Measure Utilities-1 should therefore be revised to require use of reclaimed, non-potable water to the extent feasible during construction activities. *See Comment #241, 252.*

C. The DEIR Overstates Project Impacts and Should be Amended to Accurately Assess the Impacts.

CEQA requires an adequate analysis of environmental impacts to inform the decision-makers and the public of the significant environmental impacts that the project may have.

CEQA Guideline § 15002(a)(1). A significant effect on the environment is a “substantial, or potentially substantial, adverse change...” CEQA Guideline §15382; *see also* Pub. Res. Code § 21068. Not every impact is significant: sometimes a project will have an impact on the environment, but that impact is not significant. *See, e.g., National Parks & Conservation Assn. v. County of Riverside* (1999) 71 Cal.App.4th 1341, 1359; *Oakland Heritage Alliance v. City of Oakland* (2011) 195 Cal.App.4th 884, 899 (“A less than significant impact does not necessarily mean no impact at all.”). Although a lead agency is afforded deference in its determinations, any such determination must be supported by substantial evidence in the record. Pub. Res. Code § 21168. The DEIR has overstated the environmental impacts of the Proposed Project in several respects. Because the impacts are overstated, it could have the effect of misleading the decision-makers and the public as to the actual potential impacts that the Proposed Project may have. The impact analyses should be revised to accurately reflect the potential impacts of the Proposed Project.

1. The Assumptions Underlying the Traffic Impact Analysis Are Too Conservative, Indicating a Significant Traffic Impact When There Will Be No Such Impact.

The DEIR concludes that the Proposed Project will cause significant unavoidable impacts because of construction traffic. *See* DEIR p. 4.7-37. This conclusion is based on overly conservative assumptions about the potential for traffic generation.

The transmission line construction impacts are based on the inaccurate assumption that there could be more than 500 construction vehicles added to highways and roads that do not meet level of service (“LOS”) standards. DEIR p. 4.7-33. In fact, there would never be 500 construction vehicles concurrently added to highways and roads. The estimate of more than 500 construction vehicles assumes that all project components would be constructed simultaneously, use the peak number of workers that would ever work on each segment, and assumes that all vehicles would travel on the same roads. DEIR pp. 4.7-29, -33. SDG&E cannot, however, construct all of the project segments simultaneously. Even if simultaneous construction was possible, the vehicles would be going to different construction sites, and thereby traveling on different highways and roads. Finally, it is highly unlikely that the peak labor requirements for any given segment would coincide with the peak labor requirements for another segment, much less all segments. The Project Description explains instead that there could be up to approximately 100 workers working at any given time. DEIR p. 2-60.

The DEIR’s traffic impact analysis also fails to account for the Proposed Project’s working hours. Construction is scheduled to begin at 7 am, so most worker traffic will occur before 7 am, which is before peak traffic hours begin. DEIR p. 4.7-3. By the time that peak traffic conditions begin at 7 am, most of SDG&E’s workers will already be at a staging yard or an individual work location. Construction often ends before the start of peak traffic hours in the evening and will therefore not add significantly to the peak traffic counts.

The DEIR’s staging yard traffic impacts (DEIR pp. 4.7-33 to -34) overestimate trips by assuming that all of the project components would be constructed simultaneously, using the peak number of workers that would ever work on each segment, and assuming that all work

would be staged out of a single staging yard. DEIR p. 4.7-29, -33, to -34. As noted above, it would be infeasible for SDG&E to construct all four segments simultaneously. Moreover, SDG&E could not stage enough workers and equipment at one staging yard to support a cumulative traffic count of 524 trips.

The traffic impacts analysis also assumes that Mitigation Measure Traffic-1 will have no effect, finding that Impacts Traffic-1 and-2 would be significant and unavoidable even after Mitigation Measure Traffic-1 is implemented. DEIR p. 4.7-37. In reality, SDG&E would comply with Mitigation Measure Traffic-1 and implement a Construction Transportation Management Plan to use alternate traffic routes, carpools, or shuttles to avoid roads operating at an LOS D or lower and to time commutes and deliveries to avoid peak hours. These measures would reduce traffic impacts, resulting in less than significant impacts for Impact Traffic -1 and Impact Traffic-2.

Finally, the DEIR's traffic impacts analysis also finds a significant and unavoidable impact on Scripps Poway Parkway between Springbrook Dr. and Spring Canyon Rd, when in fact that road can be avoided by the overwhelming majority (if not all) of the construction traffic. This avoids any significant impact on that road segment

2. The DEIR Overstates Potential Impacts to Biological Resources and Should be Revised to Reflect That There Will be No Significant Impacts on Biological Resources.

The DEIR overstates potential biological impacts in two ways. First, it defines "special status species" more broadly than CEQA does. Second, although it articulates a significance threshold for potential impacts to biological resources that is consistent with CEQA, it applies a more conservative significance threshold in its analysis. The analysis should be revised.

The DEIR defines "special status species" far more broadly than CEQA. CEQA Guideline § 15380 introduces the kinds of special status species that CEQA considers, focusing on rare, endangered, and threatened species. The definition of "rare" includes species that "exist[s] in such small numbers throughout all or a significant portion of its range that it may become endangered if its environment worsens" or is "likely to become endangered within the foreseeable future throughout all or a significant portion of its range and may be considered 'threatened' as that term is used in the [federal Endangered Species Act]." CEQA Guideline § 15380(b)(2). The DEIR goes well beyond this definition, including species on the CDFW Watch List, California Rare Plant Ranks ("CRPR") 3 (plant species for which information is lacking to assign them to one or other of the lists) and CRPR 4 (plant species that have limited distribution and whose vulnerability or susceptibility to threat appears low at the time). DEIR p. 4.1-2. SDG&E requests that species on the CDFW Watch List, CRPR 3 and CRPR 4 be removed from the definition of "special status species" to align with the CEQA definition.

The DEIR articulates a certain threshold of significance for potential impacts to biological resources. This threshold rightly states that the Proposed Project's impacts would be significant if they had a "substantial adverse effect, either directly or through habitat

modifications, on any *species* identified as a candidate, sensitive, or special status species...” DEIR p. 4.1-40 (emphasis added).

The focus on species, rather than individuals, is proper in the CEQA context. Public Resources Code section 21001(c) explains that it is the policy of the state to “[p]revent the elimination of fish or wildlife species due to man’s activities, insure that fish and wildlife populations do not drop below self-perpetuating levels, and preserve for future generations representations of all plant and animal communities.” CEQA Guideline §15065(a) is informative with regard to biological impacts and it, too, focuses on species, rather than individuals. It says in part that any project that “substantially reduce[s] the habitat of a fish or wildlife species,” or “substantially reduce[s] the number or restrict[s] the range of an endangered, rare, or threatened species, is deemed to have a significant impact on the environment. *See, also, Defend the Bay v. City of Irvine* (2004) 119 Cal.App.4th 1261, 1273-74, *Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 792.

Although the DEIR accurately sets forth the significance threshold for impacts to biological resources, its impact analysis applies a different threshold. For Impacts Bio-1 to -6, the DEIR suggests that an effect on any *individual* would constitute a significant impact on the *species*. *See, e.g.*, “damage[] or remov[all]” of plants under Impact Bio-1 (DEIR p. 4.1-53); crushing fairy shrimp cysts considered a significant impact for Impact Bio-2 (DEIR p. 4.1-67); injury to a western spadefoot for Impact Bio-3 (DEIR p. 4.1-73); injury to any special-status reptile for Impact Bio-4 (DEIR p. 4.1-79); injury to any special-status bird, any nest abandonment, or nest destruction for Impact Bio-5 (DEIR pp. 4.1-81 to -82); and injury to any special status mammal for Impact Bio-6 (DEIR p. 4.1-88). These analyses focus on injury to an individual member of the species without considering whether an injury to one individual has a significant impact on the species as is required by CEQA and the DEIR’s articulated threshold of significance.

SDG&E respectfully requests that the CPUC revise its analysis to match the DEIR’s articulated standard of significance, which rightfully focuses on impacts to *species* rather than *individuals*. SDG&E anticipates that if the analysis properly considers *species*, then the substantial evidence that is already in the record will show that the Proposed Project will not have a significant impact on special status species.

3. The DEIR Overstates the Proposed Project’s Aesthetic Impacts by Using Inaccurate Simulations and Applying Conservative Thresholds of Significance.

The DEIR’s aesthetic impacts analysis uses inaccurate visual simulations of the Proposed Project and uses an overly conservative significance threshold. As a result, the DEIR overstates the Proposed Project’s aesthetic impacts. SDG&E therefore requests that in conducting its visual impact analysis, the CPUC rely upon the visual simulations that SDG&E submitted with the PEA. In the alternative, SDG&E requests that the visual simulations be corrected to accurately reflect the Proposed Project. SDG&E further requests that the CPUC apply a significance threshold that better accounts for the existing aesthetic environment. An accurate depiction of

the Proposed Project and application of an appropriate significance threshold will reduce the Proposed Project's visual impacts to a level of insignificance.

The CPUC's simulations used in its aesthetic impacts analysis do not accurately depict the components of the Proposed Project. For example, they illustrate the wrong type of arms on tubular steel structures, show the use of high voltage bands that would not be required, and depict marker balls in an unrealistic manner, as detailed in Comments #118 through 143.

Key Observation Point ("KOP") 7 provides a useful example. DEIR p. 4.2-44 to -45. See Comment #136. The shape of the arms on tubular steel pole structures is inaccurate, showing a greater difference between the shapes on the proposed structures and the shapes on the existing structures than would actually exist. For KOP 7, the straight arms of the proposed tubular steel poles would create triangular shapes similar to the triangular shapes on the adjacent steel lattice structures. Further, the unrealistic placement of the marker balls (floating between power lines, with irregular spacing and inaccurate colors) makes their visual impact appear greater than it would actually be. They would in fact be attached to the power lines, evenly spaced and in the colors required by law. Finally, the depiction of unnecessary high voltage bands creates visual contrast that will not exist. The simulations that SDG&E submitted to the CPUC accurately illustrate what the Proposed Project would look like if constructed, and therefore provide more thorough and reliable information upon which to conduct the impact analysis. The DEIR should be revised to use SDG&E's visual simulations.

Even if the CPUC's visual simulations had been accurate, the DEIR applies an overly conservative threshold of significance. It finds significant the replacement of existing vertical elements with new vertical elements within the existing transmission right of way. See KOP 6, 7, 11, 14, and 15 (DEIR pp. 4.2-42 to -45, -52 to -53, -58 to -61, -65 to -66, and -69 to -70). Under CEQA, however, it is appropriate to compare the changes to the existing setting, taking into account the aesthetic environment. CEQA Guideline § 15064(b). When the existing setting already includes vertical elements, like power poles, some of which will be replaced, the visual impact should not be found significant. Courts have upheld similar approaches. For instance, in *Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200, the EIR in question determined that a new residential development's impact on certain views would not be significant because the new development would be consistent with the existing development. *Id.* at 240-41, 243-44. The visual impacts of the Proposed Project would be even less than the impacts discussed in *Clover Valley* because the Proposed Project involves replacing existing poles, not building an entirely new development.

Although the new poles would be somewhat taller than the existing poles, this would not create a significant visual impact under CEQA. The idea that a slightly taller structure would cause a significant aesthetic impact was rejected in *Bowman v. City of Berkeley* (2004) 122 Cal.App.4th 572, 592. There, the court held that the difference between a 3-story and 4-story building in a developed setting would not be significant. *Id.* Similarly, here, replacing an existing pole with a slightly taller pole in an existing transmission corridor would not be significant.

In effect, the DEIR's analysis understates the visual presence of the existing structures and overstates the visual impact of additional structures. Under this overly conservative threshold, any new overhead project would be significant, even where the materials, shapes, and sizes are similar to the existing structures. This is not appropriate. Instead, consistent with its finding that the existing electrical infrastructure already has a high level of visual contrast with the surroundings (DEIR p. 4.2-5), the DEIR should conclude that adding new vertical elements in similar colors with repeating shapes would not affect the intactness of the views.

4. Changes for Users of Recreational Areas Are Not CEQA Impacts and Should Be Removed from the DEIR's Impact Analysis, or in the Alternative, Found to Be Less Than Significant.

The DEIR determines that the Proposed Project will have a significant and unavoidable recreational impact because the Proposed Project would substantially disrupt activities in a public recreational area and would substantially reduce the recreational value of a public recreational resource. DEIR p. 4.10-18. These are not CEQA impacts and should not be included in the DEIR's impacts analysis. Even if they are CEQA impacts, they would not be significant and unavoidable impacts of the Proposed Project. The DEIR should therefore be revised to remove Impacts Recreation-3 and -4.

CEQA requires lead agencies to identify and analyze the significant environmental effects that may result from a project. Pub. Res. Code § 21100(a); CEQA Guideline § 15143(a). The purpose is to identify the significant effects of a project on the environment, identify project alternatives, and indicate how any significant effects can be mitigated or avoided. Pub. Res. Code § 21002.1(a). A "significant effect on the environment" is a "substantial or potentially substantial, adverse change in the environment." Pub. Res. Code § 21068; *see also* CEQA Guideline § 15382. "Environment" means the "physical conditions which exist within the area which will be affected by a proposed project, including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance." CEQA Guideline § 15360; *see also* Pub. Res. Code § 21060.5.

Appendix G to the CEQA Guidelines articulates the inquiries that a lead agency should undertake when preparing an initial study. The breadth of the Appendix G inquiries indicates the kinds of impacts that a project can have on the environment. Appendix G advises thorough consideration of a project's impacts on recreation and articulates two relevant standards: (1) increased use of nearby parks or other recreational facilities causing or accelerating substantial physical deterioration and (2) construction or expansion of recreational facilities which might have an adverse effect on the environment. Under CEQA, these inquiries are sufficient to determine the impacts a proposed project will have on recreation.

The DEIR creates two entirely new inquiries, unrelated to the Appendix G standards, asking whether the Proposed Project would substantially disrupt activities in a public recreational area (DEIR p. 4.10-22) and whether the Proposed Project would substantially reduce the recreational value of a public recreational resource (DEIR p. 4.10-27). It determines that there would be a significant and unavoidable adverse impact because construction would require temporary park closures for up to 12 days (DEIR p. 4.10-22 to -23) and create noise, aesthetic

impacts, and dust (DEIR p. 4.10-27 to -28). These identified impacts are beyond the scope of the relevant environmental impacts defined in CEQA and the CEQA Guidelines and considered in Appendix G. They should not, therefore, be considered CEQA impacts and should be removed from the DEIR's analysis.

Even if the DEIR's recreation impacts are CEQA impacts, they are not significant and unavoidable impacts of the Proposed Project. As an initial matter, the DEIR does not articulate a significance threshold for recreation impacts. CEQA Guideline § 15064.7(a) states that a threshold of significance is "an identifiable quantitative, qualitative or performance level of a particular environmental effect." Here, there is no identifiable threshold as to when a significant impact would occur. Nevertheless, the DEIR's alleged recreation impacts would fall short of significant under any reasonable significance threshold.

Most of the impacts would be temporary, and exist for very short periods of time, during which time other recreational facilities would be available within the vicinity to meet the needs of the park users. The permanent impacts include alleged impacts from towers in recreational areas, but the recreational areas already have towers. DEIR p. 4.10-29. Moreover, any impact that such replacement towers have on trail users would be short in duration as the trail users move through the trail network.

The recreational impacts would also be localized and focused on small areas within larger recreational areas. The local agencies with jurisdiction over the parks, who have expertise in providing recreational facilities and understanding impacts upon such facilities have not raised the concerns that the CPUC has raised in the DEIR.

SDG&E requests that the DEIR recreation analysis follow the Appendix G inquiries, and conclude that the Proposed Project would not have any significant impacts on recreational facilities. Impacts Recreation-3 and -4 should be removed and should therefore not be considered "significant and unavoidable" impacts of the Proposed Project.

5. The Noise Analysis Uses Flawed Comparisons.

The DEIR concludes that corona noise due to the Proposed Project will create a significant impact. DEIR p. 4.8-39. This conclusion is erroneously based on a comparison of baseline noise during dry conditions with corona noise created during wet conditions. *Id.* In fact, during wet conditions, the sounds of falling rain increase the baseline noise and mask the increased corona noise. The appropriate comparisons should be dry baseline with corona noise during dry conditions and wet baseline with corona noise during wet conditions. This analysis would show a less-than-significant increase in noise due to corona noise. *See* Comment #166-169. The DEIR should be revised to reflect appropriate noise comparisons and to conclude that there will be no significant impact resulting from corona noise.

D. Construction of the Proposed Project Should Not Be Conditioned on Receiving Multiple Approvals of a Single Plan.

The DEIR requires SDG&E in several instances to seek regulatory review and approval of a given plan or document by more than one agency before SDG&E can move forward with the Proposed Project. This creates a web of duplicative review that runs the risk of creating incompatible approvals and project delay, and may result in requirements from the CPUC that do not comply with applicable laws. The CPUC should instead defer to the agency with the regulatory authority over a given resource. SDG&E can then provide the CPUC with a copy of the relevant agency's approval.

Mitigation Measure Hydrology-1 requires that the Stormwater Pollution Prevention Plan ("SWPPP") be submitted to the CPUC and the City of San Diego for review and approval prior to construction of the Proposed Project. DEIR p. 4.6-28. This requirement is not necessary and creates the potential for differing, and even possibly contradictory, approvals of the SWPPP. The Proposed Project will require coverage under the State Water Resources Control Board's ("SWRCB") Construction General Permit ("CGP"). The CGP requires projects located within a watershed area subject to a Total Maximum Daily Load ("TMDL") to comply with the requirements of the TMDL. The Proposed Project's watershed area includes the Los Peñasquitos Lagoon, which is subject to a TMDL (the "LPL-TMDL"). Therefore, the Project's coverage under the CGP will require compliance with the LPL-TMDL. The LPL-TMDL identifies CGP permittees as "Responsible Parties" and requires that such Responsible Parties submit their SWPPP to the SDRWQCB for review and approval. This means that the Proposed Project's coverage under the CGP is necessarily conditioned upon approval of the SWPPP by the SDRWQCB. Because the SDRWQCB is charged with reviewing SWPPPs for compliance with existing regulations, it is an expert at that task. Requiring SDG&E to seek additional review and approval of the SWPPP by other agencies (the CPUC and City of San Diego) that are not generally charged with reviewing and approving SWPPPs creates the potential for conflicting opinions about the SWPPP. This could make the SWPPP difficult, if not impossible, to implement. As set forth in Comments #149, 150, and 249, SDG&E respectfully requests that Mitigation Measure Hydrology-1 be revised to remove any requirement for CPUC and City of San Diego review and approval of the SWPPP.

Mitigation Measure Traffic-1 requires SDG&E to prepare a Construction Transportation Management Plan ("CTMP") and submit it to the CPUC and the cities of San Diego and Poway for review and approval. DEIR p. 4.7-36 to -37. This requirement duplicates the requirements of APM TR-3 Traffic Control and APM TR-4 Encroachment Permits, which already require SDG&E to get approval from the appropriate agency for traffic disruptions and roadway work. DEIR p. 4.7-27. The CPUC could approve a different version of the CTMP or impose different conditions than the cities of San Diego and Poway. This would leave SDG&E in the difficult position of complying with differing and potentially conflicting requirements. Mitigation Measure Traffic-1 should simply require review and approval by the cities of San Diego and Poway. These cities have the local knowledge and applicable experience to review and approve the CTMP. After it has been approved, SDG&E can submit it to the CPUC for record-keeping purposes.

Mitigation Measure Hazards-1 requires SDG&E to submit a site specific blasting plan to the CPUC and the City of San Diego for review and approval before blasting at each site. DEIR p. 4.11-26. This should be revised to require approval only by the City of San Diego so as to avoid differing and potentially conflicting requirements. After a particular blasting plan has been approved, SDG&E can submit it to the CPUC for record-keeping purposes. *See* Comment #186.

E. No Recirculation is Necessary.

SDG&E appreciates the opportunity to comment on the DEIR. None of SDG&E's comments articulated herein or in the attached table require significant new information to be added to the FEIR that would require the DEIR to be recirculated.

Under CEQA, a DEIR must be recirculated for public comment when "significant new information is added." CEQA Guideline §15088.5(a). "New information added to an EIR is not 'significant' unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement." *Id. See also, Laurel Heights Improvement Assn. v. Regents of University of Calif.* (1993) 6 Cal.4th 1112, 1129. The kind of information that triggers recirculation is information showing 1) a new significant impact, 2) that a substantial increase in the severity of an impact would occur without adoption of mitigation measures that would reduce the impact to a level of insignificance, or 3) a considerably different alternative or mitigation measure that would lessen significant impacts and that the applicant declines to adopt. CEQA Guidelines §15088.5(a)(1) through (3). Conversely, information that "merely clarifies or amplifies or makes insignificant modifications in an adequate EIR" does not require recirculation. *Id.* at §15088.5(b).

The information contained in this narrative and the attached table clarifies, amplifies, and proposes minor modifications to the DEIR. It does not suggest that there are any new significant impacts or that any impacts would be substantially increased. In fact, many of SDG&E's comments explain that the Proposed Project's impacts would be substantially less than what the DEIR expects. For instance, even though the CPUC's evaluation of the alternative projects does not anticipate the use of the NCCP to avoid and mitigate construction, operation, and maintenance impacts to biological resources, using the NCCP would in fact avoid and reduce such impacts to a less than significant level in a manner that has been sanctioned by the Wildlife Agencies. As such, there is no need to recirculate the DEIR before the EIR is finalized.

III. Conclusion.

SDG&E appreciates the CPUC's review of SDG&E's Proposed Project and SDG&E's comments on the EIR. SDG&E respectfully requests that the CPUC incorporate into the FEIR SDG&E's comments set forth herein and the attached proposed line revisions.

Attachments:

Attachment A – Detailed Comment Table

Attachment B – Minor Design Revisions

Exhibit 1 – Updated Detailed Route Map

Exhibit 2 – Civil Design Updates (Comparison Map)

Exhibit 3 – Sycamore Canyon Substation Layout Update
(CONFIDENTIAL)

Exhibit 4 – Alternative 3 East Cable Pole Shift

Exhibit 5 – Structure Details for Suggested Design Revisions and DEIR
Comments

Exhibit 6 – Alternative 3 West Cable Pole Shift

Exhibit 7 – Alternative 5 H-Frame Replacement

Exhibit 8 – Alternative 5 I-15 Crossing Options

Exhibit 9 – Alternative 5 CC MM CP Shift

Exhibit 10 – Alternative 1 DEIR Comment Map

Exhibit 11 – Alternative 5 Potential Staging Yard Locations

Exhibit 12 – Geotechnical Study

Attachment C – NCCP Letter

Attachment D – NCCP Implementing Agreement

Attachment E – Statements of Overriding Considerations