

CALIFORNIA COASTAL COMMISSION

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Energy and Ocean Resources
Staff: JLL, SMH—SF
Staff Report: February 28, 2001
Hearing Date: March 13, 2001

STATUS REPORT ON SONGS MITIGATION PROGRAM

Following is a brief status report for the mitigation projects required in Southern California Edison Company's (SCE) coastal development permit for the San Onofre Nuclear Generating Station (SONGS) Units 2 and 3 (permit no. 6-81-330, formerly 183-73). The conditions originally were adopted by the Commission in 1991 to mitigate the adverse impacts of the power plant on the marine environment. The 1991 conditions also require SCE to provide the funds necessary for Commission technical oversight and independent monitoring of the mitigation projects, to be carried out by independent contract scientists under the direction of the Executive Director. In 1993, the Commission added a requirement for the permittee to partially fund construction of an experimental fish hatchery. The Commission has since approved amendments to the conditions in April 1997 and October 1998.

WETLAND RESTORATION MITIGATION**The Project**

Condition A of the permit requires the permittee to create or substantially restore a minimum of 150 acres of wetlands to mitigate for impacts to fishes caused by the operation of SONGS. In April 1997, the Commission reaffirmed its 1992 approval of the permittee's choice of the San Dieguito River Valley as the site for the wetland restoration project and allowed for up to 35 acres credit for enhancement at San Dieguito Lagoon on the condition of perpetual inlet maintenance.

Progress Report

Wetland Restoration Planning. The Commission approved SCE's preliminary wetland restoration plan for the San Dieguito Lagoon in November 1997. The CEQA/NEPA environmental review incorporated the mitigation project into the overall San Dieguito River Valley Regional Open Space Park project and included additional wetland restoration required under the permittee's settlement agreement with the Earth Island Institute. The lead agencies for the CEQA/NEPA review were the San Dieguito River Valley Regional Open Space Park Joint Powers Authority (JPA) and the U.S. Fish and Wildlife Service.

Following the review period on the January 2000 draft EIR/EIS, the final EIR/EIS was released on September 5, 2000. At a public hearing on September 15, 2000, the JPA

certified the EIR and voted to support the EIR's designation of Mixed Habitat plan as the environmentally preferred alternative. The Commission's contract scientists attended the meeting and concurred with this decision. As required by NEPA, the availability of the final EIR/EIS was published in the Federal Register in September 2000, and the USFWS will prepare and issue a final Record of Decision. Lawsuits challenging the adequacy of the final EIR/EIS have been filed by the Del Mar Sandy Lane Association and Citizens United to Save the Beach. At the Commission's February 2001 meeting, a representative of the Sandy Lane Association provided the attached letter outlining the Association's concerns.

SCE submitted an administrative draft of its final restoration plan to the JPA in mid-January 2001 for review of the plan's compliance with the EIR/EIS. Pending resolution of the issues involved in the final configuration of the least tern nesting sites, SCE will submit the final plan to the Commission. Staff is working with SCE, USFWS, the JPA, and the 22nd Agricultural District to bring these issues to closure as soon as possible.

Pre-restoration Monitoring. The Commission contract scientists continued pre-restoration monitoring in San Dieguito Lagoon and in other southern California wetlands that may be used as reference sites in post-restoration monitoring. The scientists described their efforts and results at the public review workshop held on January 30 at the City of San Clemente. In recent months, this monitoring has focused on determining the appropriate number and spacing of samples for use in the post-restoration monitoring of intertidal epibenthic and infaunal invertebrates. Field work for this study, carried out in Tijuana Estuary, Mugu Lagoon, and Carpinteria Salt Marsh, was completed in early December 2000. Laboratory analysis of the samples is more than half-way completed. Contract scientists are continuing to monitor water quality in San Dieguito lagoon and Carpinteria Salt Marsh and will soon establish a station in Mugu lagoon.

KELP REEF MITIGATION

The Project

Condition C of the permit requires construction of an artificial reef that will consist of an experimental reef and a larger mitigation reef. The experimental reef must be a minimum of 16.8 acres and the mitigation reef must be of sufficient size to sustain 150 acres of medium to high density kelp bed community. The purpose of the experimental reef is to determine what combination of substrate type and substrate coverage will best achieve the performance standards specified in the permit. The design of the mitigation reef will be contingent on the results of the experimental reef. Construction of the 56-module experimental reef was completed in September 1999. Construction monitoring confirmed that the footprints and percentage covers of the modules conformed closely to the design specifications.

In April 1997, the Commission added the requirement for a payment of \$3.6 million to the State's Ocean Resource Enhancement and Hatchery Program (OREHP) to fund a

mariculture/marine fish hatchery to provide compensation for resources not replaced by the artificial mitigation reef. SCE has fully satisfied this requirement.

Progress Report

Most of the contract scientist's and reef monitoring staff's time during the past 60 days was spent preparing for the SONGS Mitigation Public Workshop, which was held in San Clemente on January 30, 2001. The staff performed thorough analyses on the monitoring data collected to date and prepared graphs for presenting the results. Following the workshop, SCE and several agency representatives requested digital copies of the talks presented by the contract scientists. To accommodate these requests, the staff annotated all of the talks, converted them to html format, and transferred them to CDs for easy use and distribution.

Some of the major results seen in the analyses done to date are:

- (1) The amount of artificial reef material placed on the reef as determined by diver surveys is considerably higher than the intended nominal coverages of 17%, 34% and 67%.
- (2) There has been substantial colonization of giant kelp on all reef designs with a trend for declining density of new kelp with increasing distance from the nearest natural kelp bend (San Mateo Kelp bed).
- (3) The abundance of invertebrates and understory algae on the artificial reef tends to increase with the coverage of hard substrate. The abundance and number of species of invertebrates and understory algae on the artificial reef is generally within the range observed on nearby natural reefs. The relative abundance of invertebrates and algae, however, differs substantially between artificial and natural reefs.
- (4) Fish species composition and abundance on the artificial reef modules is generally similar to that found on nearby natural reefs with the exception that water column species were substantially less abundant on the artificial reef.

The reef monitoring staff began the first of its two semi-annual surveys of giant kelp for 2001. Kelp recruits counted in last year's surveys have now reached the sea surface and are forming canopies. These surface canopies occur throughout the length of the artificial reef, but are thickest in the southern modules closest to the San Mateo kelp bed.

FISH BEHAVIORAL MITIGATION

The Project

Condition B requires the permittee to install and maintain behavioral barrier devices at SONGS to reduce fish impingement losses.

Progress Report

SCE conducted a number of laboratory and in-plant experiments testing the behavioral response of fish to lights and sound devices from 1992 through 1999. None of the experiments showed evidence that these devices would reduce fish impingement losses as required by Condition B. At the same time, SCE continued its modified heat cleaning treatments at the plant, which result in a considerable reduction in fish impingement losses.

In October 2000, the Commission reviewed the conclusions on the effectiveness of the behavioral barriers (see staff report entitled *Executive Director's Determination that Fish Behavioral Barriers Tested at SONGS are Ineffective*, dated September 22, 2000) and concurred that (1) the fish behavioral barriers installed and tested at the plant were ineffective and unlikely to result in a two metric ton (MT) reduction in fish impingement losses as required by Condition B of the permit, (2) no currently available alternative behavioral barriers are likely to be effective or feasible in reducing fish losses as required by Condition B, and (3) a procedural modification made by SCE in the heat cleaning treatment of the cooling water intake systems of SONGS Units 2 and 3 has reduced fish losses on average by approximately 4.3 MT per year. Based on this determination, the Executive Director concluded that no further testing of alternative behavioral barriers should be required at this time, provided that (1) SCE continues to adhere to the operating and monitoring procedures for the modified heat cleaning treatments and (2) SCE makes every effort to test and install, if feasible, future technologies or techniques for fish protection if such techniques become accepted industry standards or are required by the Commission in other power plant regulatory actions. Thus, the Executive Director determined, and the Commission concurred, that SCE is currently in compliance with Condition B of the SONGS permit.

February 12, 2001

Mr. Peter Douglas
Executive Director
California Coastal Commission
45 Fremont, Suite 2000
San Francisco, CA 94105-2219

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FEB 20 2001

CALIFORNIA
COASTAL COMMISSION



Julie M. Hamilton
Attorney at Law

RE: SONGS STATUS

Dear Mr. Douglas:

I represent the Del Mar Sandy Lane Association ("Sandy Lane"). Del Mar Sandy Lane Association is a Homeowner's Association for the 12 properties located on the West side of Camino Del Mar adjacent to the South bank of the San Dieguito River.

Sandy Lane is opposed to the San Dieguito Wetland Restoration Project proposed as mitigation for the impacts of the San Onofre Nuclear Generating Station ("SONGS") on coastal resources. This restoration project is not consistent with the many policies of the Coastal Act and the City of Del Mar's Local Coastal Program as summarized below.

Our biggest concern relates to the permanent opening of the San Dieguito River inlet to the ocean. The Coastal Commission has agreed to allow Southern California Edison ("SCE") a 35-acre credit for the permanent opening of the inlet. This permanent opening will result in a significant loss of sand south of the inlet, in front of the homes on Sandy Lane. Sandy Lane initially raised this concern in 1994 and has continued to raise this issue during the last seven years.

Section 30235 of the Coastal Act states:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply....

The permanent opening of this inlet is inconsistent with Section 30235 of the Coastal Act because it is not designed to eliminate or mitigate adverse impacts on the local shoreline sand supply. In addition, the Mixed Habitat Alternative (the preferred alternative) will produce approximately 90,300 cubic yards of sand suitable for beach replenishment. Rather than use this material for sand replenishment, approximately 77,300 cubic yards will be used to create least tern nesting sites. Only 13,100 cubic yards is available for sand replenishment. Clearly, preserving the local beaches is the lowest priority for this project.

Not only will the project result in loss of beach sand, but a significant area of useable beach will be lost to the inlet itself. This is inconsistent with Section 30220 of Coastal Act that requires protection of areas suited for water-oriented recreational activities.

The restoration project proposes filling the wetland for uses that are inconsistent with the Coastal Act; recent court decisions; and the Del Mar LUP. The project proposes the construction of the Coast to Crest Trail under I-5 on the North bank of the river. As seen in Figures 2.3.1-16 and 2.3.1-20 of the Final EIR/EIS, the construction of this trail requires filling in a wetland and the floodway. The trail then continues westward along 22nd District Agricultural Association ("DAA") property, in an area is delineated as wetland. This is inconsistent with Section 30233 of the Coastal Act which prohibits filling of a wetland except for specific purposes, (trails is not one of these purposes). The Coastal Commission has been the subject of two recent court decisions, which held the Commission to a very narrow interpretation of this section.¹ Additionally, Policy V-2b. of the certified LUP for the City of Del Mar, states:

V-2 The City shall cooperate with other jurisdictions in the acquisition and preservation of open space and recreation lands through the following:

- b. Cooperate in the planning and implementation of the San Dieguito River Valley Regional Open Space Park and ensure that said park plan or that for any other park along the San Dieguito River:
 - i. Involves only the minimal amount of disturbance and impact to the natural terrain and ecosystem of the area necessary to provide access to and along the San Dieguito River Valley;

Once again, this project is based on a balancing of resources that is not permitted by the Coastal Act. The Coastal Act does not include any provision that allows waiving specific development policies simply because the project is an environmental project. It is not acceptable to allow filling of a wetland for trails because the rest of the project restores a degraded wetland.

The restoration plan also proposes fill within the floodway of the San Dieguito River contrary to Section 30233 of the Coastal Act and the Del Mar LUP. For instance, the restoration plan is proposing filling the South parking lot of the fairgrounds to provide a trail staging area; filling the Surf and Turf property to provide for disposal of

¹ Bolsa Chica Land Trust v. Superior Court of San Diego County and Kirkorowicz v. California Coastal Commission.

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excavated/dredged material; and filling under I-5 for the Coast to Crest Trail. These sites are not only in floodway, but are designated wetlands..

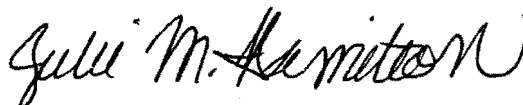
None of the above uses fit the exceptions to Section 30233 that are allowed by the Coastal Act. The Coastal Commission has set a precedence for prohibiting fill within the floodway based on this policy. In response to this policy the Del Mar LUP prohibits the placement of fill within floodway areas.² Placement of fill within the floodway for trail or disposal purposes is not consistent the Coastal Act or the Del Mar LUP.

Finally, project proponents and Coastal Commission staff have focused monitoring efforts on long-term productivity of the wetlands. There is no provision for the monitoring and maintenance of the effects on shoreline processes and loss of beach sand at the inlet opening. Dr. Ashish J. Mehta specifically recommended monitoring of coastal processes in his review of the coastal processes report prepared by Scott A. Jenkins and Joseph Wasyl for this project.³ Yet there is no provision in the restoration plan for monitoring of impacts on coastal processes caused by this project and the impact of coastal processes on this project.

In principle, Sandy Lane is not opposed to restoration of the San Dieguito River Valley. However, as currently proposed, the project will result in significant impacts to shoreline erosion. The project is not consistent with Coastal Act Policies or the City of Del Mar's Certified Land Use Plan. It is imperative that these issues be addressed prior to adoption of the Final Wetland Restoration Plan.

Thank you for the time and attention given to this letter. I look forward to continuing to work with the Coastal Commission on this project.

Very truly yours,



Julie M. Hamilton

CC: Del Mar Sandy Lane Association
Jody Loeffler, California Coastal Commission

² Policy III-11a. Prohibiting the construction of permanent structures or the placement of fill on either a temporary or permanent basis within designated floodway (FW) areas.

³ Letter from Ashish J. Mehta, University of Florida, College of Engineering; to Frank L. Melone, Southern California Edison; dated April 21, 1998.

