

**PUBLIC UTILITIES COMMISSION**

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



January 26, 2011

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 – Modification to Variance Request #3

Dear Mr. Colton,

On January 21, 2011, San Diego Gas and Electric (SDG&E) requested a Modification to Variance Request #3 issued by the California Public Utilities Commission (CPUC) to clarify that vegetation clearing may occur between January 15 and September 15 when it is not feasible to avoid this time period. As requested, this variance modification applies to the entirety of the 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 Bureau of Land Management (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. Portions of the area requested under this variance do fall under BLM and Forest Service jurisdiction, and separate concurrence from these agencies is required for federal lands under their jurisdiction.

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.

The Modification to Variance #3 to allow vegetation clearing to occur between January 15 and September 15 is granted by CPUC for non-federal lands based on the factors described below.

**SDG&E Variance Request.** Excerpts from SDG&E's Modification to Variance Request #3, received January 21, 2011, are presented below (indented):

SDG&E is requesting a modification to variance number 3 issued for the Sunrise Powerlink to clarify that vegetation clearing may occur between January 15 and September 15 when it is not feasible to avoid this time period. The modification to variance number 3 would encompass Mitigation Measures B-7e, B-7f, B-8a, and B-12a, as presented in the Final Environmental Impact Report/Environmental Impact Statement (FEIR/EIS) issued October 2008 by the California Public Utilities Commission (CPUC).

The time frame January 15 to September 15 covers the breeding season for general avian bird species, coastal California gnatcatcher, least Bell's vireo, and southwestern willow flycatcher. The purpose of this variance is to ensure, consistent with the other authorizations issued for the Project that address migratory birds and that there is flexibility in the restriction on vegetation clearing during the breeding bird season as long as measures are in place to ensure that active nests are avoided. SDG&E recognizes that a variance from Mitigation Measures B-7e, B-7i, B-8a, and B-12a (refer to the Mitigation Monitoring, Compliance and Reporting Program [MMCRP]) to conduct vegetation clearing during the breeding bird season would require additional conditions, such as pre-construction nesting surveys, to ensure that no new impacts would result from the requested variance activity. A variance from the above-referenced mitigation measures addressing the timing of vegetation clearing would not lessen the mitigation requirements. Rather, the variance would ensure that the intent of the mitigation requirement, which is to avoid impacts to nesting birds, would continue to be fulfilled while also providing greater consistency with the breeding bird season restrictions set forth in multiple agency authorizations issued for the Project.

### CPUC Evaluation of Variance Request

In accordance with the MMCRP, the Modification to Variance Request #3 was reviewed by CPUC to confirm that no new impacts or increase in impact severity would result from the requested variance activities. This review process involved consultation with U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG). USFWS provided their conditional concurrence to vegetation clearing between January 15 and September 15 as provided below on January 25, 2010. CDFG's conditional concurrence was also provided on January 25, 2011.

### Conditions of Variance Approval

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

1. The CPUC approval of the Modification to Variance Request #3 is limited to non-federal lands only. Separate approvals for BLM and Forest Service lands are required.
2. All applicable project mitigation measures, APMs, compliance plans, and permit conditions shall be implemented. Some measures have on-going/time-sensitive requirements and shall be implemented prior to and during construction where applicable.
3. Copies of all relevant permits, compliance plans, and this Variance Modification approval shall be available on site for the duration of construction activities.
4. As required by USFWS, if vegetation clearing cannot be performed outside of the bird breeding season, nesting surveys shall be conducted within 7 days of vegetation clearing within the most conservative buffers defined by the MMCRP and USFWS Biological Opinion. If relief is provided on the 7 day survey window by USFWS, the USFWS concurrence shall be provided to the CPUC, BLM and USFWS for review and implementation, if deemed appropriate.
5. During vegetation clearing, SDG&E will have a qualified, on-site biologist search for active nests within the vegetation to be cleared.
6. If nests are detected, or nesting behavior is observed, then activities will be postponed until the nesting cycle is complete.
7. All active nests of protected birds (e.g., MBTA, ESA, state-protected) will not be disturbed until after nest outcome is complete.
8. As required by CDFG, vegetation clearing under this Modification to Variance Request #3 is allowed until February 15, 2011 for those areas that have already been surveyed and approved (no nesting was detected). Subsequent to February 15<sup>th</sup>, vegetation clearing shall be conducted in accordance with the protocol to be developed by SDG&E and approved by USFWS and CDFG.

9. Any vegetation clearing within the riparian habitats of the least Bell's vireo or southwestern willow flycatcher shall only occur outside the breeding season for these species (i.e., shall only occur from September 16 through March 14 as listed in Mitigation Measure B-7e of the Final EIR/EIS), unless a biologist permitted by the USFWS surveys for the least Bell's vireo and southwestern willow flycatcher within 10 calendar days prior to initiating vegetation clearing and finds the species to be absent. If the species are present, then no vegetation clearing shall occur until the breeding season (March 15 through September 15) has ended.

Please contact me if you have any questions or concerns.

Sincerely,

*Billie C. Blanchard*

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  
Eric Kershner, USFWS  
Erinn Wilson, CDFG  
Susan Lee, Aspen Environmental Group  
Vida Strong, Aspen Environmental Group  
Anne Coronado, Aspen Environmental Group