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In Reply Refer To:  
FWS-SDG-5021.1

Steven A. Weissman  
California Public Utilities Commission  
Division of Administrative Law Judges  
Room 5017  
505 Van Ness Avenue  
San Francisco, CA 94102-3214

September 13, 2006

### PREHEARING CONFERENCE STATEMENT

Dear Judge Weissman:

The U.S. Fish and Wildlife Service (Service) and California Department of Fish and Game (Department) (collectively referred to as 'Wildlife Agencies') request that the following statement be read into the record of the Prehearing Conference on the Application of San Diego Gas and Electric Company for a Certificate of Public Convenience and Necessity for the Sunrise Powerlink Transmission Project (Powerlink).

The primary concern and mandate of the Service is the protection of public fish and wildlife resources and their habitats. The Service has legal responsibility for the welfare of migratory birds, anadromous fish, and endangered animals and plants occurring in the United States. The Service is also responsible for administering the Endangered Species Act (16 U.S.C. 1531 *et seq.*). The Department is a Trustee Agency and a Responsible Agency pursuant to California Environmental Quality Act (CEQA) Sections 15386 and 15381, respectively. The Department is responsible for the conservation, protection, and management of the state's biological resources, including rare, threatened, and endangered plant and animal species pursuant to the California Endangered Species Act, and other sections of the Fish and Game Code. This statement has been prepared pursuant to these mandates.

The Wildlife Agencies recently became aware of the intention to circulate the Draft EIS/EIR for the Powerlink project without incorporating the results of the focused surveys for sensitive species, which are scheduled for completion in 2007. We are concerned that this approach will result in an EIS/EIR that fails to fulfill one of its basic purposes which is to prevent significant, avoidable damage to the environment by requiring changes in projects through the use of feasible alternatives or mitigation measures [CEQA Guidelines section 15002(a)(3)]. The CEQA Guidelines require that a Draft EIR consider and discuss, among other things, (a) the significant environmental effects of the proposed project [15126(a) and 15126.2], (b) the mitigation measures proposed to minimize the significant effects [15126(e) and 15126.4], and (c) alternatives to the proposed project [15126(f) and 15126.6]. None of these requirements can be met relative to biological impacts without consideration of the results of the biological surveys because such consideration is needed to fully identify the impacts and make a determination of significance, to propose appropriate mitigation measures, and to define alternatives as required by CEQA. Deferring full analyses of the project-related biological impacts until the preparation of the FEIS/EIR will prevent full disclosure of project impacts, preparation of meaningful alternatives,



preparation of adequate avoidance

and minimization measures, and compliance with the above referenced sections of the CEQA Guidelines. It would also impair the opportunity for fully informed public comment, and may impair the ability of the Department to utilize the document as a Responsible Agency. The Wildlife Agencies respectfully request that the project schedule be amended to allow sufficient time to fully incorporate the 2007 survey results into project planning, and to provide a document that, in all respects, complies with the CEQA Guidelines.

Sincerely,

Therese O'Rourke  
Assistant Field Supervisor  
U.S. Fish and Wildlife Service

Michael J. Mulligan  
Deputy Regional Manager  
California Department of Fish and Game