

## PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



February 22, 2012

Mr. Alan F. Colton  
Manager – Environmental Services  
Sunrise Powerlink Transmission Project  
8315 Century Park Court, CP21G  
San Diego, CA 92123-1550

RE: SDG&E Sunrise Powerlink Transmission Line Project – Variance Request #38

Dear Mr. Colton,

On February 10, 2012, San Diego Gas and Electric (SDG&E) requested a variance from the California Public Utilities Commission (CPUC) to install a gate on private property near CP55 at the request of the landowner. The area is located on Segment 5 (NTP #13, Overhead on non-federal lands), of the Sunrise Powerlink Project.

The CPUC voted on December 18, 2008 to approve the SDG&E Sunrise Powerlink Transmission Line Project ([Decision D.08-12-058](#)) and a [Notice of Determination](#) was submitted to the State Clearinghouse (SCH#2006091071). The BLM issued a [Record of Decision](#) approving the Project on January 20, 2009. The Project also crosses lands under jurisdiction of the U.S. Department of Agriculture; and Forest Service on the Cleveland National Forest; the Forest Service issued its Record of Decision and Supplemental Information Report on July 9, 2010.

The CPUC also adopted a Mitigation, Monitoring, Compliance and Reporting Program (MMCRP) to ensure compliance with all mitigation measures imposed on the Sunrise Powerlink Project during implementation. The MMCRP also acknowledges that temporary changes to the project, such as the need for additional workspace, are anticipated and common practice for construction efforts of this scale and that a Variance Request would be required for these activities. This letter documents the CPUC's thorough evaluation of all activities covered in this variance, and that no new impacts or increase in impact severity would result from the requested variance activities.

Variance #38 to install a gate on private property near CP55 is granted by CPUC for the proposed activities based on the factors described below.

**SDG&E Variance Request.** Excerpts from the SDG&E Variance Request received February 10, 2012, is presented below (indented) with CPUC additions in parenthesis and in bold:

SDG&E is requesting a variance to the Final Environmental Impact Report/Environmental Impact Statement (FEIR/EIS) issued October 2008 and the Project Modification Report (PMR) approved on September 22, 2010, to install a gate on private property (Gorka Property near CP55). The gate has been requested by the property owner and will help block unauthorized vehicles from traveling off the Sunrise Powerlink approved road south to the private residence. Personnel installing the gate will walk to the site (with their equipment) from the CP55/CP56 pull site road to the west using the existing road and footpath. This will be a 14-foot range gate. Project activities will be conducted in accordance with the same impact avoidance, minimization, monitoring, and mitigation measures that apply to all other Project impact areas. Identified measures include those specified in the Project's MMCRP, PMR, and approved plans and permits for specific types of activities.

### **Biological Resources**

A biological habitat assessment of the proposed work area was performed on January 13, 2012. The proposed work area includes a patch of bare ground surrounded by undeveloped land, a partially vegetated previously graded dirt road, and the existing footpath. Both the existing road and footpath support scattered native shrubs and herbaceous ground cover. The existing road/footpath will be used for foot access to the proposed gate location from the graded CP55/CP56-1 pull site access road which is approximately 375 feet to the west. Approximately 160 feet consists of existing road and 215 feet consists of existing footpath. The vegetation adjacent to the existing road, western portions of the existing footpath, and west and south of the proposed gate location consists of chamise chaparral dominated by chamise, laurel sumac, spice bush, deerweed, and California buckwheat. The vegetation adjacent to the eastern portion of the existing footpath and north and east of the proposed gate location consists of coastal sage chaparral scrub dominated by California sagebrush, laurel sumac, California buckwheat, deerweed, and spice bush. Wildlife observed in the surrounding habitat during the 2012 habitat assessment included northern harrier (overhead), red-tailed hawk(overhead), California towhee, Rufous-crowned sparrow, yellow-rumped warbler, and western fence lizard. The majority of the existing road and footpath was not surveyed during the 2009/2010 special-status plant surveys. However, the only special-status plant that was observed within 0.5 miles during those surveys was limited to delicate clarkia (*Clarkia delicata*). Habitat for this species was not observed within the proposed footpath or gate work area and impacts are not expected. No special-status plant species were observed during the 2012 habitat assessment. Additionally, the soils mapped and the vegetation communities present within the proposed work area are similar to those surveyed in the adjacent project work areas. Therefore no special-status plant species are expected to occur or be impacted by this variance request. No federally or state-listed wildlife species were detected during the original project pre-construction surveys that covered the proposed work area, or during the 2012 habitat assessment, and are not expected to occur. Non-listed special-status wildlife species detected during the original preconstruction survey within 0.5 miles of the proposed work area in similar habitat include coastal rosy boa, northern red diamond rattlesnake, coast horned lizard, and Belding's orange-throated whiptail. One nonlisted special-status wildlife species (northern harrier; CSC) was observed flying overhead during the 2012 habitat assessment. However, because the disturbance to the adjacent habitat will be minimal, and all of the above listed special-status wildlife species are mobile and (**can**) disperse with activity in the vicinity, impacts to these species are not expected. No potential jurisdictional wetland or waters features were observed within or adjacent to the proposed work areas.

### **Cultural and Paleontological Resources**

This area was surveyed for archaeological materials during both pre-construction fielding activities and cultural resources inventory work for the Sunrise Powerlink Final Environmentally Superior Southern Route and no cultural resource sites or features were found. The proposed work areas will not impact any NRHP/CRHR eligible sites. The proposed work area is not within a geological deposit with potential for paleontological deposits. There is no potential for impacts to paleontological resources from the proposed activities.

#### **(As Provided in the request):**

- SDG&E will have qualified, on-site avian biologists search for active nests within the vegetation targeted for removal and within all required buffers per the Nest Survey Protocol (April 27, 2011) and Nesting Bird Management and Monitoring Plan (NBMMP) (January 13, 2012).
- SDG&E will not disturb any active nest of protected birds (e.g., MBTA, ESA, state-protected per Fish and Game Code sections 3503 and 3503.5) within the NBMMP buffers until after the nest outcome is complete.
- SDG&E will conduct nesting bird surveys in accordance with the NBMMP and Nest Survey Protocol and follow all other approved plans, permits, and mitigation measures.
- There will be no removal of trees, large shrubs, or any vegetation that has the potential to support raptor or owl nests.

### **CPUC Evaluation of Variance Request**

In accordance with the MMCRP, the subject variance request was reviewed by CPUC to confirm that no new impacts or increase in impact severity would result from the requested variance activities. The following discussion summarizes this analysis for biological, cultural, paleontological, and hydrological resources, sensitive land uses/noise, and visual. A list of conditions is presented below to define additional

information and clarifications regarding mitigation requirements. In some cases, these items exceed the requirements of the Mitigation Measures and Applicant Proposed Measures, and are based on specific site conditions and/or are proposed conditions by SDG&E.

**Biological Resources.** The CPUC Biologist reviewed the request and noted that all work shall be conducted under the wildlife agency approved agreements for vegetation impacts in the 2012 bird nesting season outlined in the Variance #36 approval letter. On February 16, 2012 the CDFG further clarified the conditions approved under Variance #36:

“My understanding, was the extra conditions for the variance (#36) were in addition to the previous approved conditions (under the April 2011 Nest Survey Protocol). That being said, it was always my understanding that you (SCE) were conducting 3 day surveys like last year to verify the approved clearing. This was because a lot happens in 7 days but we were mindful of review time...The whole purpose is to make sure we are 100 percent confident that impacts to nesting birds will be avoided. I would appreciate if you resumed the 3 day surveys as required, and any other condition not being implemented according to the original agreement.”

Please note that the only vegetation that may be removed will be at the location of the gate necessary for installation, and areas to allow the gate to swing freely across the road. No vegetation will be removed or trimmed along the dirt road or footpath. All impacted areas shall be restored per the Project Restoration Plan. SDG&E will not remove vegetation in any area not previously surveyed for rare plants during the appropriate season unless directly approved by the resource agencies.

**Hydrological Resources.** All SWPPP and Construction Grading Plan requirements will be implemented to avoid potential impacts.

**Cultural and Paleontological Resources.** On February 15, the CPUC cultural reviewer provided:

“Based on the Final Paleontological Monitoring and Discovery Treatment Plan, accepted on June 17, 2010, there is no potential to encounter paleontological resources within the area requested for gate installation near CP23. In addition, because the depth of disturbance at the requested gate installation will be minimal, no paleontological monitoring will be required. No NTP conditions are recommended.”

“The Final Inventory Report of the Cultural Resources was accepted on June 2, 2010. No known cultural resources were identified within the area requested for gate installation. No NTP conditions are recommended.”

In the event of an unanticipated discovery of archaeological materials, all ground-disturbing work within the immediate area of the discovery will be suspended. Any new discoveries shall be managed in compliance with the procedures and guidelines for Treatment for Unanticipated Discoveries set forth in the Historic Properties Management Plan (HPMP).

**Traffic/Sensitive Land Uses/Noise.** No concerns noted.

**Visual.** No visual concerns are noted.

**Conditions of Variance Approval.**

The conditions presented below shall be met by SDG&E and its contractors:

1. All applicable project mitigation measures, APMs, compliance plans, permit conditions and conditions of NTP #13 shall be implemented. Some measures have on-going/time-sensitive requirements and shall be implemented prior to and during construction where applicable.
2. Copies of all relevant permits, compliance plans, and this Variance approval shall be available on site.
3. SDG&E shall supply documentation of the landowner approval to the CPUC prior to construction of the gate.
4. Please note that the only vegetation that may be removed will be at the location of the gate necessary for installation and areas to allow the gate to swing freely across the road. No vegetation will be removed or trimmed along the dirt road or footpath. All impacted areas shall be restored per the Project Restoration Plan.
5. All conditions pertaining to avian nest surveys and impacts to vegetation covered in Variance #36 apply to this variance during the 2012 nesting season. In addition the clarifications made by CDFG on February 16, 2012 also apply to the work under this variance request.
6. The removal of trees, large shrubs, or any vegetation that has the potential to support raptor or owl nests will not be allowed as part of this variance.
7. SDG&E will not remove vegetation in any area not previously surveyed for rare plants in the appropriate season unless directly approved by the resource agencies.
8. SDG&E will control the spread of invasive plant species by implementing the 2009/2010 Weed Control Plan.
9. In the event of an unanticipated discovery of archaeological materials, they shall be managed in compliance with the procedures and guidelines for Treatment for Unanticipated Discoveries set forth in the HPMP.
10. All unanticipated cultural, and biological discoveries shall be immediately reported to the CPUC EM.

Please contact me if you have any questions or concerns.

Sincerely,

Billie Blanchard  
CPUC Environmental Project Manager  
Sunrise Powerlink Transmission Project

cc: Daniel Steward, BLM El Centro Field Office  
Tom Zale, BLM El Centro Field Office  
Bob Hawkins, Forest Service  
Erinn Wilson, CDFG  
Eric Porter, USFWS  
Susan Lee, Aspen Environmental Group  
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