

CALIFORNIA COASTAL COMMISSION

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49th Day: September 17, 2007
Staff: DL-SF
Staff Report: August 17, 2007
Hearing Date: September 6, 2007

STAFF REPORT COASTAL DEVELOPMENT PERMIT APPLICATION

APPLICATION NO: **E-06-012**

APPLICANT: **Southern California Gas Company**

PROJECT LOCATION: Bolsa Chica lowlands, bounded by Wintersburg Channel to the North, Harriet Weider Regional Park to the South, Bershire Drive to the East, Pacific Ocean to the West, Orange County

PROJECT DESCRIPTION: Make repairs at seven locations on natural gas transmission pipeline No. 1228.1

SUBSTANTIVE FILES: Appendix A.

SUMMARY

In this application, the Southern California Gas Company (SCG) proposes to repair an existing natural gas pipeline located in the Bolsa Chica Wetlands in Orange County. Repair work will take place at seven discrete sites along the pipeline. Six of the sites are located in wetlands; the seventh is in an upland area. SCG will: “blow out” the pipeline prior to repairs to avoid gas leaks; remove and replace approximately eight cubic yards of soil (wetland vegetation) from around the pipe at each site, storing it on adjacent roadways; and repair the pipeline and return the soil, first removing invasive ice plant and hauling it offsite. These activities will therefore result in the temporary removal of 48 cubic yards of wetland vegetation. To mitigate for the temporary removal of wetland vegetation, SCG proposes to remove unwanted fill at a 2:1 ratio from other areas of the Bolsa Chica Wetlands. Targeted areas of fill removal will be determined by staff of the USFWS and ACOE. The Commission staff is recommending Special Condition 1 which would require SCG to implement its wetland mitigation within 60 days of completing the pipeline repair activities. In addition, the Belding’s savannah sparrow and Western snowy plover are found throughout the Bolsa Chica Wetlands. To avoid adversely affecting these listed bird species during their nesting seasons, the Commission staff is recommending Special Condition 2 which would require SCG to conduct all repair activities outside of the nesting seasons of the Belding’s savannah sparrow and Western snowy plover.

As conditioned, the Commission staff recommends approval of the project.

1.0 STAFF RECOMMENDATION

Approval with Conditions

The staff recommends conditional approval of the permit application.

Motion:

I move that the Commission approve Coastal Development Permit E-06-012 subject to conditions set forth in the staff recommendation specified below.

Staff recommends a YES vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of Commissioners present.

Resolution:

The Commission hereby approves the Coastal Development Permit for the proposed project and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act.

2.0 STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

3.0 SPECIAL CONDITIONS

1. **Wetland Mitigation Measures.** Within 60 days of completion of pipeline repair activities, SCG shall implement its proposed wetland mitigation measures as described in a letter dated October 25, 2006 (see Exhibit 1). Within 30 days of completing the wetland mitigation, SCG shall submit to the Executive Director of the Coastal Commission a final report summarizing the wetland mitigation completed, including pictures.
2. **Avoidance of Nesting Seasons.** SCG shall conduct repair and mitigation activities outside of the nesting seasons of Belding's savannah sparrow (mid-February through early August) and/or Western snowy plover (March 1 through September 14).

4.0 FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

4.1 PROJECT SETTING

The Southern California Gas Company (SCG) has leased a natural gas pipeline system located in the Bolsa Chica Wetlands (see Exhibit 2) from the City of Long Beach since 1993, and is responsible for all maintenance and repairs to the pipeline, as per the terms of the lease. The system is composed of two separate pipelines: Line No. 1228.1 and Line No. 1228.2. This application pertains to Line No. 1228.1 only. The pipeline is located on State lands, and the California State Lands Commission (SLC) has granted the City of Long Beach a 10-foot easement along the pipeline for repair and maintenance. Aera Energy currently uses the property where the pipeline is located as an oil and gas production field, and the property includes existing access roads with high vehicle use. The Bolsa Chica Wetlands have recently undergone major restoration efforts, and a new tidal inlet now allows ocean tides to flush a 367-acre basin within the wetlands. The project is not located within the tidal basin, and is not under water, but is within an historical tidal area.

4.2 PROJECT DESCRIPTION

SCG proposes to repair natural gas pipeline no. 1228.1 (see Exhibit 3) at seven locations along the pipeline. The pipeline was originally installed within steel casing without skids or end seals. Native soil has formed between the carrier pipe and casing and is causing the casing to corrode. The project area consists of dirt roadway and disturbed marsh edge, the latter dominated by non-native ice plant with some patches of native pickle weed and salt grass. There are seven discrete locations along the pipeline where SCG will perform repair work (see Exhibit 4), each adjacent to an existing roadway. Repair sites Nos. 1 through 6 are located adjacent to disturbed salt marsh wetland fringe, and Site No. 7 occurs in an upland area.

The scope of work at all locations, as needed, is:

- Excavate and remove existing carrier/casing pipe.
- Fabricate and strength-test new carrier/casing pipe to be tied-in.
- Install cathodic protection stations.
- Install new wrap over exposed pipe.
- Re-establish maintenance roads.
- Separate ice plant from excavated material and dispose of outside the coastal zone.
- Backfill and return excavated material, or spoils.

At site No. 4, the following additional work may be required:

- Install new 12-inch carrier pipe drop at a depth of 4 feet.
- Increase road elevation over the carrier pipe using imported clean fill.

SCG will use nitrogen gas to test the pipeline integrity; therefore, there will be no discharge of hydrostatic test waters. SCG will return backfill in place, separating ice plant from the backfill and hauling it offsite for disposal. Earth disturbance at each site will be local and temporary and SCG will place the excavated material on the adjacent roadway until returning it to the site. At all sites, the repairs will take place within the 10-foot easement.

4.3 OTHER PERMITS, APPROVALS, AND AUTHORIZATIONS

SCG has obtained permits or preliminary approvals from:

- Federal Agencies
 - Army Corps of Engineers (Corps): Nationwide Permit (NWP) 12. The terms and conditions of the NWP 12 compliance will satisfy the requirements of Section 10 of the Rivers and Harbors Act.
- State Agencies
 - Regional Water Quality Control Board (RWQCB): 401 Water Quality Certification, and WDR if dewatering is necessary.
 - California State Lands Commission: landowner approval.
- Local Jurisdictions
 - City of Long Beach: pipeline owner approval.

4.4 COASTAL ACT ISSUES

4.4.1 Fill and Dredge of Wetlands

Coastal Act Section 30233(a) states in part

The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division where there is no feasible less environmentally damaging alternative, and where feasible

mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

...

(5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

At each of the six sites, SCG will temporarily remove approximately eight cubic yards of soil and vegetation to repair the section of the pipeline, for a total of 48 cubic yards. SCG will then return the material (backfill) to its original location, in order to continue to support and protect the pipeline.

Coastal Act Section 30233(a) permits dredge and fill of wetlands if three tests are met:

- 1) The proposed dredge and fill constitutes an allowable use under 30233(a);
- 2) There is no feasible less environmentally damaging alternative; and
- 3) Feasible mitigation measures have been provided to minimize any adverse environmental effects.

Allowable use

In 1981, the Commission adopted as non-binding regulatory guidance the "Statewide Interpretive Guidelines for Wetlands and Other Wet Environmentally Sensitive Habitat Areas" (hereinafter, Guidelines). The guidelines analyze the allowable uses in wetlands under Section 30233 including the provision regarding "incidental public service purposes." The Guidelines state that fill is allowed for,

Incidental public service purposes which temporarily impact the resources of the area, which include, but are not limited to, burying cables and pipes, inspection of piers, and maintenance of existing intake and outfall lines (roads do not qualify).

The Court of Appeal has recognized the Commission's interpretation of § 30233 as a permissible one. In the case of *Bolsa Chica Land Trust et al., v. The Superior Court of San Diego County* (1999) 71 Cal.App.4th 493, 517, the court found that:

... we accept Commission's interpretation of sections 30233 and 30240... In particular we note that under Commission's interpretation, incidental public services are limited to temporary disruptions...

Incidental Purpose

The courts have defined the term incidental as "depending upon or appertaining to something else as primary" (Davis v. Pine Mountain Lumber Co. [1969] 273 Cal.App.2d 218, 222-223 [77 CR 825]). The primary purpose of the pipeline is to carry natural gas within a transmission network. The repairs will enable this operation; therefore, the pipeline repair is incidental to the operation of the pipeline.

Public Service

The pipeline, although operated by the private entity Southern California Gas Company, is the property of a public entity, the City of Long Beach, and provides natural gas to two power plants that,

in turn, provide power to the public.¹ In addition, the California Public Utilities Commission regulates SCG's operations; therefore, the operation of the pipeline is a public service.

Temporary Impact

SCG will return all the fill material to the area from which it was removed, once the material is dredged from around a repair site and the repairs are completed. SCG will store the material, during the repair, on the adjacent roadway.

The Commission finds that the temporary removal of fill to repair the natural gas transmission pipeline is allowed by Coastal Act Section 30233(a) (4). The first test of Coastal Act Section 30233(a) has been satisfied.

No feasible less environmentally damaging alternative

To access and repair the gas pipeline, SCG must temporarily remove approximately 48 cubic yards of the marsh area that abuts the roadway. There is no feasible, less environmentally damaging alternative to repair the damaged sections of pipeline. SCG will remove the minimum amount of wetland soil needed to make the repairs, and then return the material once the repair activities are completed. The pipeline is situated such that it is necessary to remove the soil in order to have access to the pipeline. The Commission therefore finds that there are no feasible less environmentally damaging alternatives to the proposal, and therefore, the second test of Coastal Act Section 30233(a) has been met.

Feasible mitigation measures

Coastal Act Section 30233(a) requires that feasible mitigation measures be provided to minimize adverse effects. Repairing the pipeline will require temporary removal of 48 cubic yards of wetland vegetation (including pickle weed) at sites numbers 1 through 6. To mitigate for this short-term loss of wetland vegetation, SCG proposes to remove unwanted fill from the Bolsa Chica Wetlands at a 2:1 ratio. SCG's proposal, developed in consultation with staff of the U.S. Fish and Wildlife Service and ACOE, is described in a letter dated October 25, 2006 (see Exhibit 1). The Bolsa Chica Wetlands have been extensively filled in the past, and the removal of fill will upgrade habitat by allowing the natural processes of the wetlands to prevail where the fill material is currently inhibiting those processes. SCG will consult directly with Mr. Jack Fancher, USFWS, and Mr. Forrest Vanderbilt, ACOE, to identify the targeted sites where fill removal is to take place in order to have the most beneficial effect. SCG will test the soil removed for contamination and dispose of it outside the coastal zone. SCG also proposes to remove ice plant from backfill soils at all seven repair sites and haul the ice plant offsite for proper disposal.

The Commission is requiring in Special Condition 1 that within 60 days of completing pipeline repairs, SCG shall implement its proposed wetland mitigation measures as described in SCG's October 25, 2006, letter. Within 30 days of completing the wetland mitigation, SCG shall

¹ Phone conversation with Alan J. Winter, Manager, Engineering and Construction Bureau, City of Long Beach Department of Gas and Oil, November 16, 2006.

submit to the Executive Director of the Coastal Commission a final report summarizing the wetland mitigation completed, with photos. The Commission believes that implementation of SCG's proposed wetland mitigation measures will adequately mitigate this repair project's effects. The Commission thus finds that the project, as conditioned, satisfies the third test of Coastal Act Section 30233(a).

4.4.2 Marine Resources and Water Quality

Coastal Act Section 30230 states

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Coastal Act Section 30231 states

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.

Water Quality

The project has the potential to affect water quality by disturbing soils and thereby increase turbidity or release toxic substances into the marine environment. Handling and temporary storage of the backfill on adjacent roadways could increase turbidity in the adjacent waters, particularly if SCG conducts the repairs during the rainy season. Project construction should last three days.

SCG will use Best Management Practices (BMPs) to avoid adverse affects that could occur if soil or other material were to be released into the wetland during repair activities. BMPs include but are not limited to those submitted in SCG's manual, *Water Quality Construction Best Management Practices Manual* and a Caltrans' manual, *Construction Site Best Management Practices Manual* (see Appendix B of permit application for both manuals).

These BMPs include:

- Should dewatering become necessary, SCG will collect excess water and dispose of it offsite in accordance with local, state and federal regulations, or release excess water onto adjacent wetland vegetated areas for percolation. SCG will coordinate this activity with the Regional Water Quality Control Board prior to discharge on site.

- Placing backfill piles directly adjacent to the excavation area on roadway or upland areas with non-native ice plant, and will avoid areas where pickle weed is present.
- If the temporary backfill piles do not fit within the 10-foot easement of the roadway or the upland areas of non-native ice plant, SCG will use a road turnout near the project site.
- Cover dredged trenches on roads with steel plating for access by Aera Energy during construction.
- X-ray new pipeline welds from an x-ray truck parked on the adjacent roadway (at site No. 4, only). SCG will use one rubber-tired backhoe, two welding trucks, one x-ray truck and several crew and pickup trucks.
- Situate all staging areas in existing roadways.

SCG will blow down the pipeline by closing the mainline valves to both sides of the project area, releasing the remaining natural gas within the pipe, and will notify local agencies as appropriate. SCG will handle asbestos wrapping as required by health and safety regulations should they encounter it in cut sections of the pipeline. Welders will “tie” any replacement pipeline in place, and if water is present in the adjacent channels during construction, SCG may use a wooden platform to avoid entering the water. The vehicles in use should require no refueling due to the short construction duration. SCG will use nitrogen gas to test the pipeline integrity; therefore, there will be no discharge of hydrostatic test waters.

With implementation of these measures, the Commission believes the water quality of the Bolsa Chica Wetlands will be protected.

Nesting Birds

The repair project has the potential to adversely affect protected birds during nesting season. Belding’s savannah sparrow (State Endangered) and Western snowy plover (Federal Threatened) are found extensively throughout the Bolsa Chica Wetlands. Other birds covered under the Migratory Bird Treaty Act and California Fish and Game Code could also nest in the general area. The project area consists of dirt roadway and disturbed marsh edge, the latter dominated by non-native ice plant with some patches of native pickle weed and salt grass. Belding’s savannah sparrow could possibly use areas within 50 feet of the project, although pickle weed in the project area is marginal habitat to Belding’s savannah sparrow due to the high level of disturbance and proximity to roadways. Special Condition 2 requires SCG to conduct repair activities outside of the nesting seasons of both Belding’s savannah sparrow (mid-February through early August) and Western snowy plover (March 1 through September 14). This restriction will ensure nesting birds will not be adversely affected by pipeline repair activities.

For the reasons described above, the Commission finds the project, as conditioned, will be carried in a manner consistent with the Coastal Act’s marine resource (30230) and water quality (30231) policies.

5.0 CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096 of the Commission's administrative regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as modified by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits approval of a proposed development if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant impacts that the activity may have on the environment. There are no less environmentally damaging feasible alternatives to repairing the pipeline. The project as amended by the conditions of approval described herein incorporates mitigation measures to avoid any significant environmental effects under the Coastal Act and the CEQA.

Appendix A

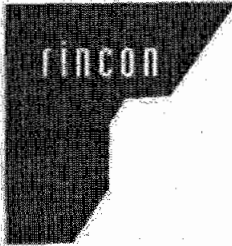
Substantive File Documents

Letter Correspondance

- October 25, 2006. From Lacrissa Cook to Diane Livia, CCC. Change to project description including Wetland Mitigation Plan.
- October 27, 2006. From Alan J. Winter, City of Long Beach to Diane Livia, CCC. Concurrence with project.
- July 27, 2007. From Judy Brown, California State Lands Commission to Ron Silver, SCG. Landowner approval.

E-mail Correspondence

- September 5, 2006. From Lacrissa Rizo-Patron to Diane Livia.
- October 26, 2006. From Lacrissa Cook to Diane Livia.



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October 25, 2006

Diane Livia
California Coastal Commission
45 Fremont, Suite 2000
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**RE: Project Description Revision for SCG Line 1228.1 Wetland Pipeline
Repair/Replacement Project, Bolsa Chica Wetlands, Unincorporated Orange
County, California**

Dear Diane:

Per your request, we have revised our mitigation for the Bolsa Chica Wetland Pipeline Repair/Replacement Project. Per your request we will mitigate for the repair at seven locations with the removal of existing fill within the Bolsa Chica Wetlands at a 2:1 ratio for temporary impacts to wetland vegetation. The following are the revised mitigation measures for amendment to SCG's August 2006 Coastal Development Permit Application.

- The impact to a cumulative total of approximately 200 square feet (0.004 acres) of wetland vegetation (pickleweed/saltmarsh vegetation) will be mitigated by removal of fill at a ratio of 2:1. A qualified biologist will calculate the required area of soil removal based on the actual construction impacts. The exact location of fill removal will be coordinated with USFWS representative, Jack Fancher and ACOE representative, Forrest Vanderbilt. Further, iceplant located within areas of ground disturbance will be separated from backfill soils and the iceplant hauled offsite for disposal by SCG or their contractors.
- Mitigation shall be completed within 60 days of the completion of repair work, unless otherwise agreed upon with the CCC. A summary of activities shall be provided to the CCC within 30 days of completion of the repair work specifying the extent of the area that was actually disturbed. A post-mitigation summary, including pictures and a description of activities undertaken, shall be provided within 60 days of the completion of repair work.
- Soil removed offsite shall be tested for contamination and disposed of accordingly.

Sincerely,
Rincon Consultants, Inc.

A handwritten signature in cursive script, appearing to read "Lacierra Cook", written in black ink over a white background.

Lacierra Cook, MESM
Project Manager

Exhibit 2

Bolsa Chica Wetlands, Long Beach, Orange Co.



EXHIBIT NO. 2
APPLICATION NO.
E-06-012
Southern California Gas Company

Map of Seven Repair Sites

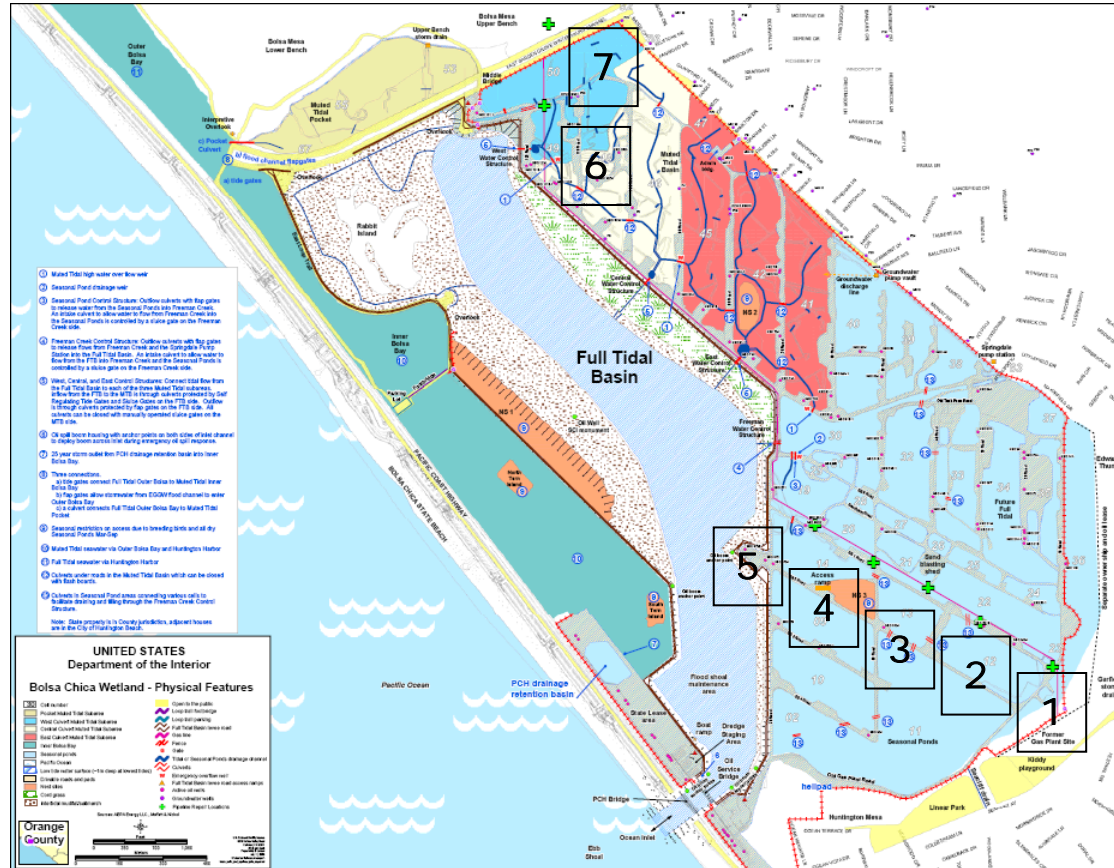
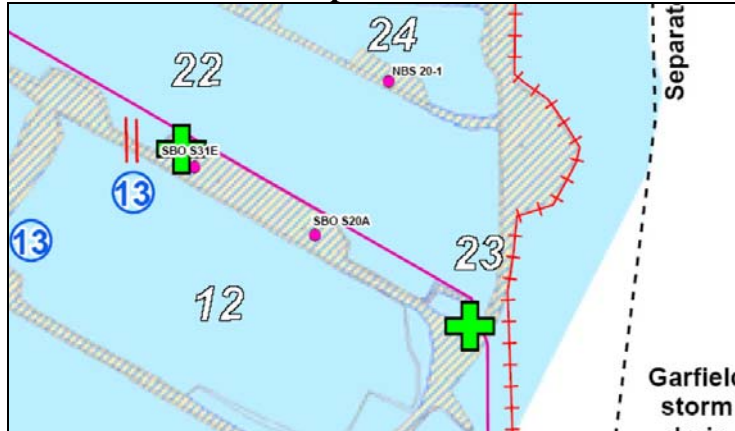


EXHIBIT NO. 3
APPLICATION NO.
E-06-012
Southern California Gas Company

Exhibit 4

Repair Sites



Sites 1, 2



Sites 3, 4, 5



Sites 6, 7

EXHIBIT NO. 4
APPLICATION NO.
E-06-012
Southern California Gas Company