

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

<p>In the Matter of the Application of San Diego Gas & Electric Company (U 902-E) for a Certificate of Public Convenience and Necessity for the Sunrise Powerlink Transmission Project</p>	<p>Application 06-08-010 (Filed August 4, 2006)</p> <p>Application No. 05-12-014 (Filed December 14, 2005)</p>
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**SUPPLEMENTAL PROTEST
OF CONSERVATION GROUPS**

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Dated: September 22, 2006

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In the Matter of the Application of San Diego Gas & Electric Company (U 902-E) for a Certificate of Public Convenience and Necessity for the Sunrise Powerlink Transmission Project	Application 06-08-010 (Filed August 4, 2006) Application No. 05-12-014 (Filed December 14, 2005)
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I. INTRODUCTION

Pursuant to the August 25, 2006, Administrative Law Judge's Ruling Setting Date for Prehearing Conference Statements and Extended Time for Filing Protests, the Center for Biological Diversity and the San Diego Chapter of the Sierra Club (“Conservation Groups”) submit this Supplemental Protest to the Application of San Diego Gas & Electric Company (“SDG&E”) for a Certificate of Public Convenience and Necessity for the Sunrise Powerlink Transmission Project, filed August 4, 2006 and docketed as Application 06-08-010 (“Project”). Conservation Groups object to the granting of a Certificate of Public Convenience and Necessity (“CPCN”) to SDG&E for the Project. In particular, Conservation Groups claim that SDG&E’s Application:

- fails to justify the need for the Project;
- provides a legally deficient schedule;
- contains an inadequate Proponent’s Environmental Assessment (“PEA”);
- fails to consider viable alternatives to the Project; and
- fails to evaluate or adequately evaluate a number of required matters.

Conservation Groups also submit a revised alternative schedule in light of:

- Commission and Bureau of Land Management (“BLM”) statements at the Prehearing Conference;
- The workshops ordered by the September 21, 2006, Administrative Law Judge’s Ruling Ordering Workshops on Modelling Assumptions and the Development of Alternatives and Requiring the Delivery of Paper Copies to Some Parties (“Workshop Order”);
- California Environmental Quality Act (“CEQA”) survey requirements (discussed in section II.A, below); and
- The lack of constraint imposed by the Energy Policy Act of 2005 § 1221 (discussed in section II.B, below).

II. SDG&E’S PROPOSED SCHEDULE VIOLATES CEQA AND COMMISSION REQUIREMENTS AND IS CONTRARY TO PUBLIC POLICY

SDG&E has proposed the following Proposed Schedule:

SDG&E’S PROPOSED SCHEDULE

August 4, 2006	File amended application
September 6, 2006	Responses to application (30 days from daily calendar notice)
September 13, 2006	Prehearing Conference
September 22, 2006	Protests (any SDG&E reply due October 2)
September 22, 2006	Scoping Memo
October 4, 2006	CAISO and Intervenor Testimony (60 days from amended application).
November 1, 2006	Rebuttal Testimony, inc. cross-replies among intervenors and CAISO) (4 weeks).
January 8-19, 2007	Hearings
February 23, 2007	Concurrent Opening Briefs (5 weeks)
March 16, 2007	Concurrent Reply Briefs (3 weeks)
March 2007	Draft EIR/EIS (followed by 90 day review period)
May 2007	Draft Decision on Purpose and Need
August 2007	Final EIR/EIS
August 2007	Commission CPCN decision

Conservation Groups object to SDG&E’s Proposed Schedule for the reasons identified in their Prehearing Conference Statement, which is incorporate herein by reference and attached hereto (See Exhibit A), and for the following additional reasons.

A. Failure to Provide Adequate Time for Required CEQA Surveys

SDG&E's proposed schedule creates significant problems in regard to CEQA compliance. While SDG&E has scheduled completion of the Draft Environmental Impact Report ("DEIR") for March of 2007, the BLM and Commission staff have stated that it will not be possible to complete surveys of wildlife and plants until at least the summer of 2007. For the following reasons, such a schedule undermines CEQA's goal of providing the public and decision-makers with the necessary and proper information needed to make a well-informed decision.

CEQA mandates that an EIR must provide a detailed statement setting forth the following:

- all significant effects on the environment of the proposed project;
- any significant effect on the environment that cannot be avoided if the project is implemented,
- any significant effect on the environment that would be irreversible if the project is implemented;
- the growth-inducing impact of the proposed project;
- mitigation measures proposed to minimize significant effects on the environment; and
- alternatives to the proposed project, including alternative locations.

CEQA Guidelines § 15124; 15126. The EIR must also determine whether proposed mitigation measures will or will not be effective in avoiding or substantially lessening a project's significant environmental impacts and make an adequate statement of overriding considerations for those significant environmental impacts deemed unavoidable. Cal. Pub. Res. Code § 21100(b)(3); 21081(a).

The primary purpose of wildlife and plant surveys, of course, is to ensure that the EIR process is properly informed as to potential wildlife impacts. Without first establishing what the significant wildlife effects might be, based upon the surveys, it is impossible to determine "feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects." Cal Pub Resources Code § 21002. In fact, many plants and animals

are so rare that mitigation alone is inadequate to reduce impacts. Avoiding such plants and animals or indemnifying alternatives to protect them is virtually impossible absent surveys to pinpoint their locations. Therefore, it makes no sense to complete the surveys after the DEIR is complete

In regard to the Project, wildlife surveys are not superfluous. As section 21160 of CEQA explicitly states, an agency “may require [a project proponent] to submit data and information which may be necessary to enable the public agency to determine whether the proposed project may have a significant effect on the environment” Cal. Pub. Res. Code § 21160. Because surveys are necessary to determine the significant effects of the proposed Project on wildlife and plants, the Commission should ask for such surveys and should require that they be incorporated into a DEIR. In *Sierra Club v. State Bd. of Forestry*, 7 Cal. 4th 1215, 1236 (Cal. 1994), the California Supreme Court explicitly pointed out the importance of wildlife surveys:

In evaluating and approving the timber harvest plan in the absence of [wildlife surveys], the board failed to proceed in the manner prescribed by CEQA. The record confirms that Fish and Game had reasonably determined that the proposed timber harvest could have a significant adverse effect on the old-growth-dependent wildlife habitat. Therefore, the board, through the department, had an obligation imposed by CEQA to collect information regarding the presence of old-growth-dependent species on the site of the proposed timber harvest. Without that information the board could not identify the environmental impacts of the project or carry out its obligation to protect wildlife as required by the Forest Practice Act (§ 4551), and to prevent environmental damage by refusing to approve projects if feasible mitigation measures are available which will avoid or substantially lessen significant environmental effects as required by CEQA. (§ 21000, 21002.) When it nonetheless approved the plan, the board failed to proceed in the manner prescribed by the Forest Practice Act and CEQA.

Here, there is no question that the Project could have significant adverse effect on specific animal and plant species, especially those located within Anza-Borrego Desert State Park (“Anza-Borrego State Park” or “Park”) and preserves established under the San Diego Multiple Species Conservation Plan / Natural Communities Conservation Plan. Therefore, the necessary surveys should be called for and should be completed so that they can be evaluated as part of DEIR.

Moreover, the CEQA Guidelines impose obligations that require animal and plant surveys for projects like the Project. CEQA Guideline 15145 mandates that only after “thorough

investigation” may a lead agency determine that an impact is “too speculative for evaluation.” Here, a “thorough investigation” requires, at a minimum, that surveys be completed so as to effectively understand the Project’s significant impacts on wildlife and plants. Similarly, CEQA Guideline 15144 dictates that when “drafting an EIR...an agency must use its best efforts to find out and disclose all that it reasonably can.” Again, at a minimum, to “find out and disclose all that it reasonably can” means that Commission must ask for animal and plant surveys and must ensure that those surveys are available when drafting the EIR.

In sum, surveys are not only appropriate, they are absolutely necessary to ensure an adequate DEIR is completed. For that reason, SDG&E’s proposed date of March 2007, 2007, for submittal of the DEIR should be rejected and instead, the Commission should order SDG&E to complete adequate surveys such that they can be evaluated as part of, not after, the DEIR.

B. Failure to Allow Maximum Time for CEQA Process Allowed by § 1221 of the Energy Policy Act of 2005

Section 1221 of the Energy Policy Act of 2005 (“§ 1221”) permits the Federal Energy Regulatory Commission (“FERC”) to consider applications for transmission lines within “national interest electric transmission corridors” (“NIETC”). This provision may ultimately result in FERC consideration of the Project, but the Commission has adequate time in which to consider the Application, including any studies required by National Environmental Policy Act (“NEPA”) or CEQA that might require a Commission process longer than one year. Specifically, it is unlikely that FERC could legally initiate a hearing for a permit to build the Project prior to December 2007, four months after the one-year deadline imposed by CEQA, and even then it is likely to delay initiation of any process to allow completion of an imminent Commission action.

The relevant language in § 1221(a) and (b) is the following:

- (a) Designation of National Interest Electric Transmission Corridors.—
 - (1) Not later than 1 year after the date of enactment of this section and every 3 years thereafter, the Secretary of Energy (referred to in this section as the ‘Secretary’), in consultation with affected States, shall conduct a study of electric transmission congestion.
 - (2) After considering alternatives and recommendations from interested parties (including an opportunity for comment from affected States), the Secretary shall issue a report, based on the study, which may designate any geographic area experiencing electric energy transmission capacity constraints or congestion

that adversely affects consumers as a national interest electric transmission corridor.

* * *

(b) Construction Permit – Except as provided in subsection (i), the [FERC] may, after notice and an opportunity for hearing, issue one or more permits for the construction or modification of electric transmission facilities in a national interest electric transmission corridor designated by the Secretary under subsection (a) if the [FERC] finds that—

(1) . . . (C) a State commission or other entity that has authority to approve the siting of the facilities has—

(i) withheld approval for more than 1 year after the filing of an application seeking approval pursuant to applicable law or 1 year after the designation of the relevant national interest electric transmission corridor, *whichever is later*; .

..

(Emphasis added.) Thus, §1221(a) requires the Department of Energy (“DOE”) to:

- 1) conduct a study of electric transmission congestion (“Congestion Study”) within one year of August 8, 2005, the date of enactment of the Energy Policy Act of 2005, and then
- 2) issue a report (“Congestion Report”) designating NIETCs based on the Congestion Study.

The timing of the Congestion Study and Congestion Report are relevant to this situation for the following reason. § 1221(b)(1)(C)(i) permits FERC to issue a construction permit if a state agency, such as the Commission, withholds approval of an application. However, FERC may not issue a permit any sooner than one year after the filing of an application with the state or, where an application is filed before the designation of the relevant NIETC (as is the case here), one year after such designation, *whichever is later*. The intent of the section is to give impacted state agencies at least one year from the date that § 1221 becomes applicable to a project to finish review of such project.

DOE issued a draft Congestion Study on August 2006. Comments on this study are due on October 10, 2006 (Congestion Study p.62). DOE may not issue the Congestion Report until after completion of the Congestion Study, which will not be completed until after October 10, 2006. The DOE has indicated that it intends to issue the Congestion Report “by the end of the year.”¹ Therefore, the earliest that FERC could consider an application for the Project is likely to be December 2007, one year after the DOE issues its Congestion Report.

This does not mean that FERC could issue a construction permit in 2007 or even 2008

because applicants must first initiate a 60 day pre-hearing process with FERC and then FERC must comply with federal notice and hearing requirements as well as NEPA. By way of comparison, gas pipeline hearings before FERC typically require between 14 and 18 months from the date the applicant initiates a pre-application process to final decision.

Assuming that the DOE issues its Corridor Report in December 2006, the earliest an applicant could initiate a 60-day prehearing process would likely be December 2007, with the result that the earliest that FERC would be able to issue a construction permit would be late spring 2009. The following table describes a possible schedule.

Section 1221 Timeline

EVENT	TIMEFRAME
SDG&E files complete application with Commission	September 1, 2006
DOE issues Congestion Study	October 2006
DOE issues Congestion Report	December 2006
Commission final decision	Fall 2007
FERC authorized to initiate hearing	December 2007
FERC 60 day prehearing process ends	February 2008
FERC hearing begins	March 2008
FERC final decision	May to September 2009

Even if FERC initiates a proceeding on the Project before the Commission makes its final determination, there is no requirement in § 1221 or its implementing regulations that directs the Commission to abandon consideration of the Project once a FERC application is filed. A failure by FERC to act with appropriate deference to state action could result in substantial confusion and wasted time and effort. For these reasons, FERC is likely to act with deference in regard to the Commission’s ongoing proceeding, provided the Commission is not purposefully frustrating the intent of § 1221.

Also, § 1221 and related implementing regulations are new untested laws that greatly expand FERC jurisdiction into transmission line permitting. As such, it is possible that FERC will require additional time to accommodate the agency’s learning curve on transmission siting issues, that FERC will face “shake down” hurdles as it attempts to implement the law and implementing regulations, and that a number of entities may challenge the legal validity of §

¹ Email, August 14, 2006, from Poonum Agrawal, Manager, Markets and Technical Integration, Office of Electricity Delivery and Energy Reliability, US Department of Energy.

1221 in the courts.

All of the foregoing factors suggest that FERC will not impose § 1221 requirements in a draconian fashion and therefore, given the timing of SDG&E's application, § 1221 does not impose any significant time constraint on the Commission.

III. CONSERVATION GROUPS' REVISED ALTERNATIVE SCHEDULE

Conservation Groups offer the following revised alternative schedule as a means to address the deficiencies in SDG&E's proposed schedule noted in Conservation Groups' Prehearing Conference Statement, as well as the additional deficiencies noted above. Conservation Groups have also fashioned their revised alternative schedule in response to the Commission's Workshop Order and statements made by Commission and BLM staff at the Prehearing Conference regarding the need for additional time for required CEQA and NEPA surveys. Conservation Groups have not attempted to integrate agency consultation or the IID, DPR, BLM, or USFWS processes into their proposed schedule in detail due to a lack of information about them. However, given the Commission and BLM statements at the Prehearing Conference regarding the need to lengthen the hearing schedule given required CEQA and NEPA surveys, Conservation Groups propose a revised schedule that attempts to take these survey needs into account.

Fall/Winter 2006/2007	Prehearing Process, Assumptions & Alternatives Workshop(s), and Discovery
August 4, 2006	Application Filed
September 8, 2006	Application Deemed Complete
September 13, 2006	Prehearing Conference/Public Participation Hearing
September to January	Discovery
September 15, 2006	Issue CEQA Notice of Preparation
September 22, 2006	Protest Deadline
September 29, 2006	SDG&E Response to Protests, if Necessary
October 2 to 5, 2006	CEQA/NEPA Scoping Hearings
October 16 to 20, 2006	Assumptions & Alternatives Workshops
October 20, 2006	CEQA/NEPA Scoping Comments Due

October 31, 2006	Assumptions & Alternatives Report Due
November to December	Additional Assumptions & Alternatives Workshops, if Necessary
November 10, 2006	Commission Scoping Memo
November 10, 2006	CEQA/NEPA Scoping Report
November 1, 2006	Initial Discovery Meeting
December 13, 2006	Follow-up Discovery Meeting
January 31, 2007	Discovery Ends
Spring/Summer 2007	Economic, Reliability, Community and Environmental Evaluation of Alternatives to Meet Regional Needs
May 2007	SDG&E Supplemental Testimony served
June 2007	DRA/Intervenor/CAISO Phase II Testimony served
July 2007	Rebuttal Testimony served
July 2007	DEIR Served
August 2007	Evidentiary Hearings/Oral Argument, as Needed
September 2007	CEQA/NEPA and Public Participation Hearings
September 2007	DEIR Comment Period Closes
September 2007	Concurrent Opening Briefs
October 2007	Concurrent Reply Briefs
November 2007	Final EIR
November 2007	CAISO Recommendation on Project
November 2007	Draft Decision on CPCN/Certifying Final EIR issued
December 2007	Final Commission Decision on CPCN/Certifying EIR

Conservation Groups' revised alternative schedule provides for a sixteen-month process from the date of approval of the application to the date of issuance of a decision on a CPCN, with a final decision envisioned in December 2007. Conservation Groups have not yet had the opportunity to fully research the schedule implications of CEQA and NEPA schedule constraints and the DPR's recent assertion that it is a responsible agency under CEQA for the Project, nor the implications of necessary integration of ESA compliance by SDG&E and the Commission

with this proceeding. Conservation Groups therefore urge the Commission to consider future amendments to any schedule it issues should more information on other agency process and CEQA and NEPA schedule constraints come to light. If the CEQA and NEPA process is the critical path for this proceeding, then the Commission should structure the schedule around CEQA and NEPA requirements and not rush to complete its evidentiary hearings only to wait for the CEQA and NEPA processes to end.

Conservation Groups understand that required CEQA and NEPA surveys cannot be completed before mid-summer 2007. As described in Section II, above, the Commission has considerable latitude within at least a 16 month timeframe and therefore it should schedule its evidentiary hearings as late as reasonably possible to ensure full public participation and full compliance with CEQA and NEPA. Rushing to complete an evidentiary hearing on need before issuance of a DEIR would frustrate CEQA, constrain discovery and analysis, not result in an earlier final decision, and be unnecessary.

Conservation Groups appreciate the Commission's effort through its Workshop Order to address the need to develop common planning assumptions, particularly because it appears to be in part responsive to Conservation Groups' schedule concerns and proposal for early identification of assumptions and alternatives which was described in the Conservation Groups' Prehearing Conference Statement. Yet, Conservation Groups believe that the initial timeframe for this process is too brief and unlikely to achieve the results sought by the Workshop Order. Also, Conservations Groups claim that scheduling such workshops "in early October" during or immediately following the CEQA and NEPA scoping meetings (five meetings are scheduled between October 2 and 5, 2006) would make meaningful participation in the workshops by Conservation Groups and the public impossible due to limited resources. Conservation Groups and likely community intervenors simply cannot participate in the CEQA and NEPA scoping meetings and the workshops simultaneously. Therefore, Conservation Groups urge SDG&E and the Commission to Schedule the assumptions and alternatives workshop for the week of October 16, at the earliest.

IV. THE PEA IS INADEQUATE AND FLAWED

SDG&E's PEA is inadequate and deeply flawed, particularly with respect to its failure to clearly present or consider the anticipated significance of impacts of the Project to people,

property, and biological resources from accidental wildfire, and impacts to particular species and vegetation and wetland communities. Conservation Groups agree with the concerns raised by the DPR in its Prehearing Conference Statement filed with the Commission on September 5, 2006, which is incorporated herein by reference.

SDG&E's conclusions about the significance of impacts to people, property, and biological resources resulting from the Project and Project-related accidental wildfire are in gross error. Indeed, out of the literally hundreds of possible impacts relating to biological resources and wildfire – losses of human life, losses of millions of dollars in property, losses of critically endangered species populations – the Conservation Groups were unable to identify a single instance where SDG&E actually admits to any significant impacts. According to SDG&E, impacts are always “less than significant,” or “less than significant with mitigation.” That SDG&E would conclude that building a 150 mile-long 500/230 kV transmission line through the heart of a state park, multiple open space reserves, large expanses of public land, and a number of communities, would have no significant effect on the environment reflects a level of denial not often encountered in a corporation of SDG&E's stature and reputation. That SDG&E would draw the conclusions it does about the effects of the Project on the environment also indicates that SDG&E's PEA has little practical utility to the Commission's CEQA compliance effort other than providing a preliminary outline and a collection of boiler plate language.

CEQA defines "Significant effect on the environment" as “a substantial, or potentially substantial, adverse change in the environment.” Cal. Pub. Res. Code § 21068. A number of provisions of the CEQA Guidelines, including §§ 15064, 15064.5, 15064.7, 15065, and 15206 provide additional clarification on whether effects on the environment are significant. These provisions make abundantly clear that the Project will have a significant effect on the environment.

As an initial matter, SDG&E's application does not appear to include a required “Environmental Impact Assessment Summary,” thereby greatly increasing the difficulty to any reviewer in identifying SDG&E's anticipated significant impacts to the environment. According to the Commission Guidance on the Contents of PEAs, “Every PEA shall contain an Environmental Impact Assessment Summary in the form attached. This summary shall be employed as an aid in determining the scope and detail of the environmental setting and impact analyses.” SDG&E's PEA does appear to contain summaries of environmental impacts in

various chapters. But in at least one major category of impacts – biological resources – summaries presented in the PEA are so broad as to be essentially useless in determining the significance of impacts to particular species or vegetation and wetland communities without reviewing literally hundreds of pages of text. The Commission should request that SDG&E revise its PEA to include a required Environmental Impact Assessment Summary that accurately characterizes the type and significance of any anticipated impact to any vegetation community or species unfortunate enough to live in the path of the Project.

A. Significant Effect on Biological Resources, Habitat, and Recreational Resources

The Conservation Groups dispute SDG&E’s conclusions of no significant impacts to

- twenty-six endangered, threatened, or sensitive species;
- several vegetation and wetland communities;
- any sensitive biological resources in preserves established under the San Diego Multiple Species Conservation Plan / Natural Communities Conservation Plan; and
- any biological, visual, recreational, and other resources located inside Anza-Borrego State Park.

The Conservation Groups maintain that many vegetation and wetland communities and individual species of plants and animals are so rare or depleted that any direct or indirect impacts from the Project must be considered significant, irrespective of any promised mitigation.

SDG&E should be directed to revise its determinations of significance for the following species and vegetation and wetland communities, and to identify alternatives that first attempt to avoid impacts to the maximum extent practicable and, only upon failure to achieve this standard, to then minimize impacts and provide sound mitigation:

Vegetation and Wetland Communities
Any native grasslands
Any oak woodlands
Any wetlands
Coastal Sage Scrub
Maritime Succulent Scrub
Southern Maritime Chaparral

Vernal Pools
Amphibians
Arroyo Southwestern Toad
Southwestern Pond Turtle
Birds
Bald Eagle
Burrowing Owl
California Gnatcatcher
California Spotted Owl
Coastal Cactus Wren
Golden Eagle
Least Bell's Vireo
Invertebrates
Hermes Copper Butterfly
San Diego Fairy Shrimp
Quino Checkerspot Butterfly
Mammals
Peninsular Bighorn Sheep (w/ Critical Habitat)
Stephen's Kangaroo Rat
Plants
Del Mar Manzanita
Del Mar Mesa Sand Aster
Encinitas Baccharis
Lakeside Ceanothus
Little Mousetail
Nuttall's Scrub Oak
San Diego Button-Celery
San Diego Mesa Mint
San Diego Thorn Mint

Spreading Navarretia
Willow Monardella
Reptiles
Flat-tailed Horned Lizard

Several of SDG&E’s criteria for determining the significance of particular impacts are flawed and inconsistent with the CEQA guidelines. For example, according to the PEA:

Permanent habitat loss is not considered a significant impact to sensitive species (other than for listed or candidate species under the state and federal endangered species acts) unless extensive areas of suitable habitat are degraded or somehow made unsuitable, or unless areas supporting a large proportion of the species [sic] population are substantially and adversely impacted.

Few independent biologists would support these unsound and unscientific criteria. Some sensitive species besides those that are candidates for listing under state or federal endangered species acts are very rare and even very small impacts to these would likely meet CEQA definitions of “significant.” Here SDG&E seeks to minimize the significance of impacts by inappropriately substituting anthropomorphic measurements of scale for legitimate measurements relative to the actual affected species.

SDG&E appears to further subvert any acknowledgement of significant environmental impacts when it mischaracterizes as “temporary” many impacts to sensitive biological resources. SDG&E’s “temporary impacts” are not defined by the extent of an impact in the context of a particular species or vegetation community. Rather, temporary impacts are bizarrely characterized as the type of construction activity expected to result in the actual impact to biological resources (“Temporary impacts include pull sites and temporary construction and maintenance pads.”) In this way SDG&E has conveniently avoided acknowledgement of numerous very permanent, and very significant impacts to biological resources that may occur as the result of temporary construction activities. For example, some temporary construction activities may entail the cutting of mature oak trees which may be hundreds of years old, an undeniably permanent and significant impact for the purposes of CEQA analysis.

In one egregious omission of information and analysis, SDG&E entirely neglects to discuss the effect of the Project on species and habitats in the context of their location within

Anza-Borrego State Park and other preserves established according to City and County of San Diego subarea plans under the San Diego Multiple Species Conservation Plan / Natural Communities Conservation Plan. Virtually any direct or indirect impact on most resources in Anza-Borrego State Park – be they biological, visual, recreational, or many others – will undisputedly conflict with the Park’s mission and goals and is therefore significant. Further west, SDG&E’s deliberate choice to locate preferred and alternate routes along a political path of least resistance in habitat and species preserves established under the San Diego MSCP / NCCP will result in undeniably significant impacts to sensitive biological resources and the integrity of a delicate regional preserve system. Instead, SDG&E counts beans when it blithely and narrowly focuses its analysis on very specific impacts to individual species and acres of particular vegetation and wetland communities to the exclusion of consideration of any larger landscape context and likely unavoidable resulting conclusions of significant impacts.

On the subject of accidental wildfire, SDG&E appears to entirely disregard two very significant potential indirect effects of the Project: The risk of accidental fire ignition from aircraft collisions; and interference of live wires with fire fighting activities. As discussed in the original Protest by Conservation Groups, the role of new large transmission lines in the risk of wildfire was illustrated when a low-flying National Guard helicopter clipped a power line near the community of Julian (which is in turn near the route of the Project) and started the large Pines Fire of 2002. This was a very small and low power line and it is likely that there will be a higher risk of aircraft collisions and resulting wildfire with the much larger Project.

The presence of transmission lines also renders much more difficult any nearby fire fighting efforts. Fire fighting aircraft are precluded from routine low approaches and fire fighters must use great care in their application of water around potentially live wires. This level of meticulous care is not a luxury available to fire fighters rushing to protect lives, property and the natural environment, so a new large transmission line could render fire fighting ineffective in the vicinity of the Project. SDG&E ultimately fails to acknowledge the potentially significant impacts to people, property, and biological resources that might result from a Project-related accidental fire ignition. The company appears to acknowledge other possible fire risks (e.g. accidental ignitions during construction), but unreasonably dismisses the likely significance of any such an occurrence. However infrequent, any accidental fire ignition related to the construction, maintenance, or long-term presence of the Project stands to result in enormous

negative impacts on people, property, and biological resources.

B. Significant Effect on Air Quality and Global Warming Emissions

Conservation Groups disagree with SDG&E's assessment of air quality impacts, particularly with regard to the amount and degree of construction impacts, increased emission caused by recreational and other non-SDG&E uses of its planned maintenance roads, and foreseeable cumulative impacts caused by either greater dispatching of existing power plants in or near the Imperial Valley or the construction of new power plants in or near the Imperial Valley, including but not limited to facilities that burn trash, hazardous waste, sludge, fossil fuels, or geothermal power generation facilities in Imperial County or Mexico. Transmission lines are obviously made to transmit power from power generation facilities to remote locations. It is entirely possible that construction of the Project could both increase the use of existing fossil fuel-fired power plants and facilitate the development of pollution-emitting power plants. Such increased power generation would worsen air quality. Because SDG&E's PEA failed to consider air pollution impacts beyond construction impacts, it is inadequate with regards to protecting air quality and public health.

The Imperial Valley has some of the worst air quality in the U.S. and its residents suffer from one of the worst asthma rates in California and the United States. Conservation Groups note that the Imperial County Air Pollution Control Board by letter dated September 5th, 2006, has opposed the construction of the Project. The Commission should carefully analyze and consider direct, indirect, and cumulative adverse impacts to air quality in the Imperial Valley.

SDG&E's PEA is also inadequate because it fails to consider the foreseeable impacts of the Project on global warming and the State of California's effort to reduce its global warming emissions. Whereas in the past the emissions of fossil fuel power generation facilities in remote locations outside of California were generally not considered to directly impact the interests of the State of California, the global nature of the impacts of emissions of carbon dioxide and other greenhouse gases means that the Commission must evaluate the global warming impacts of projects that reduce or facilitate the production of greenhouse gases by power plants outside of California. While SDG&E asserts that it "hopes" to transmit renewable energy on the Project, it also states that the Project will likely be used to transmit "economy power," which generally means power generated at fossil fuel-fired power plants. The Commission must carefully

consider the relative likelihood of the use of the Project by fossil fuel-fired power plants and renewable energy facilities, and ensure that the Project will not frustrate California laws related to reducing global warming emissions.

SUMMARY

For the foregoing reasons, as well as others previously provided to the Commission, Conservation Groups respectfully request that the Commission:

- 1) reject SDG&E's proposed schedule and instead adopt Conservation Groups' revised alternative schedule, or another schedule that complies with California and federal law and that will permit full, fair participation in this process by all parties, including non-experts; and
- 2) include within the scope of its evidentiary hearings the matters identified above; and
- 3) direct SDG&E to hold any assumption and alternative workshop at least one week after the CEQA and NEPA scoping meetings.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Justin Augustine, hereby certify that, pursuant to the California Public Utilities Commission's Rules of Practice and Procedure, I served a true copy of SUPPLEMENTAL PROTEST OF CONSERVATION GROUPS to the parties on the below Service list. Service was completed by e-mail where available or, where e-mail service was not available, by placing true copies in a sealed envelope with first-class postage prepaid and deposited in the United States mail.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 22nd day of September, 2006, at San Francisco, California.

/s/

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