

CALIFORNIA COASTAL COMMISSION

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Staff: SC-SF
Staff Report: Nov 22, 2004
Hearing Date: Dec. 8, 2004

**STAFF REPORT FOR CONSENT CEASE AND DESIST ORDER
AND CONSENT RESTORATION ORDER**

CEASE AND DESIST ORDER: CCC-04-CD-14

RESTORATION ORDER: CCC-04-RO-06

PROPERTY LOCATION: San Onofre Nuclear Generation Station, Pacific Coast Highway, 1 mile south of Basilone Road, Northern San Diego County, and a portion of the adjacent San Onofre Beach State Park.

PROPERTY DESCRIPTION: The site is an 83.6-acre, blufftop parcel leased from the US Department of the Navy by Southern California Edison Company for the San Onofre Nuclear Generation Station, and an adjacent State Park. Both sites are seaward of Highway One, and contain rare coastal bluff scrub habitat.

PROPERTY OWNERS: U.S. Department of the Navy

RESPONSIBLE PARTY: Southern California Edison Company

VIOLATION FILE NO.: V-7-01-01

VIOLATION DESCRIPTION: Unpermitted development consisting of the removal of 1,300 square feet of coastal bluff scrub vegetation, which constitutes Environmentally Sensitive Habitat under Section 30107.5 of the Coastal Act.

SUBSTANTIVE DOCUMENTS: Consent Cease and Desist Order CCC-04-CD-14, Consent Restoration Order No. CCC-04-RO-06, approved Restoration, Revegetation and Monitoring Plan (Exhibit B)

CEQA STATUS: Categorically Exempt under Title 14, California Code of Regulations §§ 15061(b)(2), 15307, 15308, 15321 and 15333.

SUMMARY

Commission staff recommends that the Commission issue this Consent Cease and Desist Order (CDO) and Consent Restoration Order (RO) (hereafter "Consent Orders") to resolve Southern California Edison's (SCE) Coastal Act violation. The property is located in an uncertified area of the Coastal Zone, and therefore the Commission has coastal permit jurisdiction over any development on site, and the Coastal Act is the legal standard of review. The SCE violation consists of unpermitted removal of 1,300 square feet of rare Southern Coastal Bluff Scrub vegetation at the San Onofre Nuclear Generation Station (SONGS). The California Department of Fish and Game identifies Southern Coastal Bluff Scrub as a rare habitat type in the Natural Community Diversity Database, and therefore is considered Environmentally Sensitive Habitat (ESHA) under the Coastal Act.

Species removed as a result of the clearance included California buckwheat (*Eriogonum fasciculatum*), Goldenbush (*Isocoma menziesii*), Lemonadeberry (*Rhus integrifolia*), Coast Cholla (*Opuntia prolifera*), Cliff Spurge (*Euphorbia misera*), California bush sunflower (*Encelia californica*), Box thorn (*Lycium californicum*), Coyote brush (*Baccharis pilularis*), and California sagebrush (*Artemisia californica*)

On July 29, 2004, SCE staff called Commission staff to report that the amount of vegetation it had cleared exceeded the 500 square feet allowed by Section II.B.2.d of the Coastal Commission's guidelines on Maintenance, Repair, and Utility Hook-Up Exclusions From Permitting Requirements, adopted by the Commission on September 5, 1978 (the Guidelines). Those Guidelines exclude various activities at utility generating stations from coastal development permit requirements, including certain vegetation clearing. Section II.B.2.d states:

d. Grading, Clearing and Removal of Vegetation. Excluded activities shall not extend to the construction of any new road to the site of the work. In cases involving removal of trees exceeding 12 inches dbh, grading of any undisturbed area of greater than 500 sq. ft. or clearing of more than 500 sq. ft of brush or other vegetation, the utility shall consult with the Executive Director of the Regional Commission to determine whether the project involves removal of major vegetation such that a permit is required. A coastal permit is not required for removal of minor vegetation for maintenance purposes (tree trimming, etc.) for safety clearances.

At the time the violation was reported, SCE indicated a willingness to correct the violation by obtaining a coastal development permit. Upon learning of the violation, Commission staff asked SCE to identify immediately the type of vegetation cleared.

On August 6, 2004, SCE reported to the Commission that the habitat type removed on site is Southern Coastal Bluff Scrub, which is considered ESHA under the Coastal Act. The Commission's practice is to define removal of ESHA as "major" vegetation removal and therefore is not subject to the permit exemption allowances of the Guidelines. Upon informing SCE of the Commission's staff interpretation of the Guidelines, SCE agreed to conduct no additional clearance, and to prepare a restoration plan at a 3:1 mitigation ratio.

Commission staff has reviewed and the Executive Director has approved, with minor changes, the Restoration, Revegetation and Monitoring Plan (Restoration Plan) prepared and submitted by SCE and included as Exhibit B. The Plan specifies disturbed areas to be revegetated with locally appropriate native plant species, as well as additional mitigation areas located adjacent to the site, within San Onofre Beach State Park, to be planted for habitat enhancement. The Plan also delineates areas that are to remain cleared in order to prevent vegetation from affecting security components incorporated into the east bluff and north bluff fence lines.

SCE has agreed to implement revegetation and monitoring requirements contained in these Consent Orders and the approved Restoration Plan.

II. HEARING PROCEDURES

The procedures for a hearing on a proposed CDO and RO are outlined in Section 13185 and 13195 respectively of the California Code of Regulations, Title 14. The CDO and RO hearing procedures are similar in most respects to the procedures that the Commission uses for permit and LCP matters.

For a CDO and RO hearing, the Chair shall announce the matter and request that all parties or their representatives present at the hearing identify themselves for the record, indicate what matters are already part of the record, and announce the rules of the proceeding including time limits for presentations. The Chair shall also announce the right of any speaker to propose to the Commission, before the close of the hearing, any question(s) for any Commissioner, at his or her discretion, to ask of any other party. Commission staff shall then present the report and recommendation to the Commission, after which the alleged violator(s) or their representative(s) may present their position(s) with particular attention to those areas where an actual controversy exists. The Chair may then recognize other interested persons after which staff typically responds to the testimony and to any new evidence that has been introduced.

The Commission should receive, consider, and evaluate evidence in accordance with the same standards it uses in its other quasi-judicial proceedings, as specified in California Code of Regulations Title 14 Section 13186, incorporating

by reference Section 13065. The Chair will close the public hearing after the presentations are completed. The Commissioners may ask questions to any speaker at any time during the hearing or deliberations, including, if any Commissioner chooses, any questions proposed by any speaker in the manner noted above. Finally, the Commission shall determine, by a majority vote of those present and voting, whether to issue the proposed CDO and RO. Passage of a motion, per staff recommendation will result in issuance of the proposed Consent Orders.

III. MOTIONS

MOTION I: I move that the Commission issue Consent Cease and Desist Order No. CCC-04-CD-14, pursuant to the staff recommendation.

MOTION II: I move that the Commission issue Consent Restoration Order No. CCC-04-RO-06, pursuant to the staff recommendation.

COMMISSION STAFF RECOMMENDATION OF APPROVAL

Staff recommends a **YES** vote on both motions. Passage of these motions will result in issuance of these Consent Orders. The motion passes only by an affirmative vote of the majority of Commissioners present.

RESOLUTION TO ISSUE CEASE AND DESIST AND RESTORATION ORDER

The Commission hereby issues Consent Cease and Desist Order No. CCC-04-CD-14 and Consent Restoration Order No. CCC-04-RO-06 set forth below, and adopts the findings set forth below on grounds that development has occurred without a coastal development permit, the unpermitted development is not consistent with Coastal Act policies and the unpermitted development is causing continuing resource damages.

IV. PROPOSED FINDINGS

A. Basis for Issuance of Cease and Desist Order

The statutory authority for issuance of this CDO is provided in Coastal Act Section 30810, which states, in relevant part:

(a) If the Commission, after public hearing, determines that any person...has undertaken, or is threatening to undertake, any activity that 1) requires a permit from the commission without first securing the permit or 2) is inconsistent with any permit previously issued by the Commission, the Commission may issue an order directing that person...to cease and desist.

(b) The cease and desist order may be subject to such terms and conditions as the Commission may determine are necessary to ensure compliance with this division, including immediate removal of any development or material...

SCE performed unauthorized development in the form of vegetative clearance at the SONGS facility by removing 1,300 square feet of coastal bluff scrub habitat without a coastal development permit.

B. Basis for Issuance of Restoration Order

The statutory authority for issuance of this Consent RO is provided in Coastal Act Section 30811, which states, in relevant part:

In addition to any other authority to order restoration, the commission... may, after a public hearing, order restoration of a site if it finds that (a) the development has occurred without a coastal development permit from the commission... (b) the development is inconsistent with this division, and (c) the development is causing continuing resource damage.

The following section sets forth the basis for the issuance of the CDO and RO by providing substantial evidence that the development meets all of the required grounds for the Commission to issue a CDO and RO as provided for in Coastal Act Sections 30810 and 30811:

1. Development Has Occurred Without a Coastal Permit

The development that is the subject of these Consent Orders was not authorized under CDP No. 183-73, issued by the Commission on February 28, 1974 nor the amended permit No. 6-81-330-A, issued by the Commission on February 28, 1982 nor any other CDP approved by the Commission.

2. Development is Inconsistent with Coastal Act Policies

Section 30240 of the Coastal Act states that:

- (a) Environmentally sensitive habitat area shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

The property is located in an uncertified area of the Coastal Zone, and therefore the Commission has coastal permit jurisdiction over any development

on site, and the Coastal Act is the legal standard of review. The disturbed site consists of Southern Coastal Bluff Scrub, which is recognized as a rare habitat type by the California Department of Fish and Game in the California Natural Community Diversity Database, and supports sensitive wildlife species including the coastal California gnatcatcher and the Pacific pocket mouse. As such, it constitutes Environmentally Sensitive Habitat Area (ESHA) under the Coastal Act.¹

Section 30231 of the Coastal Act states that:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The unpermitted vegetation removal resulted in the exposure of bare topsoil that is vulnerable to erosion through runoff. Due to the bluff top location of the disturbed areas, it is likely that the unpermitted activity will result in sediment discharge into coastal waters.

Existing development was authorized under coastal development permit No. 183-73, issued by the Commission on February 28, 1973 and security improvements to the fence were added pursuant to coastal development permit No. 6-81-330-A, issued by the Commission on February 28, 1982. These permits do not authorize vegetation removal at this location.

Coastal Commission Maintenance, Repair, and Utility Hook-Up Exclusions From Permitting Requirements, adopted by the Commission on September 5, 1978, excludes various activities at utility generating stations from coastal development permit requirements, including certain vegetation clearing. Section II.B.2.d states that:

¹ As noted above, Southern Coastal Bluff Scrub habitat consists of California buckwheat (*Eriogonum fasciculatum*), Goldenbush (*Isocoma menziesii*), Lemonadeberry (*Rhus integrifolia*), Coast Cholla (*Opuntia prolifera*), Cliff Spurge (*Euphorbia misera*), California bush sunflower (*Encelia californica*), Box thorn (*Lycium californicum*), Coyote brush (*Baccharis pilularis*), and California sagebrush (*Artemisia californica*)

d. Grading, Clearing and Removal of Vegetation. Excluded activities shall not extend to the construction of any new road to the site of the work. In cases involving removal of trees exceeding 12 inches dbh, grading of any undisturbed area of greater than 500 sq. ft. or clearing of more than 500 sq. ft. of brush or other vegetation, the utility shall consult with the Executive Director of the Regional Commission to determine whether the project involves removal of major vegetation such that a permit is required. A coastal permit is not required for removal of minor vegetation for maintenance purposes (tree trimming, etc.) for safety clearances.

The Commission has historically interpreted this section as applying to brush and vegetation removal that does not constitute ESHA under the Coastal Act, as any removal of ESHA for purposes not authorized under the Coastal Act would constitute "major" vegetation removal. However, even if the guidelines did apply in this case, the total area cleared prior to SCE's reporting of the violation is 1,300 square feet, which is 800 square feet more than the maximum amount of brush clearance allowed.

The unauthorized development removed ESHA for purposes not authorized under Section 30240, created the potential for increased runoff, sedimentation and impacts to water quality in San Onofre Creek in conflict with Section 30231, was conducted without a coastal development permit, was not exempt from the requirement to obtain a coastal development permit under Section II.B.2.d of the Commission's Repair, Maintenance and Utility Hook-Up Exclusions From Permitting Requirements, and was not permitted under the facility's original coastal development permit No. 183-73, nor the amended permit No. 6-81-330-A. For the foregoing reasons, the vegetative clearance is inconsistent with the Coastal Act and constitutes a violation under the Coastal Act. The unauthorized development is also inconsistent with Coastal Act ESHA protection policies because it constituted significant disruption of habitat values for uses not dependent on the resource.

3. Development is Causing Continuing Resource Damage

The terms "continuing", "resource", and "damage" are defined in Section 13190 of the California Code of Regulations.

Section 13190(c) defines "Continuing" as:

'Continuing', when used to describe 'resource damage', means such damage which continues to occur as of the date of issuance of the Restoration Order.

Section 13190(a) defines "Resource" as:

'Resource' means any resource which is afforded protection under the policies of Chapter 3 of the Coastal Act, including but not limited to public access, marine and other aquatic resources, environmentally sensitive wildlife habitat, and the visual quality of coastal areas.

Section 13190(b) defines "damage" as:

'Damage' means any degradation or other reduction in quality, abundance, or other quantitative or qualitative characteristic of the resource as compared to the condition the resource was in before it was disturbed by unpermitted development.

The unauthorized development is inconsistent with Sections 30231 and 30240 of the Coastal Act and is causing continuing resource damages, as those terms are defined in Section 13190. The continuing resource damages include of the persistent impacts of permanent displacement of Southern Coastal Bluff Scrub habitat that constitutes ESHA under the Coastal Act, loss of topsoil on the site due to wind and rain erosion, and potential degradation of coastal water quality due to increased sedimentation.

Site Analysis

The project site is a 83.6-acre bluff top lot, on the seaward side of Pacific Coast Highway (Exhibit A), that is developed with numerous structures initially authorized by Coastal Development Permit No. 183-73. The setback area between the structures and the bluff at the south end of the property is rare, native Coastal Bluff Scrub habitat in relatively good condition, although some of the areas that were subjected to grading in the past are not as densely vegetated.

San Onofre Beach State Park is immediately adjacent to the south (Exhibit A). Both properties are owned by the US Department of the Navy, and leased to SCE and the California Department of Parks and Recreation, respectively.

The unauthorized development consists of major vegetative clearance, which removed 1,300 square feet of rare Coastal Brush Scrub habitat. Because of its status as a threatened habitat type as identified by the California Department of Fish and Game, Southern Coastal Brush Scrub is ESHA under the Coastal Act.

The vegetative clearance may cause sedimentation through runoff and reduce the biological productivity of nearby coastal waters. An important ecological function of coastal bluff scrub is to protect water quality in coastal streams by reducing erosion in the watershed. Although shallow rooted, the shrubs that define coastal bluff scrub have dense root masses that hold the surface soils effectively.

The Restoration, Revegetation and Monitoring Plan prepared by SCE will resolve the violation by restoring or enhancing a total of 4,575 square feet of Southern Coastal Scrub habitat on site and on State Parks property immediately adjacent to the site (Exhibit B). The Restoration Plan allows SCE to maintain 675 square feet of cleared areas along the North and East fence lines at a width of 5 feet, for the purpose of maintaining electronic security functions built into the fence. The report includes a map and photographs that delineate the location of cleared areas on the subject site, identifies the areas to be planted and the areas to remain clear, and illustrates the condition of surrounding vegetation.

The Consent Restoration Order requires that planting activities shall commence within 20 days of the issuance of the Consent Orders, and shall be completed with 60 days.

D. Background and Administrative Resolution Attempts

On July 29, 2004, SCE's Environmental Project Manager notified the Commission that unpermitted vegetation clearance had taken place at the SONGS facility (Exhibit D). Initially, SCE indicated that they had cleared an area of 8 X 145 feet along the facility's East fence, and an area 8 X 40 feet along the facility's North fence. After reevaluating the clearance area, SCE revised their figures and indicated that they had cleared an area of 10 X 75 feet along the facility's East fence and an area of 10 X 60 feet along the facility's North fence. The clearance had been performed in an attempt to comply with the U.S. Nuclear Regulatory Commission directives regarding security requirements (Exhibit C). SCE reports that vegetation growing too close to the fence interferes with electric surveillance mechanisms incorporated into the fence as authorized by the Commission's approval of coastal development permit 6-81-330-A. As the actual clearance area was greater than necessary to comply with the federal directives, SONGS reported the violation, but noted that a portion of the cleared area would need to remain free of vegetation for security reasons. When SCE staff reported the violation, they also proposed to apply for an after-the-fact permit to authorize a portion of the vegetation removal, and revegetate/mitigate other areas.

Coastal staff recommended issuing a Consent Restoration Order, (and preparation of a Restoration, Revegetation and Monitoring Plan requiring 3:1 mitigation for the loss of Southern Coastal Bluff Scrub habitat) under which SCE would voluntarily undertake the necessary revegetation.

On November 23, 2004, SCE submitted a Restoration Plan that was reviewed and approved, with minor changes, by Commission staff biologist John Dixon (Exhibit B). A final Restoration Plan will be submitted by SCE. The Restoration Plan identifies disturbed areas to be revegetated, disturbed areas that will remain clear of vegetation for security purposes, and mitigation areas for habitat

enhancement at a 3:1 ratio for the total area disturbed. In Phase 1 of the Restoration Plan, the two, 10-foot swaths of cleared area will be partially revegetated to provide for a 5-foot clearance area along the North Fence and the East fence, and adjacent areas will receive additional planting for the purpose of habitat enhancement, for a total amount of 1,525 square feet of revegetation/enhancement. In Phase 2 of the Restoration Plan, mitigation planting will take place at the adjacent property under the management of the California Department of Parks and Recreation, at appropriate sites delineated specifically in the Restoration Plan, for a total of 3,050 square feet of habitat enhancement. The total, combined area of revegetation and habitat enhancement is 4,575 square feet. The Restoration Plan lists locally appropriate native plant species to be used, the density and size of plants to be used, and appropriate maintenance, monitoring and reporting responsibilities. The Consent Restoration Order sets forth deadlines for commencement and completion of the work to be performed.

On November 23, 2004, SCE and Commission staff reached agreement on the terms of the proposed Consent Orders.

V. ALLEGATIONS

The Commission alleges the following:

SCE violated the Coastal Act by performing unpermitted development.

SCE violated the Coastal Act by performing unauthorized development inconsistent with its approved CDP.

The unauthorized development performed by SCE negatively impacted Environmentally Sensitive Habitat and is therefore inconsistent with Section 30240 of the Coastal Act. The unauthorized development also resulted in the removal of native Southern Coastal Bluff Scrub that may have impacted coastal water quality through runoff and sedimentation, and is therefore inconsistent with Sections 30231 of the Coastal Act.

The unauthorized development is causing or has the potential to cause continuing resource damages to coastal resources, including the intact habitat areas of ESHA directly affected impairment of water quality due to erosion and sediment discharge into coastal waters.

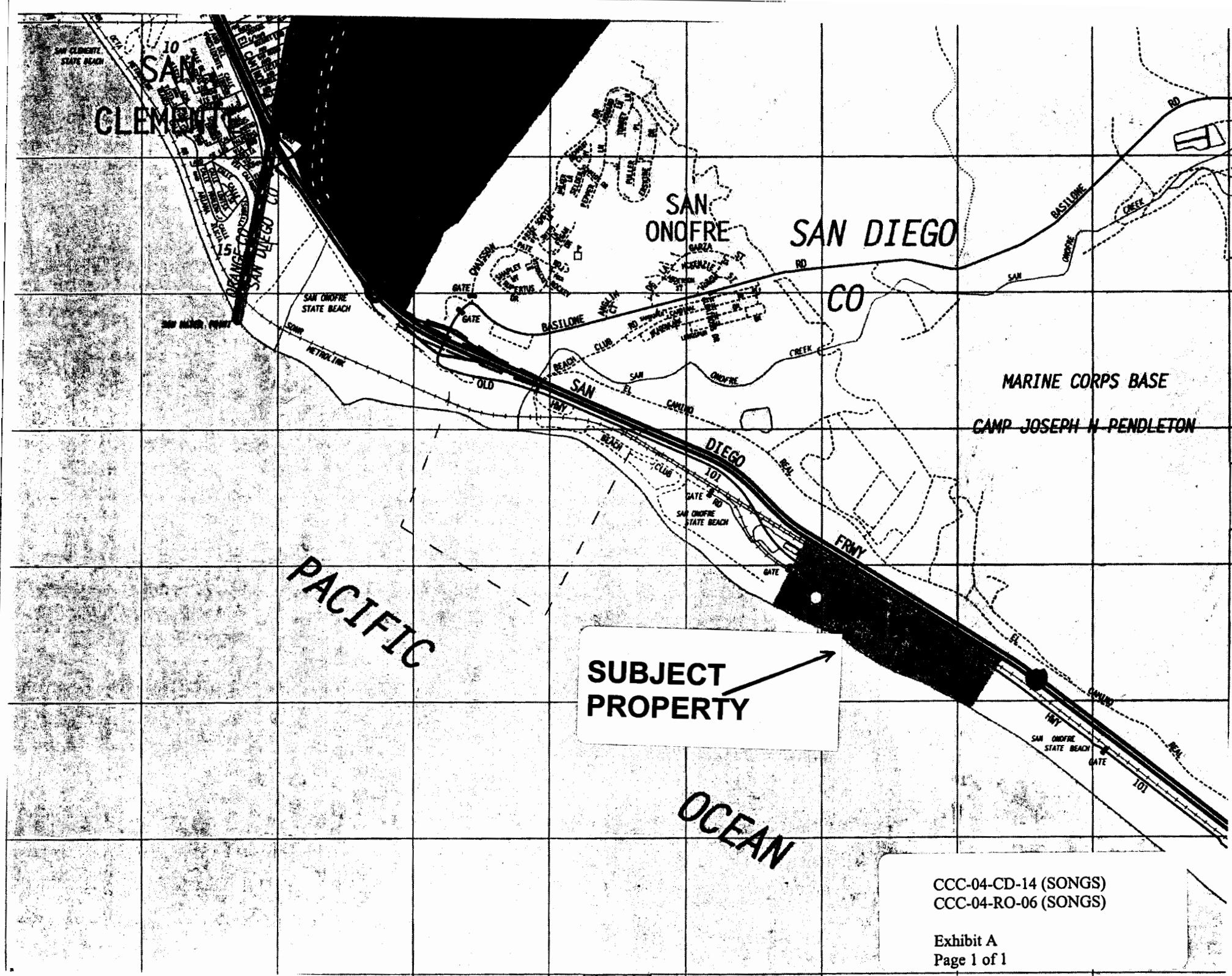
VI. CEQA COMPLIANCE

The Commission finds that issuance of this CDO and RO to compel the removal of the unauthorized development and restoration of the property exempt from any applicable requirements of the California Environmental Quality Act (CEQA) of 1970

and will not have significant adverse effects on the environment, within the meaning of CEQA. The CDO and RO is exempt from the requirement for the preparation of an Environmental Impact Report, based on Sections 15061(b)(2), 15307, 15308, 15321 and 15333 of CEQA Guidelines (Title 14, California Code of Regulations).

EXHIBITS

- A. Location Map
- B. Restoration, Revegetation and Monitoring Plan submitted November 23, 2004, with photographs and site map.
- C. Letter to SCE from U.S. Nuclear Regulatory Commission, April 29, 2003.
- D. Letter to Coastal Commission staff from SCE, July 29, 2004.



CCC-04-CD-14 (SONGS)
CCC-04-RO-06 (SONGS)

Exhibit A
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San Onofre Bluff Revegetation Plan

Introduction

SCE notified the California Coastal Commission (CCC) of the removal of approximately 1,300 square feet of coastal sage scrub from the south bluff area at the San Onofre Nuclear Generating Station (South Bluff Site). After surveying the area and verifying security and maintenance requirements, it was determined that a small area of 675 square feet will need to remain clear of vegetation. This includes an area 75 feet long and 5 feet deep along the eastern fence on the bluff (Figure 1). There is also an area on the north fence of the bluff that is 60 feet long and 5 feet deep that will need to remain clear of vegetation (Figure 3).

Coastal Commission policies require that any vegetation removed must be mitigated at a 3:1 ratio. Therefore, the 1,300 square feet originally removed must be mitigated by revegetation of $(3 \times 1,300) = 3,900$ square feet. In addition, the 675 square feet left unvegetated must be replaced, bringing the grand total to 4,575 square feet. The revegetation plan will be conducted in two phases. The first phase will involve replanting 625 of the 1,300 square feet originally cut, plus enhancing the adjacent areas where vegetation is severely degraded from past grading (Figure 2). The second phase will involve planting an area offsite at an adjacent bluff location on State Parks property (State Parks Site, Figures 4-6).

Existing Conditions

The vegetation community found at both sites is coastal bluff scrub (Holland 1986) with some differences in species composition at each site. At the South Bluff Site the area was previously disturbed and therefore has a lower percent cover than those surrounding areas that have not been disturbed. Directly adjacent to this revegetation site, which has also been disturbed in the past, there is 40% cover and the site includes the following species: coyote brush (*Baccharis pilularis*), California buckwheat (*Eriogonum fasciculatum*), coastal goldenbush (*Isocoma menziesii*), California sagebrush (*Artemisia californica*), black sage (*Salvia mellifera*), California bush sunflower (*Encelia californica*), sea dahlia (*Coreopsis maritima*), lemonadeberry (*Rhus integrifolia*), and toyon (*Heteromeles arbutifolia*).

At the State Parks Site the species composition is less diverse and contains some different species than what is found at the South Bluff Site. This site is dominated by black mustard (*Brassica nigra*), California sagebrush, coyote brush, black sage, bladderpod (*Isomeris arborea*), elderberry (*Sambucus mexicana*) and fennel (*Foeniculum vulgare*). Directly adjacent to this site is vegetation of 75% cover, however, the revegetation site has been graded and used by the State Parks as a storage area.

Revegetation Plan

South Bluff Site

The first phase of the revegetation plan will involve replanting a portion of the area where vegetation was previously removed at the south bluff, and enhancing an adjacent degraded area

(see attached map). This total first phase effort will involve replanting or enhancing a total area of 1525 square feet. The total area will include replanting a 60 foot by 5 foot bare area (300 square feet) beginning 5 feet from the north fence (Figure 3). The second bare area on the south bluff to be planted will be a 65 foot by 5 foot area (325 square feet) beginning 5 feet from the east fence (Figure 1). A 90 foot by 10 foot (900 square feet) degraded area adjacent to the south end of this area will also be planted (Figure 2). Coastal bluff scrub will be planted by hydroseeding with the species and percentages detailed in the attachment from S&S Seeds and will not include horticultural varieties or Coyote brush. Forty-five container plants of diagnostic coastal brush species will be planted in the ratios described below in addition to the hydroseeding of the entire area. This is consistent with the current species composition of the coastal brush scrub in that area. Container plants to be used at the South Bluff Site are as follows:

- California buckwheat (*Eriogonum fasciculatum*) – 25% or 11 plants
- California sagebrush (*Artemisia californica*) – 25% or 11 plants
- Goldenbush (*Isocoma menziesii*) – 15% or 7 plants
- California bush sunflower (*Encelia californica*) – 15% or 7 plants
- Lemonadeberry (*Rhus integrifolia*) – 5% or 3 plants
- Coast Cholla (*Opuntia prolifera*) – 5% or 2 plants
- Cliff Spurge (*Euphorbia misera*) – 5% or 2 plants
- Box Thorn (*Lycium californicum*) – 5% or 2 plants

In summary, the total area planted in Phase 1 at the South Bluff Site will be 1525 square feet. This will still leave 2,375 square feet, plus the 675 square feet to remain cleared that will need to be planted at an alternate location to complete the required mitigation, for a total of 3,050 square feet in Phase 2. The probability of success on the bluff for re-growth to "natural" conditions is limited due to the area having been graded years ago, resulting in topsoil loss, and due to the difficulty of resources and personnel access to maintain and irrigate the area. However, the re-growth should be able to be returned to the condition of the vegetation prior to the most recent vegetation clearing. The undisturbed area surrounding the location where coastal sage scrub was removed had approximately 75 percent ground cover. The area of the revegetation should be somewhat less at approximately 40 percent ground cover due to previous disturbance patterns at the site. The species composition success ratio for the Phase 1 area will be achieved with at least 40 percent ground cover of the area with California buckwheat and California sagebrush making up 40 to 50% of species composition, with goldenbush and California bush sunflower making up 35 to 45% of species composition and the remaining 5 to 15% made up of diagnostic coastal brush species (as described in Holland or Sawyer and Keeler-Wolf or as included in the hydroseed mix) or some non-native, but not invasive species. Coyote brush will be excluded from the hydroseed mix.

State Parks Site

The second phase of the revegetation plan will involve planting an alternate location for an area of at least 3,050 square feet. SCE proposes that the second phase of the mitigation be performed at the State Parks mitigation area (Figures 4-6 and map, Phase 2). An area of approximately 90

feet by 35 feet (3,150 square feet) will be replanted. This area will be planted in accordance with the same criteria and density as the Phase 1 mitigation at the South Bluff area. This will result in the hydroseeding of the entire 3,150 square foot area (as detailed in the attachment from S&S Seeds) and the planting of ninety (90) containers of diagnostic coastal brush species within this area as in the list provided in this document. These plants will be similar to those that will be planted at the South Bluff Site in Phase 1 with some differences as noted below. Directly adjacent to this site is vegetation of 75% cover, however, the revegetation site has been formerly graded and used by the State Parks as a storage area. The area is devoid of top soil and the 75% cover will most likely not be achievable at this previously disturbed site. Therefore, SCE proposes to reach a minimum 40% cover similar to the South Bluff Site that has undergone previous disturbance. Container plants to be used at the State Parks Site are as follows:

- Bladderpod (*Isomeris arborea*) – 25% or 23 plants
- California sagebrush (*Artemisia californica*) – 25% or 23 plants
- California buckwheat (*Eriogonum fasciculatum*) – 15% or 13 plants
- Goldenbush (*Isocoma menziesii*) – 15% or 13 plants
- California bush sunflower (*Encelia californica*) – 15% or 13 plants
- Lemonadeberry (*Rhus integrifolia*) – 3% or 3 plants
- Box Thorn (*Lycium californicum*) – 2% or 2 plants

The species composition success ratio will be approximately that which is described in the container plants list for this site, such as bladderpod and California sagebrush making up 40 to 50% of species composition, California buckwheat, goldenbush and California bush sunflower making up 35 to 45% of species composition with the remaining 5 to 15% made up of diagnostic coastal brush species (as described in Holland or Sawyer and Keeler-Wolf or as included in the hydroseed mix) or some non-native, but not invasive species.

Monitoring and Weeding Plan

Each revegetation area will be monitored by a qualified biologist monthly in 2005, then quarterly in 2006 and 2007 and finally semi-annually in 2008 and 2009. Monitoring will assess the initial germination success of hydroseeding as well as the condition of container-planted individuals. Due to the small size of the revegetated sites, SCE would propose to divide the areas into quadrats and census the entire sites rather than sample. The species composition success ratios will be as described above as they differ at each site. Photos of the areas will be taken. Weeding, watering or planting may be performed as needed based on the results of monitoring. After three years, if the required 40 percent ground cover in each area is not achieved, SCE will conduct additional planting of container plants or hydroseeding as necessary to attain the required 40 percent ground cover. SCE will prepare and submit a report on the monitoring results and submit it to the CCC by February 15 each year for the previous calendar year. Final monitoring for the area should take place after the site is sustaining itself for at least three years without remediation or maintenance other than weeding.

References

CCC-04-CD-14 (SONGS)
CCC-04-RO-06 (SONGS)

Holland, Robert F., Ph.D. 1986. Preliminary Descriptions of the Terrestrial Natural Communities of California. State of California, The Resources Agency, Department of Fish and Game.

Sawyer, John O. and Todd Keeler-Wolf. 1995. *A Manual of California Vegetation*. California Native Plant Society. Sacramento, CA. California Department of Fish and Game

Figure 1

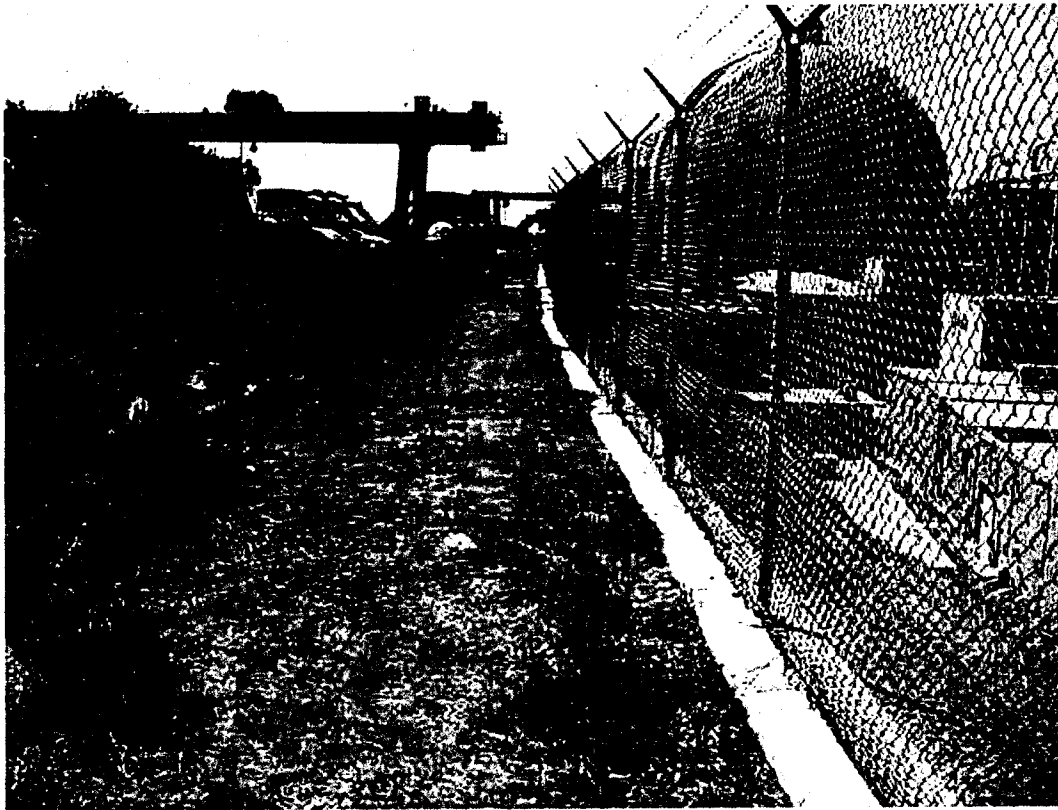
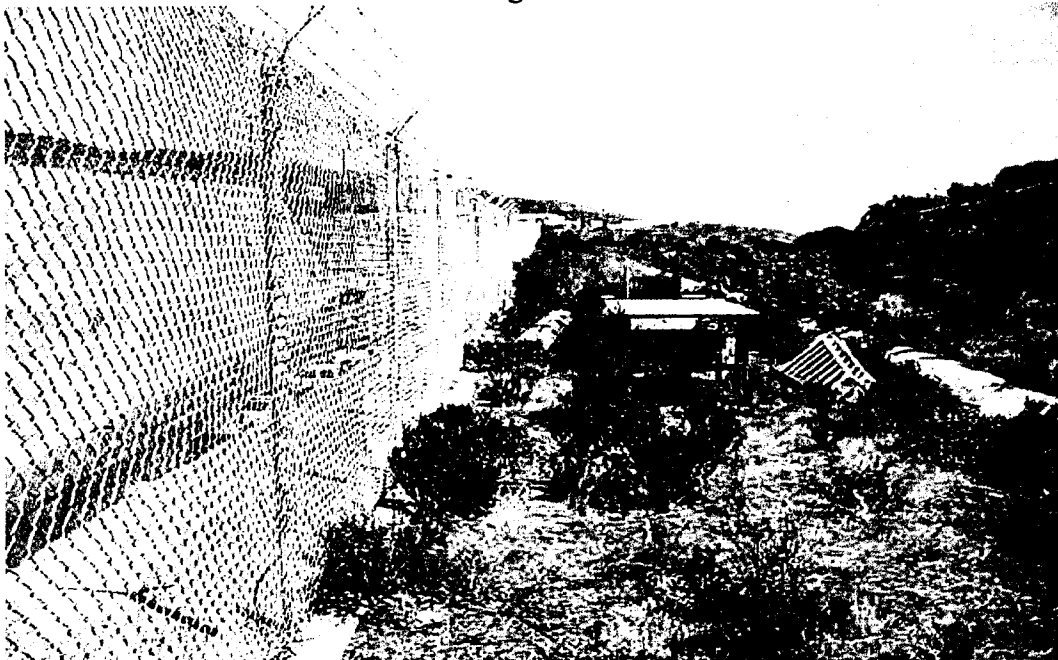


Figure 2



CCC-04-CD-14 (SONGS)
CCC-04-RO-06 (SONGS)

Exhibit B
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Figure 3



Figure 4



CCC-04-CD-14 (SONGS)
CCC-04-RO-06 (SONGS)

Figure 5

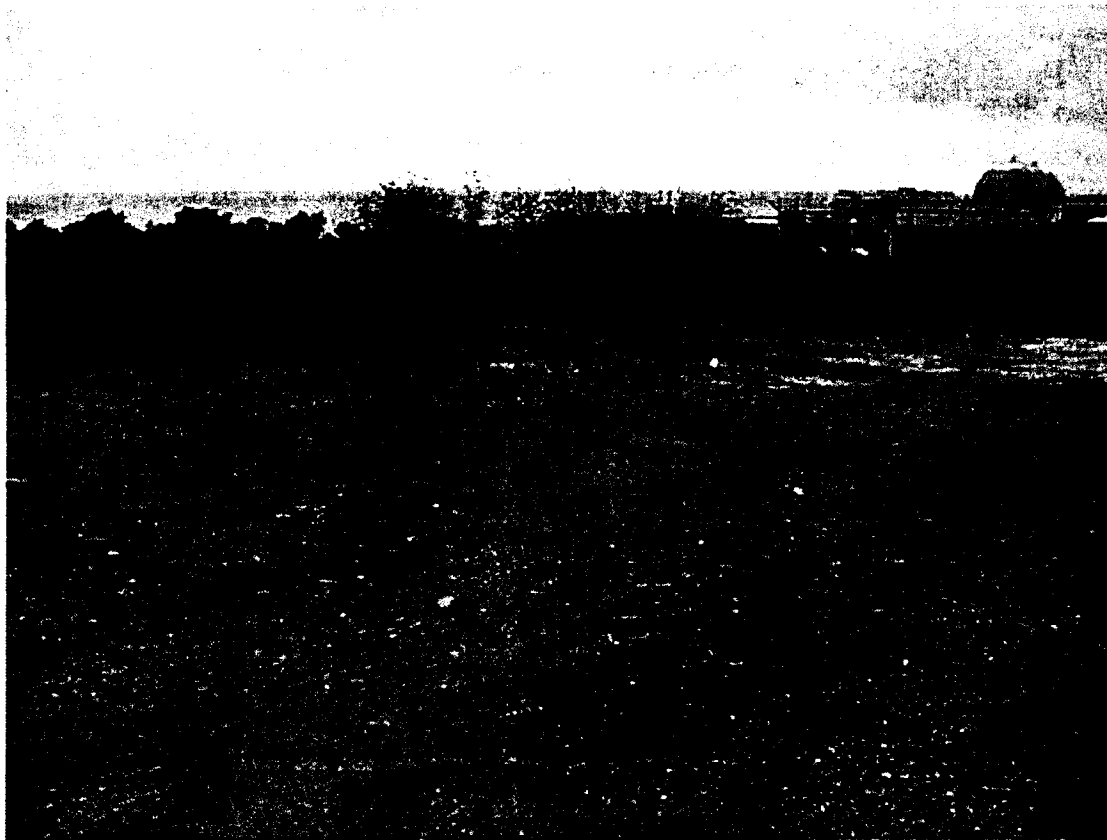
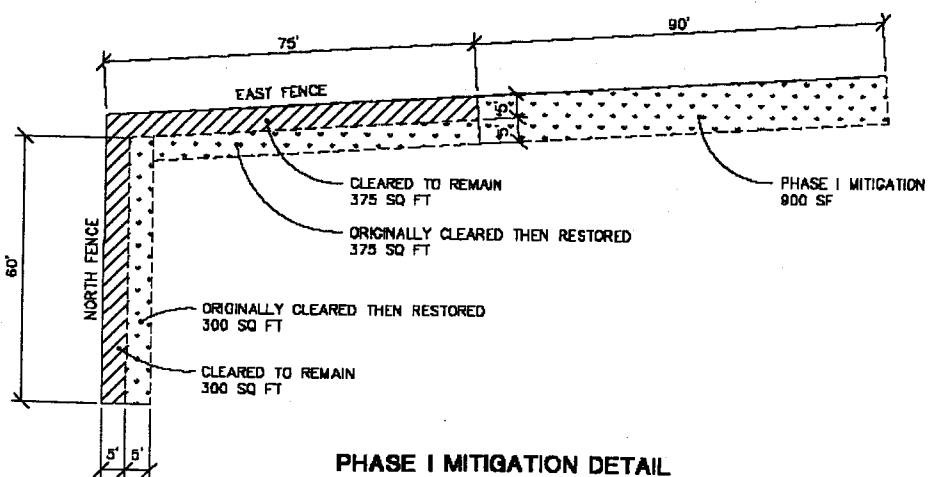
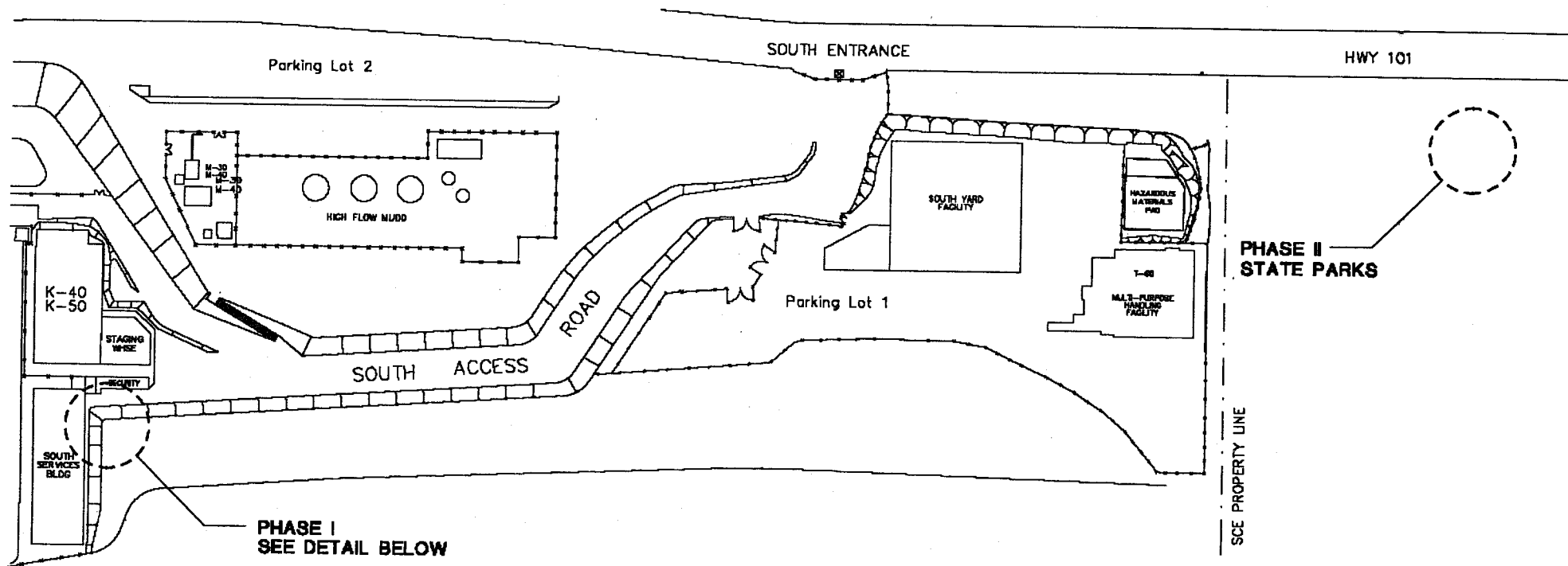


Figure 6



CCC-04-CD-14 (SONGS)
CCC-04-RO-06 (SONGS)



SONGS RE-VEGETATION PLAN

09/09/2004

CCC-04-CD-14 (SONGS)
CCC-04-RO-06 (SONGS)



COASTAL SAGE SCRUB MIX for SOUTHERN CALIFORNIA EDISON

Use this mix when native scrub restoration is desired. It is a blend of grasses, flowers and shrubs for revegetation of soil and slopes with plant types that belong here. There is a quick start grass to protect soil and allow slower perennials to provide their permanent cover in the years to come. Designed as a non-irrigated mix, irrigation will foster establishment and prolong the blooming period.

<u>SPECIES</u>	<u>COMMON NAME</u>	<u>BULK #'s/ACRE</u>	<u>MIN % PLS*</u>
<i>Artemisia californica</i>	California Sagebrush	2.00	10
<i>Baccharis pilularis</i>	Coyote Bush	2.00	1
<i>Camissonia cheiranthifolia</i>	Beach Evening Primrose	2.00	80
<i>Collinsia heterophylla</i>	Chinese Houses	2.00	85
<i>Encelia californica</i>	Bush Sunflower	3.00	25
<i>Eriogonum fasciculatum</i>	California Buckwheat	12.00	10
<i>Eriophyllum confertiflorum</i>	Golden Yarrow	3.00	25
<i>Eschscholzia californica peninsularis</i>	California Poppy	2.00	85
<i>Isocoma menziesii</i>	Goldenbush	4.00	60
<i>Lasthenia californica</i>	Goldfields	2.00	85
<i>Lotus scoparius</i>	Deerweed	4.00	85
<i>Lupinus succulentus</i>	Arroyo Lupine	4.00	90
<i>Mimulus aurantiacus "puniceus"</i>	Mission Red Monkeyflower	2.00	2
<i>Salvia apiana</i>	White Sage	2.00	25
<i>Salvia mellifera</i>	Black Sage	2.00	40
<i>Sisyrinchium bellum</i>	Blue-eyed Grass	2.00	80
<i>Vulpia microstachys</i>	Small Fescue	<u>8.00</u>	85

* MIN % PLS (Pure Live Seed) = Seed Purity x Germination Rate

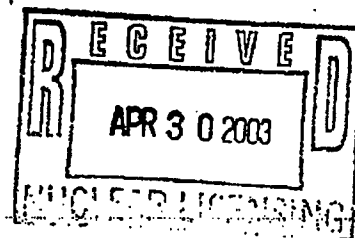
Seed: 54 lbs per acre
Height: 12-54 inches
Emergence: 10-20 days
Establishment: 50-70 days to 90% cover after emergence

For additional plant characteristics visit the plant database portion of our website at www.ssseeds.com.



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

April 29, 2003



SAFEGUARDS INFORMATION

EA-03-086

Holders of Licenses for Operating
Power Reactors as listed in
Attachment 1 to the Order

**SUBJECT: ISSUANCE OF ORDER REQUIRING COMPLIANCE WITH REVISED DESIGN
BASIS THREAT FOR OPERATING POWER REACTORS**

The U.S. Nuclear Regulatory Commission (NRC or the Commission) has issued the enclosed Order that modifies the current license for your facility to require compliance with the revised Design Basis Threat (DBT) provided in Attachment 2 to the enclosed Order. The Order applies to all Addressees listed in Attachment 1 to the enclosed Order. The Commission recognizes that you have voluntarily and responsibly implemented additional security measures following the events of September 11, 2001. As part of the Commission's review of the security and safeguards program, the Commission has assessed information provided by the intelligence community and determined that revisions to the DBT, as currently specified in Title 10 of the *Code of Federal Regulations*, § 73.1(a), are required. The Commission has determined that the current threat environment requires that the enclosed Order be effective immediately.

NOTICE: Attachment 2 to the Order (Revised Design Basis Threat) contains Safeguards Information. Upon separation from Attachment 2 to the Order, this letter, the enclosed Order, and Attachment 1 to the Order (Addressee List) are DECONTROLLED.

SAFEGUARDS INFORMATION


CCC-04-CD-14 (SONGS)
CCC-04-RO-06 (SONGS)

The basis for the Order is the need to take prompt actions to address the current threat environment. This Order does not obviate the need for licensees to continue to meet the objectives of the appropriate security level described in NRC Regulatory Issue Summary 2002-12A, "Power Reactors NRC Threat Advisory and Protective Measures System," and maintain the effectiveness of existing security measures taken in response to the events of September 11, 2001, and the Orders issued on February 25, 2002, January 7, 2003, and April 29, 2003. Upon completion of NRC review and approval of the revised security plans, including pertinent requirements of the Order issued on February 25, 2002, safeguards contingency plans, and training and qualification plans, and their full implementation, the NRC will consider requests to relax or rescind, either in whole or in part, the requirements of the Order issued on February 25, 2002, imposing the Interim Compensatory Measures. The revised security plans submitted in response to Condition III.A.1 of this Order must consider and be consistent with other security-related Orders applicable to your facility.

The enclosed Order calls for responses and actions within specified time frames. Please contact your Licensing Project Manager to facilitate resolution of any issues related to compliance with the requirements in the enclosed Order, or if you have any other questions.

The enclosed Order has been forwarded to the Office of the Federal Register for publication.

Sincerely,


Samuel J. Collins, Director
Office of Nuclear Reactor Regulation

Docket Nos.: See Order Attachment 1

Enclosure: Order

Attachment 1: List of Addressees

Attachment 2: Revised DBT

cc (w/o Order Attachment 2): See Plant Mailing Lists

CCC-04-CD-14 (SONGS)
CCC-04-RO-06 (SONGS)

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	Docket Nos. (as shown in Attachment 1)
ALL OPERATING POWER REACTOR)	License Nos. (as shown in Attachment 1)
LICENSEES)	EA-03-086

**ORDER MODIFYING LICENSES
(EFFECTIVE IMMEDIATELY)**

I.

The licensees identified in Attachment 1 to this Order hold licenses issued by the U.S. Nuclear Regulatory Commission (NRC or the Commission) authorizing operation of nuclear power plants in accordance with the Atomic Energy Act of 1954 and Title 10 of the *Code of Federal Regulations* (10 C.F.R.) Part 50. Commission regulations at 10 C.F.R. § 50.54(p)(1) require these licensees to maintain safeguards contingency plan procedures in accordance with 10 C.F.R. Part 73, Appendix C. Specific safeguards requirements for reactors are contained in 10 C.F.R. § 73.55.

II.

On September 11, 2001, terrorists simultaneously attacked targets in New York, N.Y., and Washington, D.C., utilizing large commercial aircraft as weapons. In response to the attacks and intelligence information subsequently obtained, the Commission issued a number of Safeguards and Threat Advisories to its licensees, and eventually Orders to selected licensees, to strengthen licensees' capabilities and readiness to respond to a potential attack on a nuclear facility. The Commission has also communicated with other Federal, State and local

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CCC-04-CD-14 (SONGS)
CCC-04-RO-06 (SONGS)

government agencies and industry representatives to discuss and evaluate the current threat environment in order to assess the nature of the current threat. In addition, the Commission has been conducting a comprehensive review of its safeguards and security programs and requirements. As part of this review, the Commission issued Orders to the licensees of all operating power reactors on February 25, 2002, to implement interim compensatory measures (ICMs) to enhance physical security of licensed operations at these facilities. In addition, the Commission issued Orders to all operating power reactor licensees on January 7, 2003, to enhance access authorization requirements.

As a result of information provided by the intelligence community concerning the nature of the threat and the Commission's assessment of this information, the Commission has determined that a revision is needed to the Design Basis Threat (DBT) specified in 10 C.F.R. § 73.1. Therefore, the Commission is imposing a revised DBT, as set forth in Attachment 2¹ of this Order, on all operating power reactor licensees. The revised DBT, which supercedes the DBT specified in 10 C.F.R. § 73.1, provides the Commission with reasonable assurance that the public health and safety and common defense and security continue to be adequately protected in the current threat environment. The requirements of this Order remain in effect until the Commission determines otherwise. To address the DBT set forth in Attachment 2 of this Order, all licensees must revise their physical security plans, safeguards contingency plans, and guard training and qualification plans that are required by 10 C.F.R. §§ 50.34(c), 50.34(d), and 73.55(b)(4)(ii), respectively.

In order to provide assurance that licensees are implementing prudent measures to protect against the revised DBT, all licenses identified in Attachment 1 to this Order shall be modified to require that the physical security plans, safeguards contingency plans, and the

¹ Attachment 2 contains safeguards information and will not be released to the public.

guard training and qualification plans required by 10 C.F.R. §§ 50.34(c), 50.34(d), and 73.55(b)(4)(ii) be revised to provide protection against this revised DBT. Consistent with the provisions of 10 C.F.R. § 73.55(a), the licensee may provide measures for protection against the DBT specified in Attachment 2 to this Order other than those required by 10 C.F.R. § 73.55 if the licensee demonstrates: (1) that the measures have the same high assurance objective as specified in 10 C.F.R. § 73.55(a); and (2) that the overall level of system performance provides protection against the DBT specified in Attachment 2 to this Order equivalent to that which would be provided by 10 C.F.R. §§ 73.55(b) through (h) and meets the general performance requirements of 10 C.F.R. § 73.55. Upon completion of NRC review and approval of the revised physical security plans, including pertinent requirements of the Order issued on February 25, 2002, safeguards contingency plans, and guard training and qualification plans, and their full implementation, the Commission will consider requests to relax or rescind, either in whole or in part, the requirements of the Order issued on February 25, 2002, imposing ICMs. In addition, pursuant to 10 C.F.R. § 2.202, I find that in the circumstances described above, the public health, safety, and interest and the common defense and security require that this Order be immediately effective.

III.

Accordingly, pursuant to Sections 103, 104, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 C.F.R. § 2.202 and 10 C.F.R. Parts 50 and 73, IT IS HEREBY ORDERED, **EFFECTIVE IMMEDIATELY**, THAT ALL LICENSES IDENTIFIED IN ATTACHMENT 1 TO THIS ORDER ARE MODIFIED AS FOLLOWS:

- A. 1. All licensees shall, notwithstanding the provisions of any Commission regulation, license, or order to the contrary, revise their physical security plans and safeguards contingency plans, prepared pursuant to 10 C.F.R. §§ 50.34(c) and 50.34(d), to provide protection against the DBT set forth in Attachment 2 to this Order. In addition, all licensees shall, notwithstanding the provisions of any Commission regulation, license, or order to the contrary, revise their guard training and qualification plans, required by 10 C.F.R. § 73.55(b)(4)(ii), to implement the DBT set forth in Attachment 2 to this Order. The licensees shall submit the revised physical security plans, safeguards contingency plans, and guard training and qualification plans, including an implementation schedule, to the Commission for review and approval no later than April 29, 2004.
2. The revised physical security plans, revised safeguards contingency plans, and revised guard training and qualification plans, must be fully implemented by the licensees no later than October 29, 2004.
- B. 1. All licensees shall, within thirty-five (35) days of the date of this Order, notify the Commission, (1) if they are unable to comply with any of the requirements of this Order, (2) if compliance with any of the requirements is unnecessary in their specific circumstances, or (3) if implementation of any of the requirements would cause the licensee to be in violation of the provisions of any Commission regulation or the facility license. The notification shall provide the licensee's justification for seeking relief from, or variation of, any specific requirement.
2. Any licensee that considers that implementation of any of the requirements of this Order would adversely impact safe operation of the facility must notify the Commission, within thirty-five (35) days of this Order, of the adverse safety

impact, the basis for its determination that the requirement has an adverse safety impact, and either a proposal for achieving the same objectives of this Order, or a schedule for modifying the facilities to address the adverse safety

condition. If neither approach is appropriate, the licensee must supplement its response to Condition B.1 of this Order to identify the condition as a requirement with which it cannot comply, with attendant justifications as required in Condition B.1.

- C. All licensees shall report to the Commission, in writing, when they have fully implemented the approved revisions to their physical security plans, safeguards contingency plans, and guard training and qualification plans, to protect against the DBT described in Attachment 2 to this Order.
- D. Notwithstanding the provisions of any Commission regulation, license, or order to the contrary, all measures implemented or actions taken in response to this Order shall be maintained until the Commission determines otherwise, except that licensees may make changes to their revised physical security plans and safeguards contingency plans and guard training and qualification plans if authorized by 10 C.F.R. § 50.54(p).

Licensee responses to Conditions A.1, B.1, B.2, and C above, shall be submitted in accordance with 10 C.F.R. § 50.4. In addition, licensee submittals that contain safeguards information shall be properly marked and handled in accordance with 10 C.F.R. § 73.21.

The Director, Office of Nuclear Reactor Regulation, may, in writing, relax or rescind any of the above conditions upon demonstration by the licensee of good cause.

IV.

In accordance with 10 C.F.R. § 2.202, the licensee must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within **thirty-five (35) days** of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for an extension of time in which to submit an answer or request a hearing must be made in writing to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically set forth the matters of fact and law on which the licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555-0001. Copies also shall be sent to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; to the Assistant General Counsel for Materials Litigation and Enforcement at the same address; to the Regional Administrator for NRC Region I, II, III, or IV, as appropriate for the specific facility; and to the licensee if the answer or hearing request is by a person other than the licensee. Because of possible disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to hearingdocket@nrc.gov and also to the Office of the General Counsel either by means of facsimile transmission to 301-415-3725 or by e-mail to OGCMailCenter@nrc.gov. If a person other than the licensee requests a hearing, that

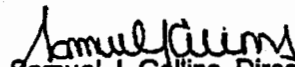
person shall set forth with particularity the manner in which his or her interest is adversely affected by this Order and shall address the criteria set forth in 10 C.F.R. § 2.714(d).

If a hearing is requested by the licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 C.F.R. § 2.202(c)(2)(i), the licensee may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section III above shall be final **thirty-five (35) days** from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section III shall be final when the extension expires if a hearing request has not been received. **AN ANSWER OR A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.**

FOR THE NUCLEAR REGULATORY COMMISSION


Samuel J. Collins, Director
Office of Nuclear Reactor Regulation

Dated this 29th day of April 2003.

Attachments: 1. List of Addressees
2. Revised DBT

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CCC-04-RO-06 (SONGS)

Exhibit C
Page 9 of 9



SOUTHERN CALIFORNIA
EDISON[®]

An EDISON INTERNATIONAL[®] Company

July 29, 2004

Alison Dettmer, Manager
Energy and Ocean Resources Unit
California Coastal Commission
45 Fremont St., Suite 2000
San Francisco, CA 94105-2219

Subject: Clearing of Vegetation Adjacent to SONGS South Bluff Security Fence

As we discussed by telephone on July 29th, SONGS needs to clear and keep clear vegetation at least 2 feet from the south bluff security fence in order to conduct fence maintenance and repairs pursuant to recent Nuclear Regulatory Commission mandates that resulted from Homeland Security Department directives. Coastal Commission Maintenance, Repair, and Utility Hook-Up guidance adopted in 1978 excludes various activities at utility generating stations from coastal permit requirements, including certain vegetation clearing, as follows:

d. Grading, Clearing and Removal of Vegetation. Excluded activities shall not extend to the construction of any new road to the site of the work. In cases involving removal of trees exceeding 12 inches dbh, grading of any undisturbed area of greater than 500 sq. ft. or clearing of more than 500 sq. ft. of brush or other vegetation, the utility shall consult with the Executive Director of the Regional Commission to determine whether the project involves removal of major vegetation such that a permit is required. A coastal permit is not required for removal of minor vegetation for maintenance purposes (tree trimming, etc.) for safety clearances.

Recently, SONGS personnel cleared vegetation along the south bluff fence line in a previously disturbed area (see Figures 1-4, attached). The area recently cleared was originally graded bare during Units 2/3 construction. This clearing was performed pursuant to the aforementioned NRC mandate. We believe this recent clearing work may have exceeded the limits provided for in the CCC's 1978 exclusion policy, which may apply. That is, we believe Executive Director concurrence may have been required before an area exceeding 500 square feet was cleared of vegetation. The area cleared of vegetation totals approximately 1600 square feet, although the entire area was not completely covered by vegetation.

In addition, SONGS still needs to clear an additional 2-3 feet of vegetation away from the fence along the north end of the south bluff (Figure 4, attached). This area will need to be kept clear in order to prevent vegetation from affecting security components incorporated into the fence. This additional clearing covers an area of approximately 50 square feet. We request your concurrence to proceed with this additional clearing prior to October of this year, and to retroactively concur with the clearing previously performed. An e-mail reply to this memo would be appreciated.

Sincerely,

DAVID KAY
Manager of Environmental Projects

CCC-04-CD-14 (SONGS)
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Exhibit D
Page 1 of 4

Fig. 1 Area where vegetation removal already took place

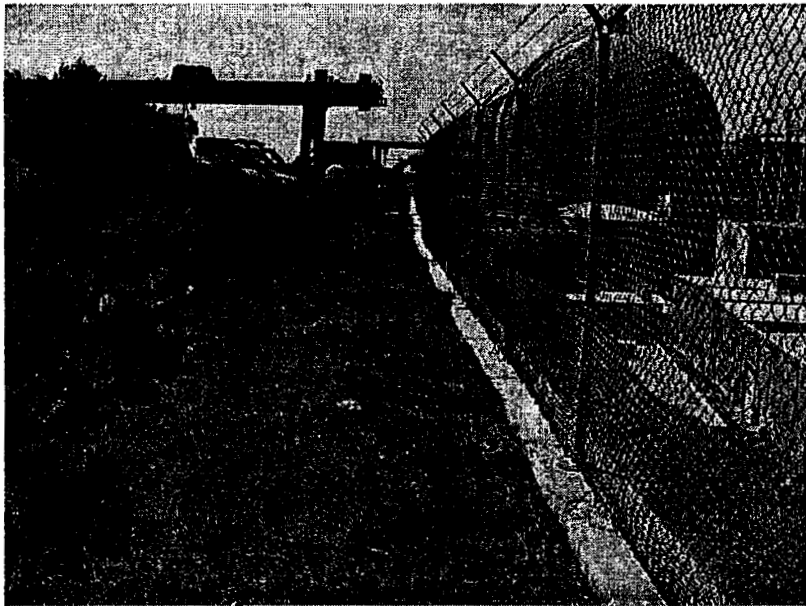


Fig. 2 Looking south from same location, for comparison

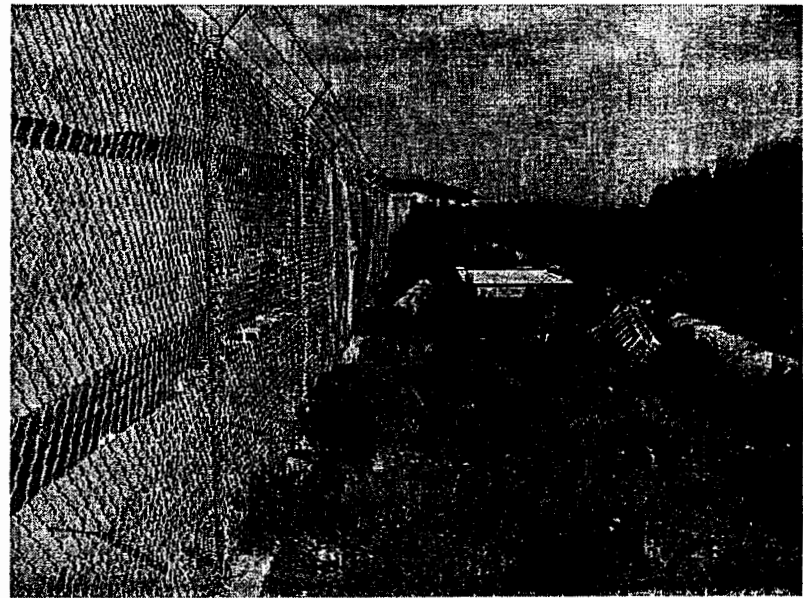
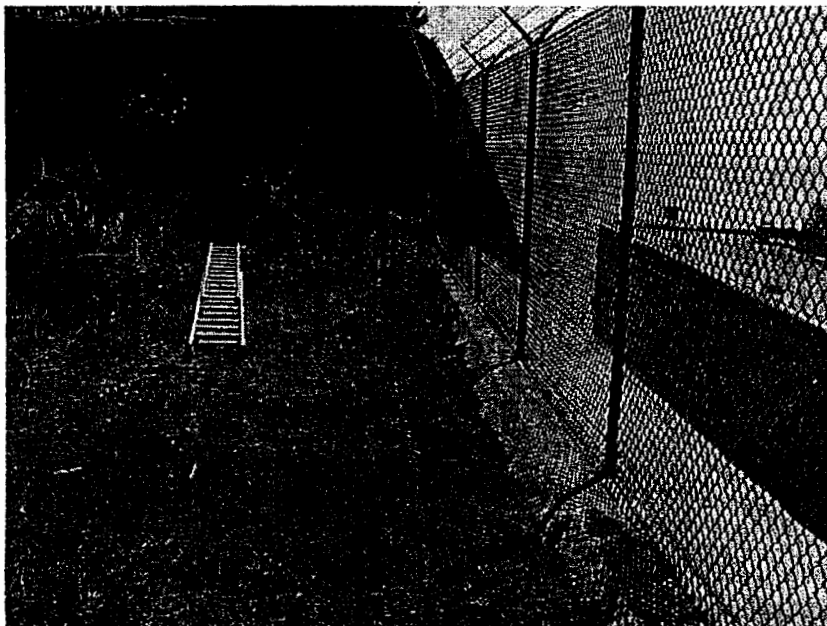
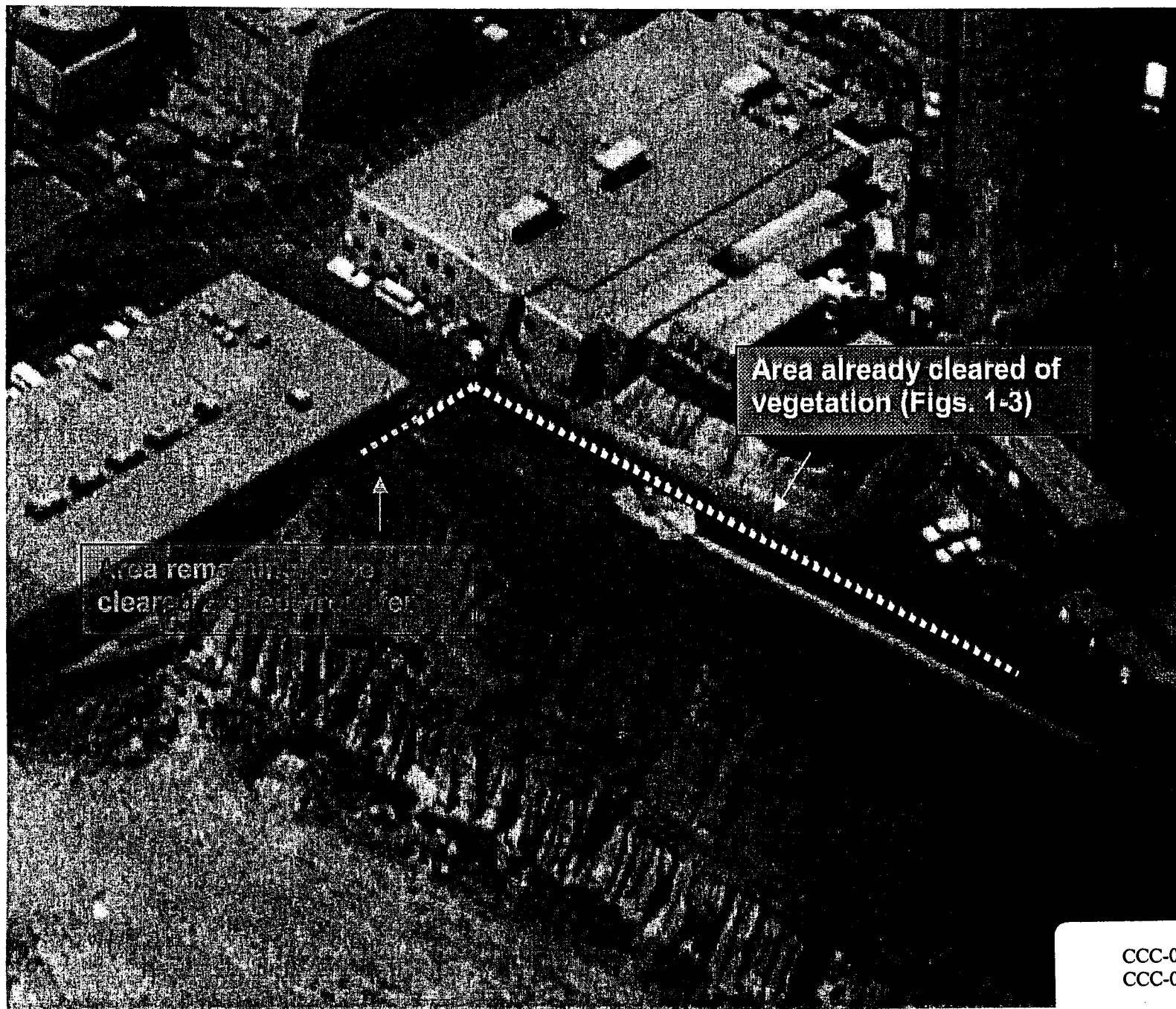


Fig. 3 Area of vegetation cleared at north end of bluff



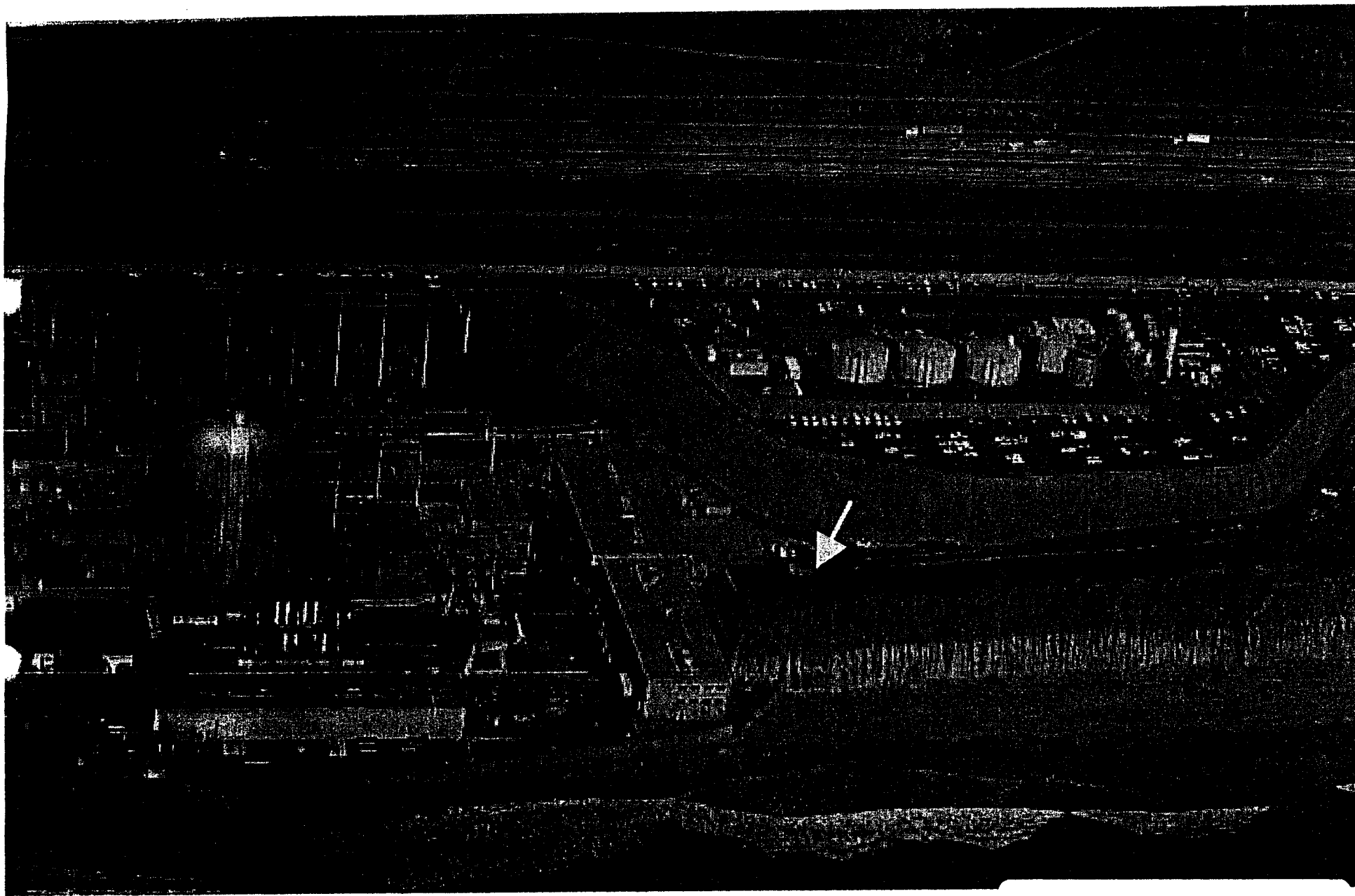
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Fig. 4 Aerial photo delineating area of previous vegetation removal and area of proposed additional vegetation removal



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Fig. 5 Another view of the south bluff area



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