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Section D.12, Transportation and Traffic

SD-215

D.12.1.1 Existing Roadway Network

The Draft EIR should clarify whether several roadways, including Tierrasanta Boulevard and Dehesa Road, are Class II bikeways such that under the proposed mitigation measures for recreation and land use. SDG&E does not agree that it should be required to send notice prior to construction that might impact these bicycle system components. (pages D.12-3 to D.12-5) There should be more explanation of the importance (or lack thereof) and features of the roads and bicycle routes identified.

D.12.2 Applicable Regulations, Plans and Standards

SD-216

The regulatory framework incorrectly sets forth the instances in which SDG&E would be required to obtain an encroachment permit or similar legal agreement regarding traffic. Also, there are no jurisdictional agencies other than Caltrans, the County of San Diego and the Cities of Santee and San Diego, so “affected agencies” should be stricken from the last sentence. (page D.12-6)

D.12.3 Environmental Impacts and Mitigation Measures

SD-217

The DEIR does not discuss the potential traffic impacts associated with operation and maintenance of the underground alternatives. Although it is true that there is minimal activity during operation of the Proposed Project and the overhead options (page D.12-7), repair and maintenance of the underground lines will interfere with traffic patterns and restrict access to residences. A narrative in the Final EIR should completely address this concern.

D.12.3.3 Proposed Miguel-Mission 230 kV Project

SD-218

Impacts of Transmission Line Construction

SDG&E anticipates that the estimated average daily trips for construction contained in Table D.12-5 “Trip Generation During Construction” will be less than 200 ADT. (page D.12-9)

Mitigation Measures for Impact T-1, Construction Would Result in Temporary Road and Lane Closures

SD-219

Mitigation Measure T-1b, which severely restricts lane closure times for major roadways, conflicts with Caltrans and other agency standards governing work hours and is infeasible. (page D.12-10) As previously discussed, many of the pertinent agencies have specific time requirements for construction activities that conflict with the total restriction of work during peak hours. For example, Caltrans requires that SDG&E perform work related to freeway crossings on Sunday between sunrise and 8:30 a.m. SDG&E cannot simultaneously comply with this mitigation measure and other jurisdictional agencies’ mandates. Because it is imperative to construct the project as

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quickly as possible, SDG&E intends to work on Saturdays and other times that may include peak hours. But the total prohibition on lane closure times is unduly restrictive and should be left to the traffic regulators.

SD-219

Impact T-3: Construction Would Cause Physical Impacts to Roads and Sidewalks

Impact T-3 inaccurately represents that there will be trenching activities in construction of the Proposed Project. (page D.12-10) Trenching activities will only take place during the two underground options. (pages D.12-13, D.12-16) The Draft EIR correctly acknowledges that the Proposed Project is not expected to cause any damage to public roads or sidewalks.

SD-220

Mitigation Measure T-3, Construction Would Cause Physical Impacts to Roads and Sidewalks

As a result, Mitigation Measure T-3a has no basis to reduce potential impacts and should be deleted as lacking sufficient nexus. (*Nollan v. California Coastal Comm'n, supra*, 483 U.S. at 834-837.) Moreover, the requirement in this measure to enter into an agreement/easement with each applicable governing agency prior to construction is disproportionate to the minimal short-term traffic impacts, if any, during construction of the Proposed Project. (pages D.12-11, D.12-18) Caltrans, the County of San Diego and the cities of San Diego and Santee have their own appropriate requirements with respect to traffic plans. There is no basis in law to require SDG&E to enter into an easement or other agreement with all relevant agencies to address road damage and subsequent restoration. More importantly, SDG&E's existing franchise agreements, easements and traffic plans require the restoration proposed by this measure. There would be no value added by this mitigation measure. It should be paired down to allow for compliance with existing practices and provide the flexibility for these entities.

SD-221

Impact T-4: Construction Would Interfere with Pedestrian/Bicycle Circulation and Safety

Impact T-4 is incorrect and not supported by any data in the DEIR. (page D.12-11) Neither construction nor operation of the Proposed Project would interfere with any pedestrian or bicycle paths along the existing right-of-way. These interferences would only occur with the Jamacha Valley and Santee Underground Alternatives. The facts show that the two underground options would be much more disruptive to pedestrians and bicyclists along the respective routes than the existing corridor.

SD-222

Impact T-5: Construction Would Interfere with Emergency Response

Similarly, Impact T-5 erroneously assumes that the Proposed Project's overhead construction activities could interfere with emergency response or access. (page D.12-11) This impact and related Mitigation Measure T-5a should be revised to reflect the absence of interference so that the requisite mitigation is decreased to be commensurate with the potential impacts. (*Dolan v. City of Tigard, supra*, 512 U.S. at 388-391.) Also, in

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SDG&E's service territory, the cities and county inform their own fire and police departments and medical and ambulatory services of construction activities. Thus, the reduction in impacts is effectuated by SDG&E's initial contact and the cities' and county's subsequent contacts with those departments and services rather than as suggested in Mitigation Measure T-5a. It would be unduly burdensome for SDG&E to coordinate construction work with every city or county department or service provider along the 35 mile corridor. SDG&E recommends that it only provide proof of communication with the city or county rather than each service provider. At locations where access to nearby properties would be blocked short term during construction, SDG&E shall be ready to accommodate all emergency vehicles.

SD-223

D.12.4.1 Jamacha Valley 139 kV/69 kV Underground Alternative *Environmental Impacts and Mitigation Measures*

SD-224

The Draft EIR underestimates the traffic impacts associated with the Jamacha Valley Underground Alternative. (page D.12-13) Willow Glen Road is a major access road to the community of Jamacha Valley and is typically heavily traveled. Lane closures during trenching will delay the heavy traffic on Willow Glen Drive, Dehesa Road and adjacent streets. Because the precise location of the underground utilities and proposed transmission line are unknown, the potential transportation delays and temporarily blocked driveways could far exceed that described in the Draft EIR.

Mitigation Measures for Impact T-7, Underground Construction Would Restrict Access to Properties

SD-225

Although SDG&E does not anticipate such lane closures with the Proposed Project, if the Commission selects one of the underground options, Mitigation Measures T-7a and T-7b may be impossible to fulfill. (page D.12-14) There may not be adequate parking within 1,000 feet of the affected facilities to provide alternate parking during underground construction. SDG&E should only be required to provide substitute parking as close as possible. Additionally, the scheduling of work to prevent "disrupting" business if no substitute parking is available (i) sets a subjective standard, (ii) is unattainable and (iii) could actually encourage disputes between proprietors and SDG&E. SDG&E would schedule work to minimize disruption to businesses to the extent feasible.

Comparison to Proposed Project

Despite the understatement of disruptions in the impact analysis, the DEIR properly concludes that transportation and traffic interferences, including restricted access to residences and neighborhood entries, will be substantially greater during construction of the Jamacha Valley Underground Alternative. (page D.12-14) But it omits any mention of the potential traffic disruptions and blockages during repair and maintenance activities of the underground lines. With the Jamacha Valley Underground Alternative, residents will be blocked from their homes during construction and sometimes during repair and maintenance activities, if SDG&E must work on the

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underground facilities. The long-term impacts on transportation resulting from this underground alternative should be fully evaluated in the FEIR.

SD-225

D.12.4.4 City of Santee 138 kV/69 kV Underground Alternative

SD-226

Essentially the same comments on the Jamacha Valley Underground Alternative apply to the Santee Underground Alternative, if not more so because the proposed underground route is entirely in residential streets impacting many residents. Because the precise location of the underground utilities and proposed transmission line are unknown, the potential transportation delays and blocked driveways could exceed that analyzed in the Draft EIR. (page D.12-16) The discussion appropriately discloses that there is a much greater likelihood of disrupting travel and access to property on Magnolia Avenue and Princess Joann Road. (page D.12-16)

Under this alternative, residents will be temporarily blocked from their homes during construction and sometimes during repair and maintenance activities, if SDG&E must work on the underground facilities. (page D.12-16) Similar to the Jamacha Valley underground segment, the long-term impacts on transportation resulting from this option should be fully evaluated in the FEIR. (page D.12-16)

Table D.12-7 “Mitigation Monitoring Program – Transportation and Traffic”

SD-227

Apart from SDG&E’s concerns with particular mitigation measures, the Commission properly structured the responsible agency to simply review, not approve, documentation from SDG&E for the measure. (page D.12-18 to D.12-19) The secondary review required for mitigation measures in other resource areas does not add to the accuracy or suitability of the action decreasing the significant impact.

Section D. 13, Visual Resources

SD-228

The visual resource analysis of the Proposed Project and comparison to the alternatives is flawed. As discussed above, the Draft EIR does not give sufficient attention to the existing transmission-filled corridor, which is the proposed route, and thus overestimates the incremental aesthetic changes from the Proposed Project. The visual resource impacts should be based on the true environmental setting. SDG&E’s particular comments on this section are as follows.

D.13.1.1 Overview

Viewer Types and Volume of Use

To describe the existing setting, it would be more accurate to include that SDG&E’s existing utility corridor contains between 18 and 30 electric wires running throughout the project route. (page D.13-3) The corridor contains power structures that are an established part of the landscape and that have existed much longer than most of the surrounding residences in the area. At the bottom of page D.13-3, the Draft EIR

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represents the specific residential areas of “visual sensitivity”; but based on the few comments submitted by residents located along those particular streets, the DEIR is overestimating that aesthetics is a critical issue for viewers at these locations.

SD-228

D.13.1.2 Description of Key Observation Points

SD-229

The analysis of KOP 2 is incomplete. (page D.13-12) The description does not identify how far away the Proposed Project is from the KOP, and thus does not provide accurate relevancy information, i.e., background or middleground. The viewing distance is important to assess viewer exposure, if any. For example, a viewer can barely see the current tower in the distance in Figure D.13-3. The overall visual sensitivity level for KOP 2 should be “low.” The “middle” level visual change at this location is not supported by the facts or methodology. This flawed KOP analysis digresses into an “impact creep” because the Draft EIR erroneously finds augmented potential impacts in subsequent KOPs further along the corridor. As a result, the resulting characterization of visual impacts along the entire corridor is skewed.

The analysis of KOP 4 should note that SDG&E’s transmission corridor, full of structures and facilities, existed when this new residential neighborhood was developed and residents purchased or rented their homes next to it. (page D.13-20) The visual sensitivity here should be low.

SD-230

Similarly, KOP 5 should note that SDG&E’s transmission corridor, full of structures and facilities, existed when this new school site (purchased from SDG&E, incidentally) was selected and built out. (page D.13-24) As evidenced by the School Site Selection and Approval Guide (1989) adopted and followed by the California Department of Education, school sites are routinely sited next to public utility easements. SDG&E should not be prejudiced because a school parking lot was constructed approximately 5 years ago adjacent to a built-out electric transmission corridor.

SD-231

Figure D.13-32, a visual simulation, incorrectly shows one steel pole where there was a tower. (page D.13-29) Actually there will be two new steel poles adjacent to and left of the lattice tower that is shown in the simulation.

SD-232

D.13.3.1 Definition and Use of Significance Criteria

Approach

SD-233

This section identifies what constitutes an adverse visual impact, but fails to acknowledge that not one of the criteria applies to the Proposed Project. (page D.13-111) The Draft EIR provides in part:

An adverse visual impact may occur when: (1) an action *perceptibly changes the existing* physical features of the landscape that are characteristic of the region or locale; (2) an action introduces *new features* to the physical landscape that are *perceptibly uncharacteristic* of the region or locale, or become

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visually dominant in the viewshed; or (3) an action *blocks* or *totally obscures* aesthetic features of the landscape.

SD-233

(Emphasis added.) None of these factors applies to the Proposed Project. Some of SDG&E's existing structures in this Commission-mandated corridor have occupied the surrounding area for more than 50 years. The project will use the same type of facilities so it does not introduce new features that are uncharacteristic to the area. The Proposed Project is an incremental visual change from the existing 18 to 30 electric conductors and associated structures that run throughout the 35-mile right-of-way. The proposed modified and new structures are not "new features" in a previously pristine landscape that are "perceptibly uncharacteristic" of the area. Finally, the wires, poles and lattice towers do not block or totally obscure the landscape. Almost all of the residents in the area purchased their homes with SDG&E's transmission corridor in plain view. The school district selected and constructed Steele Canyon High School knowing of the adjacent SDG&E right-of-way. The DEIR identifies the visual significance standards, but fails to give adequate treatment to the baseline conditions in its impact analysis. It also does not explain how there is no adverse change.

Overall Visual Impact

SD-234

The generalization that the overall visual impact levels range from low to high should be further explained in the Final EIR. (page D.13-112) The incremental visual changes of the Proposed Project are predominately low because of the long-standing transmission structures that occupy the entire length of the existing corridor, current landscape characteristics and limited view opportunities. To just generalize the impact level ranges in the DEIR implies much higher potential visual changes than actually would occur with the Proposed Project.

D.13.3.3 Proposed Miguel-Mission 230 kV #2 Project

SD-235

The Draft EIR inadequately describes the existing visual baseline environmental setting conditions, which should include the well-established numerous transmission lines and structures throughout SDG&E's corridor. (page D.13-115) An accurate analysis cannot occur if the baseline conditions are not fully described.

The methodology employed to analyze potential visual impacts cannot be conducted in a systematic or repeatable manner. The visual assessment methodology consists of a standard Visual Contrast Rating System approach used by the Bureau of Land Management (BLM) to assess the change in visual quality on public lands from proposed projects. However, conclusions presented in the column labeled "Overall Visual Change Level" of Table D.13-3 "Summary of Visual Impacts from Proposed Project – by KOP" are not substantiated with the level of analysis outlined in the BLM Visual Contrast Rating System. (pages D.13-116 to D.13-117) For example, it is unclear how the assessment of low, moderate and high visual change levels was made. Factors considered in the Visual Contrast Rating System include distance, angle of observation, length of time the attribute is in view, relative size or scale, season of use, light

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conditions, recovery time, spatial relationships and atmospheric conditions. Form, line, color and texture are also considered in the evaluation of visual contrast. Based on the analysis presented in the Draft EIR, it appears that a subjective approach was used to rate the overall change rather than a systematic and objective approach as provided in the Visual Contrast Rating System. The entire visual resources analysis should be revised to use an objective, verifiable and repeatable methodology so that others assessing the potential visual impacts of the Proposed Project could reach similar conclusions.

SD-235

As discussed below in more detail, the imposition of mitigation measures for non-impactive activities to “further reduce impacts” is improper. (e.g., pages D.13-118, D.13-122, D.13-134) (CEQA Guidelines § 15126.4(a).) Class III impacts, which may be adverse but less than significant, legally cannot be subject to the mitigation measures proposed throughout the DEIR. (*Dolan v. City of Tigard, supra*, 512 U.S. at 388-391, *Nollan v. California Coastal Comm’n, supra*, 483 U.S. at 834-837.)

SD-236

Mitigation Measures for Impact V-1, Short-Term Visibility of Construction Activities and Equipment

SD-237

Mitigation Measure V-1a, which requires SDG&E to submit a plan for temporary staging areas, should be changed to provide SDG&E more flexibility in the field to reduce potential visibility impacts. (page D.13-118) The configuration of fencing to screen staging and storing areas is best addressed in the field concurrently with construction to properly assess where screening is appropriate. SDG&E intends to use appropriate screening material and does not dispute this part of the condition. But the requirement that SDG&E submit plans to the Commission 60 days before construction is unworkable because the limits and locations of staging and storage areas may vary slightly in the field and because of the urgent project schedule. (page D.13-140) SDG&E believes there should be no prior approval requirement at all, but at a minimum, proof of compliance with allowance for adjustment in the field could be provided.

Mitigation Measure V-1b, which prohibits work during peak recreational time or within 0.25 miles of a recreational facility, is infeasible. A list of recreation facilities supposedly affected is provided in this mitigation measure and not all of them are immediately adjacent to the transmission corridor. Other agencies and property owners may dictate when SDG&E can perform work near recreation sites and parks. Because of the urgency of this project, construction will likely occur every Saturday. Due to all the delays that have occurred to date, SDG&E would like to get this line operational as soon as possible which will include working on weekends. SDG&E will, however, attempt to restrict work that would impact recreationalists at facilities adjacent to the transmission corridor to the extent feasible. (pages D.13-118, D.13-140) Moreover, SDG&E’s existing corridor traverses several recreational areas so the 0.25 mile restriction must be removed from the Final EIR.

SD-238

Impact V-2: Long-Term Visibility of Upgraded/New 230 kV Structures

SD-239

In the Class III (lowest level impacts) discussion under “Impact V-2: Long-Term Visibility of Upgraded/New 230 kV Structures,” the “range of visual changes”

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conclusion is misleading. (page D.13-118) The entire discussion is regarding the minimal changes the few new lines will add to the existing transmission-filled corridor whereas the word “range” implies a broader spectrum. Substantially the same type of equipment and facilities are proposed as currently exist throughout the entire right-of-way. Because the visual changes are incrementally insignificant and no mitigation is required (CEQA Guidelines § 15126.4(a)(3)), this should be clarified in the FEIR.

SD-239

Mitigation Measures for Impact V-2: Long-Term Visibility of Upgraded/New 230 kV Structures

SD-240

SDG&E disputes that mitigation is appropriate for the Class III Impact V-2 and requests the Commission remove Measures V-2a and V-2b altogether due to the absence of a significant impact. (pages D.13-119, D.13-141) CEQA requires mitigation to minimize significant adverse impacts (CEQA Guidelines § 15126.4(a)(1)) and is not required for effects which are not found to be significant. (CEQA Guidelines § 15126.4(a)(3).) Here, the addition of structures to the existing transmission-filled corridor does not rise to the level of a significant visual impact based on the significant and adverse change criteria.

Mitigation Measures V-2a, V-2b, V-3a, V-3b, V-6a and V-6b order SDG&E to paint the new poles to blend with “established neighborhood and community standards” and “with the visible background landscape.” (pages D.13-119, D.13-121, D.13-143) The imposition of this requirement is not proportional to the change of new and upgraded transmission structures to the existing structures. (*Dolan v. City of Tigard, supra*, 512 U.S. at 388-391; CEQA Guidelines § 15126.4(a)(4).) As stated at page D.13-111, “None of the adopted plans set forth specific goals, objectives, policies and/or guidelines that are specifically related to minimizing visual effects from transmission lines.” The proposed route (with its associated structures) is a major electric utility corridor that has been used for 50 years. Although it is not a natural feature of the landscape, it has been in place for a long time and is widely recognized as a major utility corridor within San Diego County and began functioning as an element in the environmental setting and landscape of the project area much earlier than the development of the majority of residential and recreational land uses that now surround the corridor. Therefore, to attempt to mitigate for the existing and the incremental addition of new facilities that are fully compatible with the approved land uses where they are located is unwarranted.

SD-241

Painting of the new poles will not lessen visual impacts because it would conflict with the colors of existing structures throughout the 35-mile corridor that are not part of this project. In addition, the ongoing increased maintenance necessary to keep the poles painted could increase impacts to property adjacent to the right-of-way, require more line outages during maintenance and could cause debris when the paint chips, etc. Also, it is infeasible to comply with a patchwork of local neighborhood preferences and would delay the project schedule to resolve any differences between community groups in their color preference. The blending concept is misplaced because of this facility-filled corridor has an established urban appearance. SDG&E has ordered galvanized steel poles that will dull naturally over time. The galvanized steel poles do not have the glare

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issue expected from regular steel poles. In sum, Mitigation Measures V2a, V-2b, V-3a, V-3b, V-6a and V-6b should be deleted or, at a minimum, modified to delete the painting requirements. No proof of compliance would be required for the galvanized steel pole installation.

SD-242

Impact V-3: Long-Term Visibility of New 138 kV/69 kV Mono-Pole Structures

There is no data in the Draft EIR to support the conclusion that the extra, non-KOP locations described at the top of page D.13-121 may have potentially significant visual effects. There is no explanation of how or why these extra locations were selected. All of the identified sites should be deleted in their entirety in the FEIR.

SD-243

Mitigation Measures for Impact V-3: Long-Term Visibility of New 138 kV/69 kV Mono-Pole Structures

The comments on Mitigation Measures V-2a and V-2b are equally applicable to Mitigation Measures V-3a and V-3b. (page D.13-121)

Impact V-4: Long-Term Visibility of New 230 kV Conductors

The DEIR erroneously concludes on page D.13-122 under "Class II" that there are potential aesthetic impacts, which conflicts with the conclusion on the prior page that "the Proposed Project would not introduce a new visual element that is noticeability different in line, form, color, or texture than what exists presently." (page D.13-121)

SD-244

Regarding Impact V-4, the Final EIR should declare that the addition of conductors to the existing transmission line-filled corridor will likely result in imperceptible change in contrast with the existing visual conditions. (pages D.13-122, D.13-142) The DEIR acknowledges this stating "while the proposed 230 kV circuit would increase the number of horizontal lines in the ROW from 18 to 24 [at that location], the Proposed Project would not introduce a new visual element that is noticeably different in line, form, color or texture than what presently exists." (page D.13-21)

Mitigation Measure for Impact V-4: Long-Term Visibility of New 230 kV Conductors

Mitigation Measure V-4a requires that 60 days prior to construction, SDG&E submit a plan to ensure that the new lines to be at the same or similar elevation as existing lines to reduce potential visibility. (pages D.13-122, D.13-142) This measure is infeasible due to the varying topography, engineering standards and GO 95 requirements. SDG&E has designed its line to be as close in alignment as possible to the many other lines strung throughout the corridor. However, where one viewer may see this as a close alignment of structures and wires, a viewer at another location or elevation may not see that same close alignment. Based on the potential myriad of views and viewer locations over the length of the project, it is impossible to fully comply with the mandate for alignment in Mitigation Measure V-4a. Over time, sag has set in to different areas along

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the ROW that cannot be engineered exactly. Until the new line is actually strung, it cannot be known if the line will match exactly the height of all of the other lines. More importantly, any adjustments to match the line height exactly would likely increase the pole heights to match the wires at different elevations. Heightened poles would actually amplify visual impacts. The project design and Project Protocol 61 sufficiently reduce potential impacts. Furthermore, the inordinate submittal time to the Commission unreasonably delays the project schedule. SDG&E suggests that, to the extent feasible, it could supply the Commission with proof of compliance to ensure Impact V-4 is addressed.

SD-245

Impact V-5: Long-Term Damage to Landscape Resources from Maintenance Activities

The DEIR improperly concludes in Impact V-5 that long-term damage to visual resources will result from maintenance activities. (page D.13-122) In all of its maintenance activities, SDG&E follows its NCCP, Project Protocols and other standards to avoid and minimize aesthetic impacts. Because the facilities operate independently, the only post-construction maintenance activities involve occasional inspection and repair of lines and structures and access road grading. There will be no long-term visual harm from the infrequent work along the project route.

SD-246

Mitigation Measure for Impact V-5: Long-Term Damage to Landscape Resources from Maintenance Activities

Because SDG&E disputes that Impact V-5 “Long Term Damage to Landscape Resources from Maintenance Activities” is actually a significant impact that is a part of this project (pages D.13-122 to D.13-123), Mitigation Measures V-5a and V-5b cannot be imposed per CEQA Guidelines § 15126.4(a)(3). The mandate that the Commission verify adequate measures for ongoing operation is an attempt to exert oversight of SDG&E’s ongoing operation and maintenance. SDG&E must comply with various mandates, such as CAISO guidelines for patrolling and inspecting the transmission facilities. All mitigation measures related to SDG&E’s operations after project-build out and unrelated to mitigation of other natural resources (e.g., biology replanting) should be removed from the Final EIR.

SD-247

With respect to one access road in Jamacha Valley in particular, SDG&E acquired an easement before the current owner of the property acquired the property that restricts the fee owner’s use of the easement area from interfering with SDG&E’s access to repair and maintain its transmission lines. Mitigation Measure V-5a requires SDG&E to minimize impacts to park and recreation areas, residential areas and public facilities’ landscaped grounds crossed by and adjacent to the ROW. (page D.13-123) It further requires SDG&E to replace, outside of access roads, any vegetation removed or paving removed during construction. SDG&E would like to make clear that it need not revegetate, restore or improve its access roads where the underlying fee owner has landscaped the property in violation of the easement. If SDG&E was required to do so, the thousands of easements and consents negotiated over the years would be invalid and

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costly. This matter should not be addressed in this environmental review process, but rather through the appropriate SDG&E complaint channel.

SD-247

Furthermore and alternatively, the suggested mitigation measures for the possible impacts are unproportional to the potential impacts. (*Nollan v. California Coastal Comm'n, supra*, 483 U.S. at 834-837.) At a minimum, Mitigation Measure V-5b should only require SDG&E to comply with its NCCP, Project Protocols and other standards as SDG&E does with maintenance activities on all of its other projects and facilities.

D.13.4.1 Jamacha Valley 138 kV/69 kV Underground Alternative
Environmental Impacts and Mitigation Measures

SD-248

The Jamacha Valley Underground Alternative described in the Draft EIR is designed incorrectly and omits that (1) a transition pole is needed at Rancho San Diego Cottonwood Golf Course, and (2) a permanent access road and cleared areas will be needed within currently undeveloped land to maintain the facilities. (page D.13-124) As a result, the conclusion that the visual changes would just be slightly greater than the baseline is incorrect. It is a much larger visual change. The DEIR fails to address the visual impact of a transition pole and two additional structures required for G.O. 95. In Table D.13-4, KOP 8 Rancho San Diego Cottonwood Golf Course, the visual change level should be high rather than low. (page D.13-125)

Impact V-1: Short-Term Visibility of Construction Activities and Equipment is a flawed conclusion not supported by the data in the Draft EIR. (page D.13-125) The undergrounding construction, operation and maintenance activities involve much more damaging and lengthy impacts to the environment than the Proposed Project.

SD-249

Because the visual changes described under "Impact V-2: Long-Term Visibility of Upgraded/New 230 kV Structures" are Class III, the proposed mitigation measure is without support. (page D.13-126) (CEQA Guidelines §15126.4(a)(3).) Mitigation Measures V-2a and V-2b legally cannot be imposed.

SD-250

With respect to the access roads under Impact V-5: Long-Term Damage to Landscape Resources from Maintenance Activities, SDG&E can not restore the disturbed vegetation after construction because it must have clear and unobstructed access directly above the underground lines for maintenance. (page D.13-125) Also, SDG&E does not plan to abandon any access roads needed for this project. Furthermore, the Draft EIR fails to illustrate the increased, longer impacts associated with accessing the underground facilities for repairs and maintenance. (page D. 13-127) The DEIR does not properly convey that during maintenance, individuals near the underground segment will experience trenching noise impacts, traffic disruptions and may have restricted access to residences.

SD-251

Impact V-6: Long-Term Visibility of Overhead/Underground Transition Stations fails to depict the "wall of steel" at the first tee box of the Cottonwood Golf Course that will occur with this alternative. (page D.13-127) The height dimensions of 138 kV steel

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transition structures range from a minimum of 95 feet to whatever height is required to maintain GO-95 clearance. The visual impacts resulting from the Jamacha Valley Underground Alternative are more extensive than illustrated in the Draft EIR. SDG&E disputes the propriety of Mitigation Measures V-6a and V-6b with this alternative as well and suggests that the painting requirements in these measures be removed.

SD-252

D.13.4.3 Jamacha Valley Overhead B Alternative

Environmental Impacts and Mitigation Measures

The analysis for this alternative omits that SDG&E would be required to acquire and grade additional access roads along the right-of-way and the resulting potential visual effects of that road grading. (page D.13-133) The Draft EIR incorrectly characterizes the right-of-way as “reduced industrial character” that would result with this alternative. (page D.13-134) The existing corridor contains so many structures and facilities that it is currently industrial in nature and any change to it would be incremental and imperceptible. The Final EIR should correct this mischaracterization.

SD-253

Comparison to Proposed Project

This comparison does not reveal that the 138 kV structures in this alternative will be closer to residences having a greater potential for visual impact to those residences. (page D.13-135)

D.13.4.4. City of Santee 138 kV/69 kV Underground Alternative

Impact V-6: Long-Term Visibility of Overhead/Underground Transition Stations

The DEIR’s design for this alternative is flawed because it should include a new cable pole on Magnolia Avenue, which will increase the visual impacts in this area of Santee. (page D.13-137) A complete design and impact discussion should be added to the FEIR.

SD-254

Comparison to Proposed Project

See comment for Impact V-6 above. (page D.13-137)

D.13.4.5 City of Santee 230 kV Overhead Northern ROW Boundary Alternative

SD-255

The description of the City of Santee 230 kV Overhead Northern Boundary Alternative on page D.13-138 conflicts with the description in Section C of the Draft EIR regarding the location of the 230 kV structures’ position in the right-of-way. (page C-35) The simulation Figure D.13-49 does not show the additional steel pole required to make the 230 kV circuit crossing at the east end of this alternative. The west end of the alternative is not shown, but will also require one additional structure. In order to accomplish a quadruple circuit 230 kV crossing, it is likely that at least the four existing 230 kV lattice towers in Santee would have to be replaced. This places a considerable

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burden on the transmission system because extensive outages would be required to construct this alternative as proposed.

SD-255

D.13.6 Mitigation Monitoring, Compliance, and Reporting Table

SD-256

Mitigation Measures V-1, V-5a and V-6 should only require restoration to the original condition. There is no legal basis for the Commission to require SDG&E to actually improve the condition to mitigate the impacts. Also, what constitutes an “improved condition” upon completion of construction is a subjective and arbitrary standard. (pages D.13-142, D.13-143) The FEIR should revise this accordingly.

Every mitigation measure in Table D.13-9 requires an inordinate review time, particularly because of the urgent nature of this project. (pages D.13-140-143) Rather than the suggested 60 days’ prior submittal and approval by the Commission of SDG&E’s compliance, SDG&E suggests that it submit proof of compliance.

SD-257

Miscellaneous

SD-258

The notation on Figure D.13-32 is incorrect because SDG&E previously provided the structure configuration to the Commission.

Section E, Comparison of Alternatives

SD-259

The comparison of the Proposed Project and the alternatives analyzed in the Draft EIR reveals that the slight preference for the Environmentally Superior Alternative is marginal at best. The Draft EIR identified an Environmentally Superior Alternative that is comprised of the existing corridor and two underground segments outside of the corridor in Jamacha Valley and Santee. But the data in this entire section shows that the slight incremental reduction in some potential impacts to environmental resources tends to cause greater impacts to various other environmental resources. Without delving into the details of each resource area, it is readily apparent that there are trade-offs with each alternative. A slight reduction in impacts to a certain CEQA-based resource can be achieved with each alternative, with a counter increase in others, compared to the Proposed Project. Giving equal weight to each environmental area (as well as accounting for short-term and long-term impacts), there is no clear winner among the Proposed Project and the alternatives. Nevertheless, as set forth throughout this letter, the merits of the Proposed Project and the elements of infeasibility associated with every alternative justify its selection over any other option.

E.2.1 Transmission Line Route Alternatives: Jamacha Valley

SD-260

The narrative comparison and Table E-1 “Proposed Project vs. Jamacha Valley Alternatives” are flawed based on the following: The Jamacha Valley Underground Alternative is rated as “Preferred” compared to the Proposed Project for Hydrology/Water Quality in Table E-1 based on a reduction in erosion impacts from power pole construction. (page E-4) But in the “Comparison to Proposed Project”

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San Diego Gas & Electric Company

discussion, the Draft EIR states that “the potential for groundwater impacts, while less than significant, would be greater for this alternative” when compared to the Proposed Project. (page D.6-14) The Draft EIR provides no basis in fact for rating the Jamacha Valley Underground Alternative better than the Proposed Project for Hydrology and Water Quality. The DEIR appears to discount the groundwater impacts in favor of erosion impacts and uses this as the sole rationale for rating this alternative higher.

SD-260

Additionally, in the discussion of the Jamacha Valley Overhead A Alternative versus the Proposed Project, the DEIR states that “Impacts H-1 to H-4 would be *incrementally greater* due to the additional transition poles and the need to access sites on the eastern edge of the ROW.” (Emphasis added) (page D.6-15) The same text appears on page D.6-16 for the Jamacha Valley Overhead B Alternative. In addition, “this alternative would require construction activities for *7 to 12 additional poles* in Jamacha Valley.” (Emphasis added.) Even though the analysis states that the two overhead alternatives in this area would have greater disturbances of Biological and Cultural Resources, soil erosion of pole sites and access roads and Hydrology and Water Quality risks than the Proposed Project, the rating of the alternatives effectively ranks these alternatives the same as the Proposed Project. In conclusion, there is no clear preference for a Jamacha Valley alternative in comparison to the Proposed Project.

SD-261

The Jamacha Valley Underground Alternative is rated as “Preferred” in contrast to the Proposed Project for Biology because of a *slight* reduction in both temporary (10.01 acres) and permanent (0.84 acres) impacts and the corresponding mitigation requirements. But the DEIR states that “Issue areas that are generally given more weight in comparing alternatives are those with long-term impacts (e.g., visual impacts and *permanent loss of habitat*. . .).” (Emphasis added.) (page E-1) The DEIR continues to state that “Impacts associated with construction (i.e., *temporary or short term*) . . . are considered to be less important.” (Emphasis added.) (page E-1) Following this rationale, the Commission has determined that the Jamacha Valley Underground Alternative is environmentally superior to the Proposed Project based on a permanent impact differential of 0.84 acres (as construction impacts are deemed short-term impacts, they should not be considered as important as permanent impacts). This differential is well within the margin of error for estimating impacts to the vegetation classes described in Table D.3-5. Mapping errors, vegetation classification errors or interpretations could lead to a different impact acreage calculation. Therefore, to base the identification of an Environmentally Superior Alternative on an estimated impact difference of less than an acre on a 35 mile transmission route is unreasonable given the inherent uncertainty of pre-calculating impact amounts. In sum, there is no clear environmentally superior alternative relative to biological resources.

SD-262

In an attempt to do a true, objective comparison of the project alternatives and the Proposed Project, SDG&E prepared the following table for the Jamacha Valley alternatives. The ranking is based on the classification of impacts for each resource area, using the Draft EIR’s criteria. If impacts to visual resources were reclassified as suggested in this letter, the identification of the Proposed Project as the environmentally superior alternative would be even more clear cut.

SD-263

Comment Set SD, cont.
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RANKING OF ALTERNATIVES
JAMACHA VALLEY ALTERNATIVES

SD-263

ISSUE	PROPOSED PROJECT	JAMACHA VALLEY 138KV/69KV UNDERGROUND ALTERNATIVE	JAMACHA VALLEY OVERHEAD A ALTERNATIVE	JAMACHA VALLEY OVERHEAD B ALTERNATIVE
Air Quality	1	3	2	2
Biological Resources	2	1	2	3
Cultural Resources	1	3	2	2
Geology, Soils and Paleontology	2	1	3	3
Hydrology and Water Quality	2	1	3	3
Land Use	1	3	2	2
Noise and Vibration	1	3	2	2
Public Health and Safety	1	3	2	2
Public Services and Utilities	1	3	2	2
Socioeconomics	1	1	1	1
Transportation and Traffic	1	3	2	2
Visual Resources	2	1	2	2
Average Score	1.33	2.12	2.08	2.12
Number of top rankings	8	5	1	1
Number of lowest rankings	0	7	2	3
Overall ranking	1	4	2	3

E.2.2 Transmission Line Route Alternatives: City of Santee

SD-264

The narrative comparison and Table E-2 "Proposed Project vs. City of Santee Alternatives" are also flawed. (pages E-5, E-6) The City of Santee Underground Alternative is rated as "Preferred" compared to the Proposed Project only for Biological and Visual Resources. (page E-6) The City of Santee Underground Alternative is rated as "Preferred" in contrast to the Proposed Project for Biology because "short-term construction-related impacts to biological resources would also be minimized..." (page

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E-5). But the DEIR states that “Issue areas that are generally given more weight in comparing alternatives are those with long-term impacts (e.g., visual impacts and *permanent loss of habitat*. . .).” (Emphasis added.) (page E-1) The DEIR continues to state that “Impacts associated with construction (i.e., *temporary or short term*) . . . are considered to be less important.” (Emphasis added.) (page E-1)

SD-264

The Proposed Project would temporarily impact 105.61 acres, with 75.23 acres of mitigation, and permanently impact 9.96 acres, with 13.89 acres of mitigation. (page D.3-25) The Santee Underground Alternative would temporarily impact 102.18 acres, with 72.80 acres of mitigation, and permanently impact 10.09 acres, with 14.14 acres of mitigation. (page D.3-47) Inexplicably, the Draft EIR identified the Santee Underground Alternative as environmentally superior to the Proposed Project even though there are *less long-term permanent impacts* with the Proposed Project. If the Commission followed the DEIR rationale, it should have preferred the Proposed Project over the Santee Underground Alternative for Biological Resources.

SDG&E prepared the following table for the City of Santee alternatives as an objective comparison of those alternatives and the Proposed Project. Again, it should be noted that the ranking is based on the classification of impacts for each resource area using the Commission’s analysis in the Draft EIR. If impacts to visual resources and biological resources were reclassified as argued in this letter, the identification of the Proposed Project as the environmentally superior alternative would be even clearer.

SD-265

Comment Set SD, cont.
 San Diego Gas & Electric Company

RANKING OF ALTERNATIVES
 CITY OF SANTEE ALTERNATIVES

SD-265

ISSUE	PROPOSED PROJECT	CITY OF SANTEE 138KV/69KV UNDERGROUND ALTERNATIVE	CITY OF SANTEE 230 KV OVERHEAD NORTHERN ROW BOUNDARY ALTERNATIVE
Air Quality	2	3	1
Biological Resources	2	1 ⁹	3
Cultural Resources	1	3	2
Geology, Soils and Paleontology	1	3	3
Hydrology and Water Quality	1	3	2
Land Use	1	3	1 ¹⁰
Noise and Vibration	2	3	1
Public Health and Safety	2	3	1
Public Services and Utilities	2	3	1
Socioeconomics	1	1	1
Transportation and Traffic	1	3	2
Visual Resources	2	1	2
Average Score	1.50	2.50	1.67
Number of top rankings	6	3	6
Number of lowest rankings	0	9	2
Overall ranking	1	3	2

⁹ The statement in Table E-2 that the City of Santee 230 kV Underground Alternative is preferred “because of a slight reduction in both temporary and *permanent* impacts” is incorrect. (Emphasis added.) This underground alternative actually would cause more permanent impacts than the Proposed Project (10.09 acres vs 9.96 acres). If the increased permanent impacts were considered in the impact comparison, there would be no clearly identifiable environmentally superior alternative related to biological resources.

¹⁰ SDG&E disagrees with the assertion that because poles are moved to the northern edge of the ROW land use impacts will be less than the Proposed Project. The ROW is an existing land use in an approved utility corridor and is consistent with all land use plans and policies. Therefore, movement of poles to the edge of the ROW does not lessen the impact of the Proposed Project because placement of poles in the ROW is consistent with land use by definition.

**Comment Set SD, cont.
San Diego Gas & Electric Company**

In summary, the Proposed Project is ranked higher in terms of minimizing environments impacts compared to all of the Jamacha Valley and Santee overhead and underground alternatives.

SD-265

Section F, Other CEQA Considerations

SD-266

F.2 Significant Irreversible Changes

In the second paragraph of this section, continued implementation of SDG&E's NCCP should take priority over the implementation of the proposed mitigation measures in the Draft EIR. (page F.2) It is because of the NCCP that potential environmental impacts have already been avoided, reduced or minimized. In the third paragraph, the permanent visual changes from the addition of the 230 kV lines should be portrayed as "incremental" because the existing corridor is full of transmission structures and equipment. (page F.2) See discussion above in Section D.13.

F.4.2 Biological Resources

SD-267

The discussion of mitigating temporary impacts to wildlife habitat should emphasize SDG&E's NCCP over other mitigation measures. Since 1995, SDG&E has conducted all of its activities in accordance with the NCCP, as agreed upon by USFWS and CDFG. Implementation of the Project Protocols related to sensitive species and habitats as well as some of the mitigation measures would result in less than significant cumulative impacts to vegetation. (page F-9) The NCCP governs all of SDG&E's new activities and repair and maintenance that involve biological resources. (page F-10)

Section G, Mitigation Monitoring and Reporting

SD-268

The Commission's recommended Mitigation Monitoring and Reporting is one of the most troublesome and unworkable aspects of the Draft EIR. The proposed mitigation measures in almost every resource area contain inordinate review and approval times (based on the urgency of this project), measures that cannot be imposed by law outside of CEQA and designate an inappropriate responsible agency to confirm compliance. These fundamental flaws should be remedied in the Final EIR.

G.3 Roles and Responsibilities

SD-269

The Draft EIR suggests that the Commission designate various individuals and local agencies to carry out its duties with respect to the Proposed Project. (page G-3) If the Commission delegates its authority to monitor the Proposed Project to cities and local agencies, then it effectively abrogates its responsibilities as having exclusive jurisdiction to regulate the public utility industry. SDG&E strongly objects to having cities with no expertise in the unique arena of electric facilities and activities approve its practices. The Commission's delegation would fly in the face of its own General Order 131-D and other regulations that establish the preemption of state concerns over local concerns.

Comment Set SD, cont. San Diego Gas & Electric Company

Moreover, the Commission's assurance that the monitor will be "qualified" has no objective criteria and could leave the construction and operation of a major transmission line in the hands of an amateur. Often, the applicant and the appropriate natural resource agency are in better positions to implement and ensure effective mitigation and monitoring with the proper oversight by the Commission's appropriate environmental monitor. This arrangement must be changed in the Final EIR.

SD-270

The 60-day Commission review period for any SDG&E mitigation measure plan is impracticable and will substantially delay the project schedule. (page G-3) Through the development of the Draft EIR and ultimately the Final EIR, the Commission will have had ample opportunity to familiarize itself with the mitigation measures for the project. The Commission should be in a position to approve SDG&E's mitigation concurrent with its decision on this project, or else SDG&E could run up against sensitive species time restrictions during which it cannot work. The urgency of building this transmission line justifies the expedited approval.

SD-271

The second sentence of the last paragraph of Section G.3 should be revised at a minimum as follows: "A variance should be strictly limited to minor project changes that will not trigger other permit requirements, that will not increase the severity of an impact to a level of significant or create a new significant impact, and that will comply with the intent of the mitigation measure." (page G-3) The variance prerequisites are not based on CEQA or other applicable law, and SDG&E is entitled to a variance if changes occur that are less than significant. Even the best planned projects can demand changes or deviations from the project plans and protocols in order to address "on the ground issues" as they come up during construction and complete work within the designated construction schedule. An effective variance process is a critical component of a successful environmental compliance plan and should address the potential for variances typically encountered on transmission construction projects. This variance process needs to be specifically outlined so minor changes are not subject to the same procedures as major project modifications. For example, low level ("Level 1") variances can be approved in the field by a monitor, mid level ("Level 2") variances would need authorization from the Commission project manager, etc.

SD-272

G.4 Enforcement Responsibility

In the enforcement of the MMCRP, SDG&E should be entitled to notice of an alleged deviation and a reasonable opportunity to cure or resolve the same. With this determination, the Final EIR should establish criteria for what constitutes a "deviation." (page G-3) The duration of the Commission's enforcement responsibility is too long. The authority to halt construction should be limited to the duration of construction of the project and satisfaction of the project conditions. After SDG&E has built the line and completes all mitigation, maintenance in its existing corridor is separate and distinct from this project approval. The Commission's monitoring authority for this project ends, and SDG&E will continue its activities in accordance with its NCCP and subject to USFWS and CDFG. The Commission does not have the authority to halt any operation or maintenance activity associated with the Miguel Mission #2 Project.

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**Comment Set SD, cont.
San Diego Gas & Electric Company**

In addition, it is imprudent to empower a monitor to halt construction based on a subjective determination of a “deviation” from the approved project or mitigation measures. (page G-3) As drafted, this measure would enable the monitor to stop work for not having a lid on a trash can as mitigated in Project Protocol 16. For a variety of reasons, principally liability and damages, a Commission-designated monitor simply cannot be authorized to halt all construction of public service facilities in an already energized transmission corridor. Work stoppage is a serious occurrence and can jeopardize the successful completion of the project as well as interfere with SDG&E’s duty to serve its customers with reliable and safe energy. SDG&E, construction personnel and consultants’ performance cannot be jeopardized on the whim of an environmental monitor designated by the Commission, who may not be as familiar with the logistics of a major utility construction job in an existing corridor with energized lines. Any stoppage should be limited to the particular activity at issue. The Commission should confirm that work elsewhere that complies with all requirements can continue. Moreover, this paragraph should be revised so that the Commission’s third party monitors will report to an SDG&E representative any activity that needs to be immediately addressed due to an environmental resource at risk. Examples of the limited circumstances in which an activity should be halted include equipment entering an exclusion zone or work posing an imminent threat to a sensitive resource or public health and safety.

SD-273

G.5 Mitigation Compliance Responsibility

While it is true that if SDG&E cannot implement all of the mitigation obligations, then the Commission and its environmental monitors should determine what substitute mitigation would be appropriate, this determination must be within the bounds of CEQA and applicable law, including the U.S. Constitutional requirements set forth in *Dolan v. City of Tigard, supra*, 512 U.S. at 388-391 and *Nollan v. California Coastal Comm’n*, 483 U.S. at 834-837. (page G-4) SDG&E would like to ensure that the Commission cannot overreach its authority to exact more mitigation than an adequate substitute.

SD-274

G.6 Dispute Resolution

The suggested dispute resolution framework, particularly the time delays in Step 3 and numerous participants, seems unworkable. (page G-4) There should be a more efficient and pragmatic mechanism for resolution of disputes to prevent work stoppages by someone who may not be qualified to make such a critical decision. Moreover, responsible parties involved in approving variances must be available to quickly respond to requests. It is unlikely that the Commission’s Executive Director will be readily available for this process. The most effective environmental compliance management program allows for dispute resolution or variance approval at the field level, with the project personnel who are directly involved. Accordingly, SDG&E suggests a multi-level variance process that would eliminate project delays associated with the Draft EIR’s suggested 10-day review period. The Commission monitor, an SDG&E representative, the construction manager and the construction foreman should initially be involved. The

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Commission project manager need only participate at the next level. The Executive Director would only be required for major project changes. The extensive construction crews and tight sequencing of work activities demand a quick resolution.

SD-275

G.7.1 Environmental Monitor

The daily on-site monitor framework is unwarranted and implies that the Proposed Project produces significant impacts that demand constant oversight throughout buildout. In fact, there are no significant impacts to *any* resource area. (page G-4) If there were significant environmental impacts, then daily on-site observation would be justified under CEQA Guidelines § 15126.4(a)(3). With the Proposed Project, SDG&E would be performing all work in its existing transmission ROW; monitoring every few days would be more correlative to the potential impacts. The Commission should consider a decrease in the level of monitoring to more appropriately correspond with potential construction effects.

SD-276

G.7.2 Construction Personnel

The first bullet of the second sentence in Section G.7.2 that requires each laborer to sign a contract is overly burdensome and does not add value to the mitigation. (page G-5) A more feasible and adequate measure to ensure proper implementation of the mitigation measures would be for the contractors to have their personnel sign an acknowledgement that they have attended an informational training session on the mitigation requirements.

SD-277

G.7.3 General Reporting Procedures

The General Reporting Procedures should be revised in the FEIR to be consistent with current SDG&E corporate policy and industry standards, which provides for its consultants to report to SDG&E, so SDG&E can interface with the Commission and its designees. (page G-5) SDG&E is in charge of any and all personnel at its construction sites, especially with this project because of the many energized lines located in this ROW. The Commission's monitor should always check in with the project manager on site because SDG&E is responsible for his or her safety while on the project site. Certain access (e.g., Miguel Substation, Miramar MCAS and other shared access roads) can only be accessed with appropriate SDG&E personnel only. Because SDG&E's Miguel and Mission Substations are energized substations, access and the ability to move freely shall be provided by authorized SDG&E personnel. SDG&E insists that it accompany the Commission and its designees on site visits and inspection reports during construction of the project and implementation of mitigation only. (page G-5) Again, SDG&E disagrees with the need for daily reports because there are no significant impacts from the Proposed Project.

SD-278

Comment Set SD, cont.
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G.8 Condition Effectiveness Review

SD-279

The Commission has no authority to mandate that SDG&E incorporate “recent technological advances” to provide more effective mitigation. (page G-6) The Draft EIR’s imposition of new conditions on functioning mitigation exceeds the scope of CEQA, in particular Section 21081.6. Mitigation Measures will be determined before start of construction and approved by the Commission during the environmental review process. These mitigation measures, which are based on best management practices, are performance driven and will be adjusted in the field, as necessary, to ensure they function as designed. Changing mitigation requirements based on new technologies in the middle of project build-out could result in exorbitant costs, unexpected delays and less than certain results. The mitigation measures and Project Protocols have already been deemed effective.

San Diego Gas & Electric appreciates the opportunity to comment on the Draft Environmental Impact Report. If you have any questions regarding SDG&E’s response, please call me at (619) 696-4364.

Sincerely,



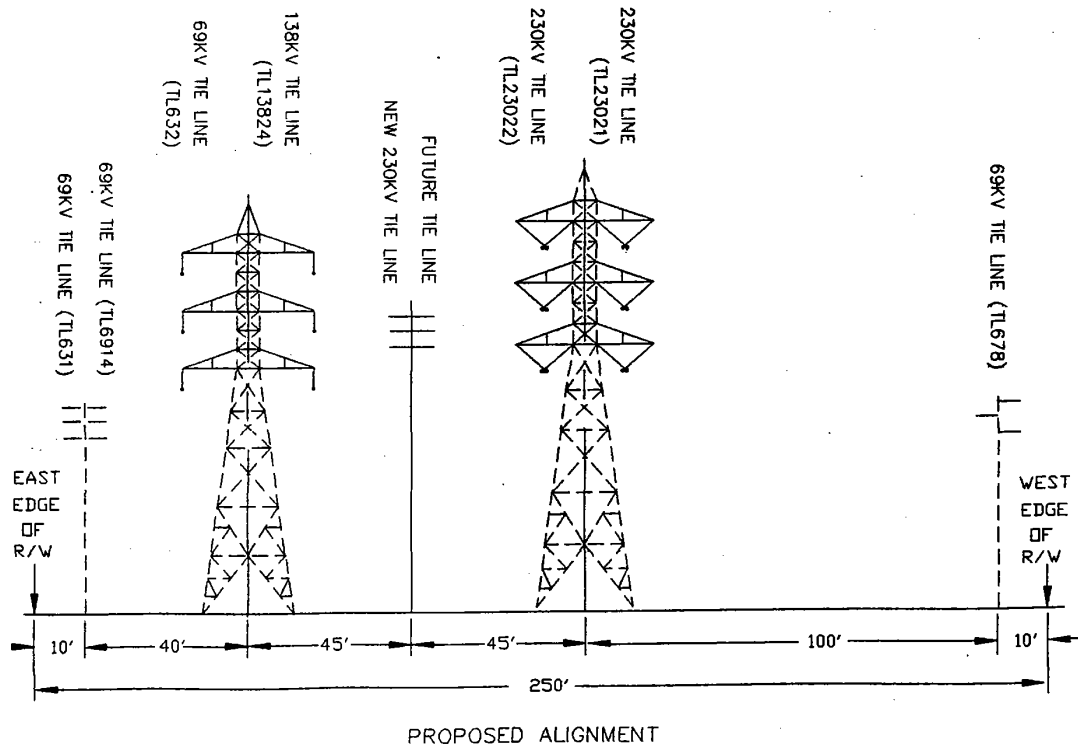
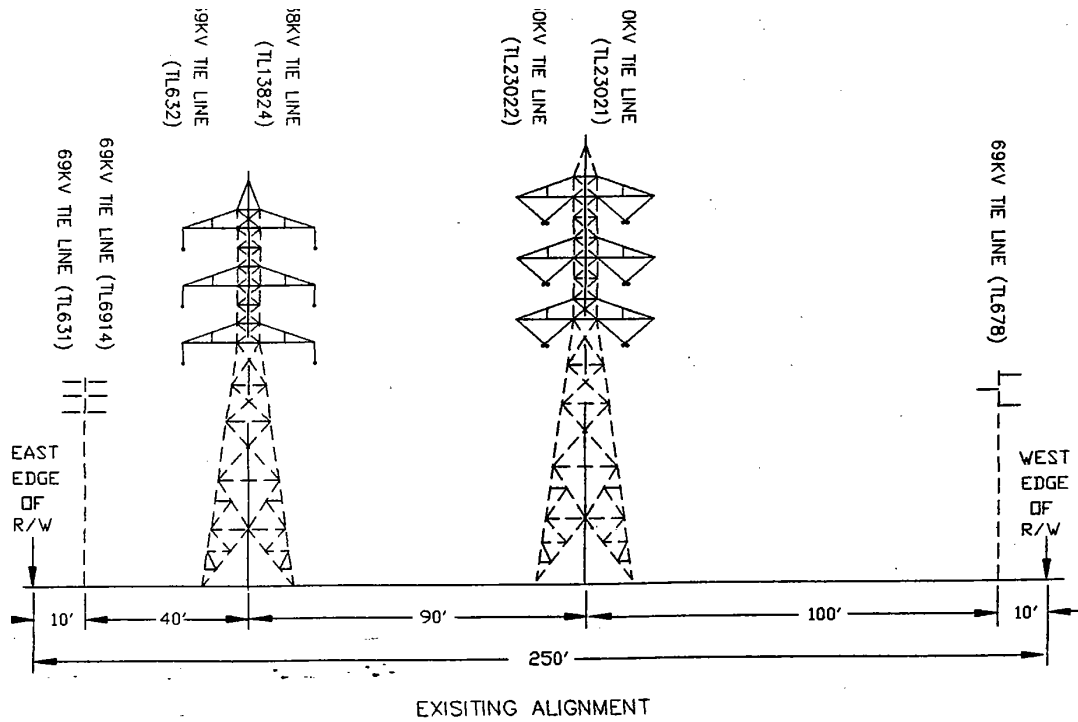
Jill D. Larson
Attorney for
San Diego Gas & Electric Company

Enclosure

cc: Mary Turley, San Diego Gas & Electric Company
Theodore Roberts, Sempra Energy

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United States Department of the Interior

FISH AND WILDLIFE SERVICE
Ecological Services
Carlsbad Fish and Wildlife Office
6010 Hidden Valley Road
Carlsbad, California 92009



FACSIMILE TRANSMITTAL FORM

Date Sent: 2/5/04 No. of Pages: 5 + cover Time Sent: (Pacific Time)

TO: Mr Donald Hawmes Fax No.: 858-637-3700

FROM: US FWS Fax No.: (760) 431-5902
Phone No.: (760) 431-9440

SUBJECT: Incidental Take Permits

COMMENTS:

If you have any problems receiving this fax, please call (760) 431-9440, extension 241. Thank you.

Alexandra Rhodes
Office Assistant
U.S. Fish & Wildlife Service
(760) 431-9440 ext. 241

The mission of the U.S. Fish and Wildlife Service is working with others to conserve, protect, and enhance fish and wildlife and their habitats for the continuing benefit of the American people.

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(see SD-116)

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United States Department of the Interior

FISH AND WILDLIFE SERVICE
Ecological Services
Carlsbad Fish and Wildlife Office
6010 Hidden Valley Road
Carlsbad, California 92009



In Reply Refer To:
FWS-SDG-878.3

FEB 05 2004

Mr. Donald Haines
CP21E
Land Use and Natural Resources Manager
Land Planning and Natural Resources
San Diego Gas and Electric
8315 Century Park Court
San Diego, California 92123

Re: Letter of Clarification Regarding Issuance of an Incidental Take Permit for the San Diego Gas & Electric Habitat Conservation Plan, (FWS Log No. 1-6-96-FW-07), December 1995, San Diego County, Orange County, and Riverside County, California

This document is in response to your verbal request to clarify a confusing paragraph in a letter that was sent to you dated December 04, 2003. This letter serves as a clarification and replacement of that letter.

This document responds to your November 5, 2003, Preactivity Study and Vernal Pool Restoration Plan for the Marine Corps Air Station Miramar Gas Access Road Grading project, submitted as an activity under the San Diego Gas & Electric (SDG&E) Subregional Natural Community Conservation Plan (Subregional Plan), in portions of San Diego County, Orange County, and Riverside County, California. In our biological and conference opinion (1-6-96-FW-07; Opinion) we concluded that the issuance of an incidental take permit and the execution of an Implementation Agreement for the proposed actions as set forth in the Subregional Plan, were not likely to jeopardize the continued existence of 110 species addressed by the Subregional Plan. We issued our Opinion on December 18, 1995, in accordance with section 7(a)(2) of the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 et seq.). This clarification letter is based on information provided in the *Biological Assessment for the SDG&E Natural Gas Alignment Access Road Maintenance on Marine Corps Air Station Miramar* (RECON, October 1, 2002); a site visit conducted on April 25, 2003; the initial Proposal for Vernal Pool Creation and Enhancement and Scope of Work (RECON, October 31, 2003); and the Subregional Plan Field Survey Form for Gas Pipeline Access Road Regrade on Marine Corps Air Station (MCAS) Miramar (SDG&E, November 4, 2003; field survey report).

Our Opinion encompassed maintenance and operation activities and new facilities as described in the SDG&E Subregional Plan. This clarification is necessary to address SDG&E's proposed regrading of existing gas pipeline access roads within SDG&E's easements on MCAS Miramar,



Comment Set SD, cont.
San Diego Gas & Electric Company

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proposed realignment of a portion of the access road, and the project's potential effects to San Diego fairy shrimp (*Branchinecta sandiegoensis*; fairy shrimp) and San Diego button celery (*Eryngium aristulatum* var. *Parishii*; button celery). Although fairy shrimp and button celery are covered species under the Subregional Plan, our Opinion anticipated that impacts to vernal pool would be addressed pursuant to section 7 of the Act (Opinion, page 34; Findings and Recommendations Regarding the Issuance of Permit PRT-809637, Page 12, II. Public Comment no. 41), and therefore, our Opinion did not include specific conservation measures for vernal pool species.

The project will be processed under SDG&E's Subregional Plan, and this letter serves as a clarification to address this activity. This clarification pertains only to the maintenance and repair of existing gas pipeline access roads within SDG&E's easements on MCAS Miramar.

Conservation measures to offset impacts to fairy shrimp and button celery will be implemented offsite (not on Miramar Station), as required by MCAS Miramar policy, or conducted within SDG&E's easements, onsite. The proposed project will result in impacts to 0.091 acre of disturbed vernal pool basin (four ponded areas) that supports fairy shrimp (of which 0.004 acre supports button celery), and 0.26 acre of button celery habitat (approximately 100 individual button celery plants). These impacts will be offset by the conservation measures described below.

SDG&E will incorporate the following conservation measures into the project to minimize impacts to fairy shrimp and button celery:

1. To prevent water from ponding on SDG&E's access roads, applicable existing access roads and realigned graded access roads will be covered with decomposed granite (DG) that will be brought in by a dump truck and spread, compacted, and crowned by a grader.
2. The regraded road (Figures 2 - 4, field survey report) will be maintained to prevent water from ponding, thereby precluding native plant and animal species from being established.
3. The realigned road will be clearly demarcated and barriers will be placed to prevent vehicle access on the old road.
4. A qualified biological monitor having local experience with vernal pool resources will oversee and monitor all road regrading activities occurring adjacent to vernal pools and/or button celery, and be present onsite the entire time that work is conducted adjacent to vernal pools or within button celery habitat.
5. The biological monitor will work with the SDG&E field crew to plan the least sensitive placement of the access road realignment and stake avoidance areas. The realigned access road will be positioned so that road ruts that contain fairy shrimp and button celery are avoided, to the maximum extent possible.
6. The biological monitor will hold a pre-construction meeting to brief the crew on the location of sensitive resources and construction boundaries.

Comment Set SD, cont. San Diego Gas & Electric Company

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7. All vernal pools adjacent to the project footprint, plus a five-foot buffer where possible, will be fenced with orange safety fencing to ensure no people or equipment impact vernal pools during construction activities.
8. The project footprint within the button celery habitat will be clearly defined with orange safety fencing to ensure no people or equipment impact the adjacent button celery habitat or vernal pools during construction activities.
9. The biological monitor will ensure that fencing to protect vernal pools and button celery is appropriately placed and is maintained in good condition for the duration of the project. Where vernal pools or button celery occur immediately adjacent to the project footprint, the biological monitor will assist with the installation of protective fencing to ensure that no fence posts are placed within the pools, and to minimize impacts to individual button celery plants. If it is not possible to place protective fencing, without impacting vernal pools or button celery, sandbags will be used instead, and will be placed along the perimeter of the vernal pool.
10. The biological monitor will document all accidental or unanticipated impacts to vernal pools and/or San Diego button celery in a post construction report to be provided to the Service within ten days of project completion.
11. Seed from the button celery plants that will be impacted by the project will be collected when the plants have dried and before the seed disperses, and scattered in the adjacent button celery habitat (within SDG&E's easement) that will not be impacted by the project.
12. For vernal pool number 7 (figure 2, field survey report), and to the extent feasible for vernal pools number 48, 50, and 51 (figure 7, field survey report):

Vernal pool soil (inoculum) will be collected when it is dry, to avoid damaging or destroying fairy shrimp cysts which are fragile when wet. A hand trowel or similar instrument should be used to collect the sediment. Whenever possible, soil will be collected in chunks. The salvaged soil will be deposited in adjacent pools within the SDG&E easement that will not be impacted by the project. No soil will be placed outside of the easement.

Direct impacts to vernal pools will be offset through the following measures:

13. a. Pool number 7 is occupied by San Diego fairy shrimp and supports San Diego button celery. Impacts to 0.004 acre of vernal pool basin will be mitigated at a 2:1 ratio, through creation of 0.008 acre of vernal pool basin area offsite, at the vernal pool preserve located within the SDG&E Penasquitos Substation.
- b. Pools number 48 (0.026 acre), 50 (0.023 acre), and 51 (0.038 acre) are occupied by San Diego fairy shrimp, but do not support button celery. Impacts to these pools will be mitigated at a 1:1 ratio, through creation of 0.087 acre of vernal pool

**Comment Set SD, cont.
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- basin area off-site, at the vernal pool preserve located within the SDG&E Penasquitos Substation.
- c. Impacts to 0.26 acre of San Diego button celery habitat will be mitigated at a 1:1 ratio, through 0.26 acre of off-site button celery habitat restoration, at the vernal pool preserve located within the SDG&E Penasquitos Substation.
 - d. SDG&E will submit a Proposal for Vernal Pool Creation and Enhancement and Scope of Work to the U.S. Fish and Wildlife Service (Service) and the California Department of Fish and Game (Department) for review and approval, prior to implementing the proposed maintenance and repair of existing gas pipeline access roads on MCAS Miramar.
 - e. Creation of 0.095 acre of vernal pool basin area (0.008 acre + 0.087 acre) occupied by San Diego fairy shrimp, and restoration of 0.26 acre of button celery habitat, will occur at the vernal pool preserve located within the SDG&E Penasquitos Substation, consistent with the Proposal for Vernal Pool Creation and Enhancement and Scope of Work (RECON Number 3310B, October 2003).
 - f. SDG&E will implement a final button celery and vernal pool restoration plan, that has been submitted to the Service and Department for review and approval within 90 days of initiation of project construction.

AMOUNT OR EXTENT OF TAKE

Sections 7(b)(4) and 7(o)(2) of the Act generally do not apply to listed plant species. However, limited protection of listed plants from take is provided to the extent that the Act prohibits the removal and reduction to possession of Federally listed endangered plants or the malicious damage of such plants on areas under Federal jurisdiction, or the destruction of endangered plants on non-Federal areas in violation of State law or regulation or in the course of any violation of a State criminal trespass law.

The following take applies to the proposed project changes addressed in this clarification to our biological opinion and only supplements the take statement in the original Opinion.

San Diego Fairy Shrimp

It is not possible to precisely predict the number of fairy shrimp that may be taken as a result of the proposed action, however the Service anticipates that cysts will be damaged in all of the pools that are to be filled as a result of the road improvements and maintenance (approximately 0.091 acre). Therefore, all of the fairy shrimp within the impacted pools will be taken as a result of the proposed project in the form of direct mortality.

**Comment Set SD, cont.
San Diego Gas & Electric Company**

FWS-SDG-878.3

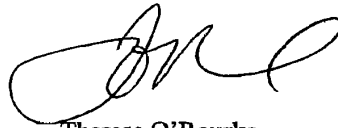
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CONCLUSION

The Service anticipates that the loss of approximately 0.091 acre of vernal pool basin area, occupied by San Diego fairy shrimp, and 0.26 acre of habitat occupied by San Diego button celery, is not likely to jeopardize the continued existence of the San Diego fairy shrimp or San Diego button celery.

All terms and conditions in the original Opinion must be implemented as written. If you have any questions regarding this amendment, please contact Sandra Marquez of the Service at (760) 432-9440 extension 268.

Sincerely,



Therese O'Rourke
Assistant Field Supervisor

cc: Bill Tippetts, California Department of Fish and Game
Dave Mayer, California Department of Fish and Game