

CALIFORNIA COASTAL COMMISSION

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Energy and Ocean Resources Unit

Staff: ZPH, MKH, SMH—SF
Staff Report: November 22, 1996
Hearing Date: December 12, 1996
Item Number: 4.a
Commission Action/Vote:

1997 Budget Approval for SONGS Program

I. Staff Recommendation

The staff recommends that the Commission approve a 1997 budget in the amount of up to \$423,035 to support the Commission's scientific and administrative program personnel and scientific advisors for the San Onofre Nuclear Generating Station (SONGS) Units 2 and 3 marine resource mitigation project, to be funded by Southern California Edison, the permittee, in accordance with Condition D of Coastal Development Permit No. 6-81-330 (formerly 183-73).

As directed by the Commission, the staff will continue to work with the permittee to resolve the issues raised by the permittee's August 1996 permit amendment request. The staff cannot predict how the issues will be resolved or what action the Commission may ultimately take. The permittee's and staff's responsibilities under Condition D remain in effect until such time as the Commission acts to change the permit conditions. Condition D requires the permittee to fund scientific and support personnel retained by the Commission to oversee the site assessments, project design and implementation, and monitoring activities for the mitigation projects. Condition D also requires the Commission staff to develop a detailed work program and budget for Commission review and approval.

The staff cannot prepare the detailed work program for 1997 at this time because the staff cannot predict the exact work that will be needed to resolve the issues raised by the permittee that are being addressed in the amendment process. For example, the staff does not know whether the permittee will revise its current plans for mitigation at San Dieguito Lagoon and Ormond Beach wetland, submit a new plan or plans for those sites, or select an additional site or sites for the mitigation, all of which require site assessment and project design oversight by the Commission pursuant to Condition D. Similarly, Commission oversight of the reef project site assessment, project design (including impact assessment and size of the mitigation reef) and implementation will be required. The major outstanding issues that the staff anticipates working on with the permittee are discussed briefly in Section III-C.

Although staff is not able to prepare a detailed work program for 1997 at this time, staff has developed a budget based on the anticipated work, the work that has been required over the past few years, and the level of staff and resources needed to carry out that work. Initially then, the requested funds will be used to provide the staff and resources necessary to work with the permittee to carry out its responsibilities under the existing permit and to resolve the major outstanding issues relating to the permittee's amendment request. Once the issues are resolved and the Commission has made its decisions regarding changes to the 1991 permit conditions, if any, the staff will develop a detailed work plan for Commission review and approval.

The recommended 1997 budget includes anticipated costs for two scientist positions, administrative support, science advisors and operating expense, as provided for in Condition D. It does not include any funds for independent consultants, such as hydrologists or kelp experts because the staff does not know to what extent such additional expertise may be needed to assist in the site assessments and project designs for the wetland and kelp mitigation. Should such additional expertise become necessary, the staff will bring a budget augmentation and specific statement of work to the Commission for approval.

II. Motion and Resolution

Commission approval of funding for 1997 requires the following motion:

I hereby move that the Commission approve the 1997 SONGS program budget of up to \$423,035 as recommended by the staff.

The staff recommends a "yes" vote and adoption of the following resolution and justification for approval:

The Commission hereby determines that the 1997 budget that is set forth in this staff recommendation, dated November 22, 1996, carries out the intent of Condition II-D of Permit 6-81-330 (formerly 183-73) requiring the permittee to provide reasonable and necessary funding to the Commission to perform its responsibilities pursuant to the coastal permit mitigation conditions (II-A through C).

III. Justification for Budget Approval

A. Status of mitigation program

Southern California Edison (the permittee) as majority owner and operating agent is seeking to amend the coastal development permit for the San Onofre Nuclear Generating Station (SONGS) Units 2 and 3. The permittee had previously submitted an amendment request in 1995 that was rejected by the Executive Director. Over the past three years, and particularly since the 1995 amendment request, the staff has worked intensively with the permittee and others to try to develop an amendment package that

is consistent with the Coastal Act. In an effort to achieve resolution of the permittee's concerns, the staff (1) offered to support inclusion of partial credit for enhancement of existing wetlands, e.g., by maintaining the tidal inlet, (2) agreed to an independent scientific review of new kelp data and used the independent panel's suggested methods to quantitatively determine the level of impact, (3) worked with the permittee to develop a mutually acceptable design for the experimental artificial kelp reef, including an agreement to incorporate concrete into the design to determine whether it would be a suitable material for the larger kelp mitigation reef, (4) offered numerous revisions on the intensity and breadth of the required monitoring programs that will still meet the intent of the permit conditions but do so at a lower overall cost, and (5) developed and proposed a trust fund approach to implement the wetland and kelp reef components of the mitigation program and to fund the independent monitoring, oversight and remediation required by the 1991 permit conditions.

In spite of these efforts, many areas of disagreement between the staff and permittee remain, as evidenced by the permittee's current proposed amendment package, submitted in August 1996 and amended by the permittee during the Commission's November public hearing, which would significantly alter the mitigation conditions that were adopted by the Commission in 1991 and agreed to by the permittee to address the adverse impacts of the power plant on the marine environment.

The Commission held public hearings on the permittee's August 1996 amendment request at its October 8 and November 13, 1996 meetings. The matter was continued and the Commission directed staff to continue to work with the permittee to try to resolve the outstanding issues.

B. 1991 permit conditions still in effect

Because the Commission has not yet acted upon the permittee's amendment request or made any other permit changes, the 1991 permit conditions remain in effect. Condition D establishes an administrative structure to provide independent monitoring, oversight of site assessment, project design and implementation (including public reviews on the status of the mitigation projects), and remediation for the SONGS mitigation program. The permittee is required to provide the funding necessary for the Commission's staff to perform its responsibilities. Pursuant to this condition, the Commission has operated under approved work programs and budgets since 1993. The Commission retains non-civil service personnel under contract (two scientist positions and administrative support) and a Scientific Advisory Panel to assist the staff on the technical and scientific aspects of the mitigation program.

Normally, the staff prepares an annual work program and budget, in consultation with the permittee, for approval by the Commission. The current status and uncertainty of the permittee's proposals and projects preclude the staff from preparing a detailed work program for 1997 at this time. For example, the staff doesn't know whether the permittee will revise its current wetland mitigation plans, submit a new plan, or select

additional sites for the required mitigation, which necessitate the Commission's continuing oversight required in Condition D. Similarly, for the reef projects, continuing oversight will be needed for site assessment, project design, including impact assessment and size of the mitigation reef, and implementation.

The proposed budget, as with prior years budgets, is based upon the staffing and support resources needed to carry out the site assessment and plan development for the mitigation projects and to fulfill the Commission's oversight responsibilities. The budget covers only the anticipated costs for the staff scientists and administrative support, science advisors and operating expenses.

The staff did not have the opportunity to meet with the permittee on the proposed budget and work plan prior to the preparation of this recommendation but will do so prior to the Commission's hearing.

C. Statement of Work

It is not possible at this time to develop a complete and detailed work program because the Commission has not acted on the permittee's proposed amendment request. At the same time however, staff must work on a number of outstanding issues over the next several months in conjunction with the program scientists and the Scientific Advisory Panel (SAP). The permittee and its scientific consultants have and, undoubtedly, will again submit technical analyses and proposals to support their interpretation of the permit conditions or requests to amend the permit. Responding to the permittee's submittals requires careful technical analysis, and the program scientists and scientific advisors play an essential role in formulating the staff's response. The major outstanding issues are discussed briefly below.

Defining a wetlands mitigation project: The permittee has proposed to undertake or fund two wetland mitigation projects in compliance with Condition A. Because of a property owners' withdrawal of approval to use its lands at San Dieguito Lagoon for one of the proposed restoration projects, the permittee must now redefine the project(s) it believes will satisfy Condition A. In addition, the permittee's proposed amendment request included several modifications to Condition A as a means to address project-specific constraints. Such amendments will need to be re-assessed in light of any newly proposed project. Program scientists and the SAP will be needed to evaluate these anticipated proposals and the associated issues.

Extent of kelp bed impacts: The permittee and staff continue to disagree on the amount of kelp bed lost due to operation of the SONGS. This issue is central to the permittee's proposed amendments to Condition C. Technical questions fundamental to the issue include: what are appropriate data for assessing kelp bed loss, and what are the most appropriate ways to analyze the data to quantify the impact. In addition, the permittee has offered new alternative plans for implementing the required mitigation. Program scientists and the SAP will be needed to continue work on these technical

matters and evaluate the permittee's alternative plans, with the primary objective of resolving the points of disagreement.

Refine monitoring and remediation cost estimates: Condition D requires independent monitoring and remediation for any projects proposed under Conditions A and C. Changes to any of the proposed projects will require re-assessment and refinement of staff's monitoring and remediation estimates. The program scientists, administrative personnel, and SAP have all been instrumental in developing objective cost estimates for monitoring and remediation.

D. Conclusion

All major outstanding issues are complex. Resolution of these outstanding issues will require technical personnel and scientific advisors and support the Commission does not have in the absence of the funding proposed in this budget.

The Commission needs the continuing scientific and technical expertise and administrative assistance to resolve permit amendment issues and carry out the Commission's oversight responsibilities under the 1991 permit conditions.

IV. 1997 Budget

The funding needed for the program scientists, administrative support, Scientific Advisory Panel, and operating expense for calendar 1997 is \$423,035 (Exhibit 1). Notes explaining each line item are included in Exhibit 1 at the end of the budget table. Supplemental funding for independent consultants (such as hydrologists or kelp experts) or unanticipated operating expenses (such as a rent increase), if needed, may be requested at a later date.

Direct and indirect program costs associated with the implementation of the SONGS 1991 permit and attributable to permanent staff work and logistical support are not paid by the permittee and thus are not included in this 1997 SONGS program budget.

As in previous years, the permittee will provide funds quarterly so as to minimize the advance outlay of cash, and any funds unspent at the end of the budget year will be returned to the permittee.

EXHIBIT 1 **1997 SONGS PROGRAM BUDGET**

Program Personnel Salaries and Benefits

Ecologist (100%), under contract with Simpson & Simpson	70,832
Ecologist (50%), under contract with UCSB	35,515
Ecologist (50%), under contract with Ecometrics	37,151
Sr. Administrator (50%), under contract with Simpson & Simpson	42,556
Clerical Assistant (75%), under contract with UCSB	31,213

Total Salaries and Benefits ¹	217,267
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Scientific Advisory Panel ²	109,724
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Consultants and Contractors ³	0
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Operations

Travel ⁴	22,760
Administrative Services ⁵	30,000
Operating Expense and Equipment	
General expense, printing & communications ⁶	17,200
Contract overhead ⁷	11,208
Office/storage space rental ⁸	2,376
Computer repair/maintenance/technical support ⁹	5,000
Annual review workshop ¹⁰	0
Annual audit ¹¹	6,000
Equipment ¹²	0

Field Work Assistance: water quality sampling ¹³	1,500
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Total Operations	96,044
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TOTAL EXPENSE	\$423,035
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BUDGET NOTES:

1. Includes salaries, wages, benefits and payroll taxes for program personnel only. The costs for the Commission's permanent staff that spend a portion of their time on this program are not included here and are paid by the Commission.
2. The SAP is a panel of experts established by the Commission pursuant to the permit conditions to provide scientific and technical advice to the staff. Expenses cover members' time and travel and are limited by the permit to \$100,000 per year adjusted annually in accordance with the consumer price index (CPI) applicable to California. The 1996 budget reflects an increase in the CPI from the first approved budget in 1993 through October 1996.

3. Normally includes estimated costs for independent consultants, contractors, and reviewers to provide technical and expert advice on individual tasks of the work program. At this time, no consulting funds are requested. However, if needed to assist in resolving permit issues, the staff will return to the Commission with a request for funds for independent consultants.
4. Covers travel for meetings with Edison, Commission staff, consultants and contractors, attendance at agency and public workshops and meetings, site visits, and attendance at conferences. Travel costs are based on necessary travel for program personnel only, taken as an average of actual 1995 and projected 1996 travel expenditures. Travel costs for permanent Commission staff are not included.
5. Covers the cost of administrative and financial services provided by Simpson & Simpson Business & Personnel Services.
6. Based on Commission's General Expense, Printing, Communications, and Postage line items plus operating expense under the UCSB contract.
7. Overhead charges for the UCSB and Ecometrics contracts (under which the Commission has retained key personnel) include: office space and utilities, e-mail and access to other electronic networks, library services, laboratory facilities and equipment, personnel administration (including payroll and benefits administration), informal access to University faculty, and other indirect support for the program, at the nominal state rate of 10% of direct costs.
8. To offset use of office space for the program at the Commission's San Diego offices, it is necessary to rent a small storage space for Commission files and materials. This space currently is rented on a month-to-month basis at \$198/month. No provision is made at this time for any rent increase in 1997.
9. Covers costs for maintaining the computers used by program personnel, including regular maintenance, repairs and technical support needed for troubleshooting problems.
10. Normally covers costs for conducting an annual review workshop, excluding costs for consultants who may be requested to attend the workshop. The intent of the annual workshop is to determine whether performance standards have been met, whether revisions to the standards are necessary, and whether remedial measures are required. As it is premature to apply these issues to the mitigation projects, no funds are included in the 1997 budget at this time.
11. Covers costs of an independent audit of the contract reimbursements and service fees for the SONGS monitoring program.
12. Normally includes cost of personal use equipment and needed office furnishings for program personnel. Program personnel are working in several locations where they are provided use of normal office equipment. No additional equipment needs are anticipated at this time.
13. Covers the cost of regular sampling of water quality at San Dieguito Lagoon.