

**PUBLIC UTILITIES COMMISSION**

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



July 14, 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 – Variance Request #18

Dear Mr. Colton,

On June 27, 2011, San Diego Gas and Electric (SDG&E) requested a variance from the California Public Utilities Commission (CPUC) to add six gate installations between mileposts (MPs) 38.5 and 39.5, Link 1 (NTP #13, Links 1, 2 and 5), 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.

**With the exception of proposed Gate #4**, Variance #18 to add gate installations between MPs 38.5 and 39.5 is granted by CPUC based on the factors described below.

**SDG&E Variance Request.** Excerpts from the SDG&E Variance Request, received June 27, 2011, are presented below (indented):

SDG&E is requesting a variance from the Project Modification Report, submitted to the CPUC approved on September 22, 2010, to add locations for gate installations between mile marker 38.5 and 39.5 for the safety and protection of Project personnel.

The location along the Right-of-Way (ROW) between mile markers 38.5 and 39.5 has historically been used for target practice for a number of years and access was known to be posted on the internet. The project encountered several incidents of surveyors and employees in areas nearby being fired upon. The project developed a security contingent to handle the safety issues. During the fall of 2010, a fire occurred on one of the hillsides. The fire was believed to have been started by recreational shooters in the area causing sparks from their bullet impacts. In May of this year, another

fire was started by shooters using steel ammunition causing sparks and igniting nearby brush. Even with the increase of patrols and signage, the project encounters at least seven shooters per week and as many as ten at a time. Many of the shooters leave debris ranging from water heaters, microwaves, and PCs. SDG&E has recovered live ammunition, spent ammunition, hypodermic syringes, and various garbage and trash.

SDG&E has used several methods to prevent trespassers and protect Project personnel from hazardous situations including:

- SDGE security teams have advised recreational gun enthusiasts in the area that their shooting might put Project employees in danger and that their shooting was occurring on private property.
- SDG&E has posted 'No Trespass' and 'No Shooting' signs in the areas belonging to the project. These signs were soon found to be shot and continue to have to be replaced. United States flags have been placed on the signs to slow the damage.
- Security patrols were increased and the assistance of the United States Customs and Border Protection (USCBP) was utilized. The USCBP had previously expressed concern over the areas as they had had a number of incidents where their officers were on surveillance and recreational shooters would be shooting in the area forcing the officers to take cover or be stranded until the shooters have ceased or have left the area.
- Discussions with some of the recreational gun enthusiasts have been hostile and the enthusiasts have proven to be uncooperative.

Most shooters enter along the 38.5 mile marker. Several main trails are used to get to the shooting areas. A lack of barriers was commonly cited by them as a reason they entered the property. The project was able to identify approximately six main trails leading to the myriad of other trails that lead to the shooting areas. Therefore SDG&E requests the ability to install six gates in this area for personnel safety during the construction and maintenance of the Sunrise Powerlink.

The property is mostly controlled by SDGE, however a portion of the land belongs to AER, Inc. SDG&E has coordinated with the property owner, Norm Holly in February 2011 to place gates at this location. Norm authorized SDGE to erect additional signage and gates to discourage and prevent most entries.

Proposed Gate #1 is located approximately 185 feet southeast of Old Highway 80, near the entrance to the future AER Construction Yard. Proposed Gate #2 is located approximately 290 feet southeast of Old Highway 80, within approved access road EP257-E-A. Proposed Gate #3 is approximately 250 feet south of Old Highway 80, along an existing non-project dirt access road west of EP257-E-A. **(Gate #4 location information has been omitted for confidentiality purposes)**. Proposed Gate #5 is approximately 0.25 mile southeast of Old Highway 80, adjacent to (and approximately 20 feet west of) approved access road EP254-3-E-A, and adjacent to an old existing wood and wire fence. Proposed Gate # 6 is approximately 0.2 mile southeast of Old Highway 80 and approximately 690 feet south of Structure EP252-1, along an existing non-project access road.

A biological resources survey was performed on May 20, 2011. The proposed gates are located from just north of the entrance of the AER Construction Yard, south and west to an area south of Structure EP252-1. All of the proposed gates will be located immediately adjacent to, and a cross existing dirt access roads, in order to minimize unauthorized traffic in the vicinity of the right-of-way. Whenever possible, gate locations were positioned in open areas, to minimize impacts to surrounding vegetation.

All of the sites are located in relatively flat to somewhat hilly terrain, categorized as Sonoran Mixed Woody Scrub habitat. All of the sites are within or immediately adjacent to existing dirt access roads, often in disturbed areas adjacent to the road. Plants observed in the vicinity of the proposed gate sites include jojoba, desert –thorn, Mojave yucca, desert agave, ephedra, California juniper, gander cholla, desert apricot, pine goldenbush, California buckwheat, antelope bush, California broom, matchweed, brome grass, and rattlesnake spurge. Much of the vegetation adjacent to the existing access roads are previously disturbed. Weedy species in the area include mustard and filaree, however, the proposed

gate sites are not located within a known weed control area for the project. Dry washes are fairly numerous in the vicinity of gate locations 5 and 6; however, the locations of these gates appear to be in adjacent upland habitat, and gate installation activities would not directly affect any known project waterbodies.

Wildlife species observed in the vicinity include black-throated sparrow, California quail, and western scrub-jay. No sensitive plants were observed during the survey. Sensitive plants previously documented in the vicinity include slender leaved ipomopsis, which was observed in a 2009 project survey northeast of the proposed sites. One sensitive wildlife species, the cactus wren, was heard calling in the distance southeast of the project site. No nests or nesting activities were observed in the vicinity of the proposed gate installation areas during the surveys.

A cultural resources assessment was performed on June 6, 2011. These areas were surveyed for archaeological materials during both preconstruction fielding activities and cultural resources evaluations work for the Sunrise Powerlink Final Environmentally superior Southern Route (Garcia-Herbst, et al 2010). The installation of the gates will not create a significant impact on any potential buried site resources. If the following measures are followed the gate locations will not directly impact any NRHP/CRHR eligible sites. Due to the proximity of a cultural resource, an archaeological monitor is recommended during installation of Gate #4.

### **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. A CPUC Environmental Monitor visited the areas of the request. The following discussion summarizes the 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.

After review of the request, the CPUC was concerned that the shooting enthusiasts would simply drive around the gates once installed. The CPUC biological and cultural reviewers analyzed the areas around the gates to see if resource damage has the potential to occur. Please see the discussions by issue area below.

**Biological Resources.** A biological resources survey was performed on May 20, 2011. Whenever possible, gate locations were positioned in open areas, to minimize impacts to surrounding vegetation. All of the sites are located in relatively flat to somewhat hilly terrain, categorized as Sonoran Mixed Woody Scrub habitat. All of the sites are within or immediately adjacent to existing dirt access roads, often in disturbed areas adjacent to the road. One sensitive wildlife species, the cactus wren, was heard calling in the distance southeast of the project site. No nests or nesting activities were observed in the vicinity of the proposed gate installation areas during the surveys.

The CPUC biological resources consultant conducted a review of SDG&E's Variance Request and provided the following comments:

- While no nesting birds were observed during the biological surveys, impacts to nesting birds could still occur if construction was to occur during the nesting season. Therefore, construction will be subject to Mitigation Measure B-8a to protect nesting birds.
- A portion of the gate installation area (i.e., west of MP 31) was surveyed for the Quino checkerspot butterfly (QCB) in 2010, and the species was not observed. The area east of MP 31 was excluded from

the survey due to the lack of suitable QCB habitat. Therefore, it is presumed that the QCB is absent from the entire gate installation area, and no impacts to the species would occur.

- While the gates would be located largely in disturbed habitat along dirt roads and placed where topography or existing vegetation is anticipated to deter motorists from going around the gates, it appears based on the photographs provided with the request, that this could still occur.

As described in the request, it is anticipated that any impacts to sensitive vegetation (i.e., Sonoran mixed woody scrub, a desert scrub habitat) from gate installation would be very minimal, since the gates would be installed within or immediately adjacent to existing dirt access roads. Impact acreages resulting from gate installations and motorists navigating around the gates shall be included in post-construction restoration efforts, as defined by the project Habitat Acquisition Plan (HAP) and Habitat Management Plan (HMP).

**Hydrological Resources.** Dry washes are fairly numerous in the vicinity of gate locations #5 and #6; however, the locations of these gates appear to be in adjacent upland habitat, and gate installation activities would not directly affect any known project waterbodies.

**Cultural and Paleontological Resources.** A cultural resources assessment was performed on June 6, 2011. These areas were surveyed for archaeological materials during both preconstruction fielding activities and cultural resources evaluations work for the Sunrise Powerlink Final Environmentally superior Southern Route (Garcia-Herbst, et al 2010). Any new discoveries shall be managed in compliance with the procedures and guidelines for Treatment for Unanticipated Discoveries set forth in the Final Historic Properties Management Plan (HPMP). In the event of an unanticipated discovery of archaeological materials at any gate location, the gate shall remain/be opened to allow road usage.

The CPUC cultural consultant conducted a review of the request and found that Gate #4 is within the boundaries of a known site; the current access road traverses the site. So, if motorists go around the gate, it will be within the site boundaries. **Therefore, the installation of Gate #4 as proposed by SDG&E is not approved under this Variance.** There are no cultural resources concerns within the immediate vicinity of the other gates (Gate #1-3 and #5-6).

**Traffic/Sensitive Land Uses/Noise.** No concerns noted under this request.

**Visual.** All gate installations shall be removed post construction. No concerns noted under this request.

**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 for the duration of alternate access route.
3. Vegetation impact acreages (i.e., Sonoran mixed woody scrub, a desert scrub habitat) resulting from gate installations and motorists navigating around the gates shall be included in post-construction restoration efforts, as defined by the project HAP and HMP.

4. No vegetation clearing will be allowed during the bird nesting season until direct approval by the resource agencies has been granted or otherwise permitted under the *Nest Survey Protocol*. To avoid harm to nesting birds, SDG&E and its contractors will implement the Project mitigation measures for nesting birds and the conditions of this variance approval found below.
5. Biological monitoring shall be conducted in accordance with Mitigation Measure (MM) B-1c. "Biological survey sweeps" are required to occur during active use of the subject areas as part of required biological monitoring activities.
6. If active nests are found, protocols stipulated by MM B-8a shall be followed. A Biological Monitor shall establish an appropriate buffer around the nest and no activities will be allowed within the buffer until the young have fledged from the nest or the nest fails. The Biological Monitor shall conduct regular monitoring of the nest to determine success/failure and to ensure that project activities are not conducted within the buffer until the nesting cycle is complete or the nest fails. The Biological Monitor shall be responsible for documenting the results of the surveys and the ongoing monitoring. The buffer may be adjusted subject to review by CDFG and USFWS, and with prior knowledge of the CPUC.
7. Any new cultural resource discoveries shall be managed in compliance with the procedures and guidelines for Treatment for Unanticipated Discoveries set forth in the Final Historic Properties Management Plan (HPMP). In the event of an unanticipated discovery of archaeological materials at any gate location, the gate shall remain/be opened to allow road usage.
8. Gate #4 shall not be installed in the location proposed by SDG&E under this request. SDG&E may submit a modification to the variance request with an alternative location for CPUC review and approval.

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