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Filed: August 10, 2007
49th Day: September 28, 2007
Staff: C. Teufel-SF
Staff Report: July 2, 2008
Hearing Date:

STAFF REPORT: APPEAL
DE NOVO REVIEW

COMMISSION APPEAL NO.:	**A-4-OXN-07-096**
LOCAL GOVERNMENT:	City of Oxnard
LOCAL DECISION:	Denied
APPLICANT:	**Southern California Edison Company**
SUBSTANTIVE ISSUE:	On September 6, 2007, the Commission found that the appeal of the local government action on this project raised substantial issue.
PROJECT DESCRIPTION:	Construction and operation of a 45-megawatt "peaker" power plant.
PROJECT LOCATION:	251 North Harbor Boulevard, Oxnard, Ventura County.
APPELLANT:	Southern California Edison Company
LIST OF EXHIBITS AND SUBSTANTIVE FILE DOCUMENTS:	See Appendix A See Appendix A for Hyperlinks to Exhibts
STAFF RECOMMENDATION:	Approval with Conditions

EXECUTIVE SUMMARY

Project Summary. In this application, Southern California Edison (SCE) proposes to construct and operate a 45-megawatt natural gas fired "peaker" power plant on the former tank farm site of the Mandalay Generating Station in the City of Oxnard, Ventura County. The project also includes additional electrical transmission lines and poles, a 1,800 foot long six-inch diameter natural gas pipeline along the east side of Harbor Boulevard, transformers, an electrical substation, storage tanks, access roads, security gates and fences.

Jurisdiction. The proposed project is located within the City of Oxnard's certified Local Coastal Program (LCP) jurisdiction and therefore requires a coastal development permit from the City. In July 2007, the City of Oxnard denied SCE's request for a coastal development permit to construct and operate the peaker plant at the proposed location on the basis that the project is inconsistent with the zoning designation. At the same hearing in July of 2007, the City of Oxnard Planning Commission also decided not to certify and finalize the CEQA document that had been drafted for the proposed project, a Mitigated Negative Declaration. Denial of a major energy facility by a local government is appealable to the Coastal Commission, however. On August 10, 2007, SCE filed a timely appeal to the Coastal Commission. On September 6, 2007, the Coastal Commission found that SCE had raised a substantial issue regarding the conformance of the City of Oxnard's permit denial with the LCP.

This report constitutes the Commission's de novo review of SCE's application to obtain a coastal development permit for the peaker plant and ancillary facilities. The standard of review is the City of Oxnard's LCP and the public access and recreation policies of the Coastal Act.

Zoning Designation.
The project site is located within an area identified in the City of Oxnard's LCP as a Coastal Energy Facility Sub-zone. The City's denial of the proposed project was based on its determination that the proposal did not conform to the designated zoning for the parcel on which the project was to be located. The City's rationale for denying the proposal is that the zoning designation requires any energy facility on the site to be coastal dependent.[1] SCE contends that this zoning designation allows non-coastal dependent facilities and that the City therefore erred when it determined the proposed project would have to be coastal-dependent to be sited at this location. SCE appealed the City's permit denial to the Coastal Commission. On September 6, 2007, the Commission determined that SCE's appeal raised a substantial issue regarding the conformance of the City of Oxnard's denial of a coastal development permit with applicable LCP policies. As described within Section B of this staff report, the Commission finds the proposed project in conformance with the project site's Coastal Energy Facility Sub-zone based on the following:

[1] Both the City's LCP at Section 17-3(12) and Section 30101 of the Coastal Act define a "coastal-dependent development or use" as "any development or use which requires a site on, or adjacent to, the sea to be able to function at all."

- The key subsection of the Coastal Energy Facility Sub-zone (Coastal Zoning Ordinance Section 17-20), states that "coastal dependent energy facilities shall be encouraged to locate or expand within existing sites and shall be permitted reasonable long-term growth, where consistent with this article." This subsection is the only one that specifically refers to "coastal-dependent" facilities, and it only "encourages" such facilities to locate within this zoning designation and does not prohibit non-coastal dependent facilities;

- Other subsections of Coastal Zoning Ordinance Section 17-20 apply generally to "energy related developments," not exclusively to "coastal-dependent" developments. Additionally, these subsections are all subject to the overarching provision of Section 17-20(A), which states that this zoning designation allows "power generating facilities and electrical substations" and is therefore not limited to "coastal-dependent" facilities[2];

- One of the four types of developments that can be conditionally permitted within the Coastal Energy Facility Sub-zone is an "Electrical power generating plant and accessory uses normally associated with said power generating facility," such as the project proposed by SCE.

Key LCP/Coastal Act Issues. The key issues of concern for this project are potential impacts to biological resources and adverse visual effects.

Biological Resources. Several sensitive habitat areas are known to exist adjacent to or nearby the proposed project site, and a variety of special status species are known to occupy these habitats either seasonally or year-round. Those species with the highest likelihood of being negatively affected by the proposed project include the western snowy plover, California least tern, and burrowing owl as well as rare dune plant species such as Ventura marsh milk vetch, salt marsh bird's-beak, red sand-verbena, dunedelion, estuary seablite, and wooly seablite.

During local review of this project, the US Fish and Wildlife Service (FWS) raised concerns about the effect of SCE's initially proposed landscape plan on western snowy plovers and California least terns and the sensitive nesting habitat for these species located in close proximity to the project site (approximately 1000 feet to the west and northwest). The concerns raised by FWS focused on the substantial increase in the number of trees within the project area that would result from SCE's initially proposed landscaping plan (an increase from less than 10 trees in the area currently to more than 140 at the completion of landscaping activities) and the potential increase that this change in the area's vegetation profile would have on local predatory bird populations. Birds such as crows, ravens, owls and raptors use trees as nesting habitat and large numbers of these predators in proximity to snowy plover and least tern nesting areas have been identified by FWS as a primary threat to tern and plover

[2] Further, the LCP's definition of "energy facility" does not specify that such facilities must be coastal-dependent. LCP Section 17-3(25) defines an "energy facility" as "any public or private processing, producing, generating, storing, transmitting or recovering facility for electricity, natural gas, petroleum, coal or other sources of energy."

population recovery. Given the proximity of the project site to important western snowy plover and California least tern nesting areas within McGrath and Mandalay State Beaches, an increase in the number of predatory birds within the area is anticipated to adversely affect the reproductive success of snowy plover and least terns and therefore degrade the quality of sensitive nesting habitat. In response to this issue, SCE has developed a revised landscape plan (included as Exhibit 4) that avoids the use of trees and includes only native groundcover, bush and shrub species that are not known to provide nesting or roosting habitat for corvid and raptor species.

SCE also proposes development activities east of Harbor Boulevard, both to the north and south of the Mandalay Canal. East of Harbor Boulevard is a sandy area with low to moderate vegetation density dominated by invasive ice plant (*Carpobrotus sp.*) and native heather goldenbush (*Ericameria ericoides*) which combine to make up an estimated 60-80% of the vegetative cover within the project area. Other native shrubs and herbaceous dune plant species representative of rare southern dune scrub are also supported in lesser abundance in this area. However, the southern dune scrub habitat present within this portion of the project's disturbance limits is substantially degraded and several biological and botanical surveys conducted in this area by the Commission's staff ecologist and SCE's botanical consultants did not reveal the presence of any rare plant species within the proposed disturbance areas or their immediate vicinity. Despite the fact that the project site is in a degraded condition and does not currently support rare plant species, it nevertheless supports vegetation representative of the southern dune scrub plant community. Therefore, to preserve, restore and enhance the ecological integrity of the site, **Special Condition 3(b)** requires SCE to develop and implement a comprehensive invasive species eradication program to remove iceplant and other non-native species from throughout SCE's property to the east of Harbor Boulevard and a restoration program, concentrated on the project's disturbance footprint, which includes planting native dune scrub species collected from locally collected seed and annual monitoring to ensure that native species become re-established and invasive plants do not reoccur in these areas.

In addition, the Commission is requiring in **Special Condition 3(c)** that appropriate measures are taken to ensure that burrowing owls that may nest or winter in the project area are not adversely impacted by project construction activities.

As conditioned, the Commission staff believes the project will be carried out consistent with the LCP policies that provide for the protection of biological resources and sensitive habitat areas.

Visual Resources. The project would be primarily developed within a brownfield site that has previously supported energy-related infrastructure and neighbors the existing Mandalay Generating Station and several functioning oil wells. As demonstrated by the photographs in Exhibit 3, many of the existing views in the immediate vicinity of the project site are industrial and energy related in nature and no significant visual or aesthetic resources are apparent at the project site. The peaker plant will therefore be sited in an area surrounded on several sides by other industrial development. It is important to note, however, that the peaker plant site is also adjacent to Mandalay State Beach. Although the state park area closest to the

peaker plant site is designated as a resource protection area that does not currently support public access, the plant's stack and some transmission poles would be visible to beach users from other areas along Mandalay State Beach. Considering the visual profile of the existing Mandalay Generating Station and oil wells and oil processing equipment that are also adjacent to the project site, the proposed project is not visually incompatible with existing uses and would not result in adverse impacts to any of the significant visual resources identified in the Oxnard LCP. In addition, SCE has proposed a landscaping plan for the project site that would provide visual screening from Harbor Boulevard and adjacent areas. The Commission therefore finds that implementing the proposed landscaping plan will minimize the plant's adverse visual effects and that those elements of the project that would not be blocked by proposed landscaping are compatible with the existing character and use of adjacent areas.

Staff Recommendation. For the reasons described above, staff recommends the Commission **approve, with conditions,** coastal development permit application A-4-OXN-07-096.

I. MOTION, STAFF RECOMMENDATION *DE NOVO*, AND RESOLUTION

Motion:

I move that the Commission approve Coastal Development Permit No. A-4-OXN-07-096 pursuant to the staff recommendation.

Staff Recommendation of Approval:

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 the Commissioners present.

Resolution to Approve Permit:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development, as conditioned, will be in conformity with the certified City of Oxnard LCP and the public access and recreation policies of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. 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 SCE 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 of 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 SCE to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS:

1. **Liability for Costs and Attorneys Fees.** SCE shall reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys fees -- including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorneys fees that the Coastal Commission may be required by a court to pay – that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the applicant against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit., the interpretation and/or enforcement of permit conditions, or any other matter related to this permit. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.

2. **Mitigation Measures.** This permit incorporates those mitigation measures identified in the uncertified May 11, 2007, Mandalay Peaker Project Mitigated Negative Declaration concerning air quality, biological resources, cultural resources, hazards and hazardous materials, transportation and traffic that are attached to this staff report as Exhibit 8.

3. **Biological Resources.**
   (a) All "indirect impact" minimization measures described within the Mandalay Peaker Project Biological Resources Assessment, dated February 2007, prepared by Keane Biological Consulting, shall be strictly adhered to and incorporated into all final project design plans, construction methodologies and management practices.
   (b) Prior to the start of construction activities SCE shall submit a Restoration Plan for Executive Director approval that includes, at minimum, (1) removal of all iceplant from SCE owned property to the east of Harbor Boulevard; (2) revegetation of those areas disturbed during placement/removal of transmission poles, installation

of natural gas pipeline and associated staging, construction and access activities with native plant species representative of the southern dune scrub habitat community and grown from locally collected seed; and (3) monitoring of iceplant removal areas and native plant revegetation sites every six months and annual submittal of monitoring reports for five years from the date of issuance of Coastal Development Permit No. A-4-OXN-07-096. If after five years the Executive Director determines that iceplant has returned, native plants are not re-establishing, or restoration and invasive species removal is not in conformance with or has failed to meet the performance standards specified in the plan, the applicant, or successors in interest, shall submit a revised or supplemental restoration plan for the review and approval of the Executive Director within 60 days. The revised restoration plan must be prepared by a licensed landscape architect or a qualified resource specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

(c) No more than 30 days prior to the initiation of ground disturbing activities, SCE shall conduct a pre-construction survey for burrowing owls throughout all portions of the project area (including the peaker plant site, construction staging areas, landscaping areas and transmission line and pipeline corridor to the east of Harbor Boulevard). If any burrowing owls are observed or burrows are found to be actively used within the project area, prior to the initiation of construction or ground disturbing activities, SCE shall submit an Impact Avoidance and Mitigation Plan for the Executive Director's approval. Approval of this plan shall be obtained prior to the initiation of ground disturbing activities. The plan shall include implementation of specific disturbance avoidance measures based on current CDFG guidelines including the avoidance of project activity within a minimum of 160 feet of occupied burrows during the non-breeding season of September 1 through January 31 or within a minimum 250 feet during the breeding season of February 1 through August 31 and the maintenance of a 300 foot foraging radius around each occupied burrow. If destruction of occupied burrows and/or disturbance within the 160-250 foot buffer distance is unavoidable, mitigation guidelines described within the California Burrowing Owl Consortium's April 1993, "Burrowing Owl Survey Protocol and Mitigation Guidelines" (Exhibit 9), shall be adhered to.

(d) The only activities allowed within 50 feet of the southern border of the peaker plant property shall be the removal of the existing chain link fence and the following landscape activities: (1) eradication of the existing exotic weed species, and (2) planting of native plant species from locally collected seed that are compatible with the revegetation project completed on the adjacent Mandalay State Beach in 2002. All landscaping and construction activities within 50 feet of Mandalay Canal shall be avoided with the exception of dewatering wastewater discharge, natural gas pipeline installation on Harbor Boulevard over Mandalay Canal, and use of existing roads for equipment access.

4. Geologic Hazards. SCE shall incorporate all recommendations contained in the Geotechnical Investigation, dated December 13, 2006, prepared by Kleinfelder, Inc. into

all final design and construction plans. Prior to issuance of this coastal development permit, SCE shall submit evidence of Kleinfelder, Inc.'s review and approval that all of its design criteria were incorporated into all final design and construction plans for the project. If implementation of Kleinfelder's recommendations result in project modifications, an amendment to this coastal development permit may be required.

5. **Assumption of Risk, Waiver of Liability and Indemnity:** By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from liquefaction and lateral spreading; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

6. **Landscaping:** SCE shall undertake plant installation and ongoing monitoring and maintenance as outlined in its proposal: *McGrath Beach Peaker Landscaping Plan*, included as Exhibit 4 of this staff report, consistent with the methods and goals outlined therein, for the five year term described in that document. If after five years, the Executive Director determines that SCE has not fully met the success criteria of the approved plan, within 60 days SCE must submit to the Commission in the form of a permit amendment a revised landscaping plan to address those elements of the original approved plan that did not satisfy the success criteria.

IV. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

A. Project Description and Background

The proposed project is a 45-megawatt natural gas fired "peaker" power plant and ancillary facilities to be constructed and operated by Southern California Edison (SCE) at a site within the coastal zone in Ventura County and subject to the City of Oxnard's certified Local Coastal Program. SCE historically used the site as a tank farm to store fuel oil before converting the nearby Mandalay Generating Station to natural gas. The proposed site is in close proximity to the Mandalay Generating Station and adjacent to the Mandalay Canal on the north, Harbor Boulevard on the east, an existing oil processing facility and two operating oil pumps on the west and the undeveloped sand dune habitat of Mandalay State Beach on the south (as shown in Exhibit 1).

SCE proposes this project in response to an order by the California Public Utilities Commission (CPUC) (Rulemaking #06-02-013 – attached as Exhibit 2) directing the SCE

"…to expand its Air Conditioning Cycling Program[3] (ACCP, also referred to as Summer Discount Plans) to target an additional 300 megawatts of program capacity for the summer 2007 season." The Order further states, "In addition, SCE should pursue the development and installation of up to 250 megawatts of black-start, dispatchable generation capacity within its service territory for summer 2007 operation." In response to this CPUC order, SCE has installed 263 megawatts of new capacity to its ACCP program and has recently brought on line four other 45 megawatt peaker plants outside of the coastal zone in southern California for an estimated 180 megawatts of generating capacity. Despite the fact that the summer 2007 deadline specified in CPUC Rulemaking #06-02-013 has passed, SCE proposes the Oxnard peaker plant to augment existing generating capacity in southern California and more fully satisfy the CPUC's order. SCE states that the proposed peaker plant "will be operated primarily during periods of peak power demand when the electrical grid system needs additional usable electric power capacity or when local voltage support is required" and that "the unit can be started on short notice to respond to demand peaks."

The proposed peaker plant would require the construction of numerous components and infrastructure including both a natural gas-fired emergency start-up generator and a natural gas-fired turbine generator with pollution control equipment, an 80 foot tall exhaust stack, a 10,500 gallon aqueous ammonia storage tank, a water demineralization system and 50,000 gallon de-ionized water storage tank, a 180,000 gallon fire water storage tank, gas and water supply lines and storage tanks, transformers, access roads, security gates, fences and transmission lines and poles. Additionally, the construction of an approximately 4,900 square foot electrical substation and 3,000 square foot natural gas metering station would be required to facilitate electricity generation and transmission.

Site Preparation: Site preparation activities include establishing temporary staging areas and excavation, grading, landscaping and de-watering of construction areas. Proposed temporary staging areas would encompass approximately 4.6 acres of the project site and would be used for the storage of material and equipment during construction. In addition, much of the remainder of the project site would be used for construction office trailers and temporary parking facilities. Proposed grading and excavation activities include the placement of a 1,000 foot long, 50 foot wide and six foot tall earthen berm along the entire eastern edge of the project site (adjacent to Harbor Boulevard), the removal of roughly 408,000[4] cubic yards of soil to facilitate the installation of the peaker plant's foundation, as well as additional smaller scale earth moving activities. To enable excavation to proceed, SCE proposes to lower the water table at the construction site by between 8 and 10 feet.

Proposed de-watering activities would withdraw approximately 25 million gallons of groundwater from the project site within the first ten days and would then proceed at an estimated withdrawal rate of 2.5 million gallons per day for an estimated additional 172 days. These de-watering activities would require between 11 and 30 separate twenty-four inch

[3] SCE's Air Conditioning Cycling Program is a demand response program designed to conserve energy during periods of peak demand by enabling SCE to remotely control and power-off the air conditioning units of participating users.

[4] Based on information provided by SCE that estimates the size of the excavation area at 240 feet by 340 feet and the depth of the excavation at 15 feet.

diameter by 40 foot deep wells around the perimeter of the approximately two acre peaker plant foundation footprint. Groundwater withdrawn by the proposed well system would be directed to a 21,000 gallon Baker style de-sanding tank to allow suspended solid materials within the water to settle out before the water is discharged through an existing storm drain pipe into the Mandalay Canal. Based on information provided by SCE, material collected within the proposed de-sanding tank would be chemically analyzed and then either used in the proposed landscape berms or hauled away to an approved disposal site, based on the results of chemical analysis. During the proposed ten day initial de-watering period, operation of the pump system would be continuous for 24 hours per day and would then proceed at the frequency necessary to maintain the target water depth, based on the rate of ground water intrusion and return. The total estimated amount of groundwater proposed to be withdrawn and discharged into the Mandalay Canal is 455 million gallons. SCE has provided Commission staff with the results of chemical analyses conducted on groundwater samples from the project site. All pollutant levels appear to be well within applicable limits established by the California Regional Water Quality Control Board. SCE has also provided the water sample lab results to the California Regional Water Quality Control Board and has submitted a Notice of Intent to comply with general waste discharge requirements and obtain a National Pollutant Discharge Elimination System (NPDES) Permit.

Proposed landscaping activities (included as Exhibit 4) would be concentrated within the immediate vicinity of the proposed peaker plant construction site, between the Mandalay Canal and Mandalay State Beach to the west of Harbor Boulevard. SCE proposes the placement of several dozen individuals of the following native bush, shrub and grass species: Mexican elderberry, lemonade berry, toyon, laurel sumac, California sagebrush, California sunflower, purple sage, mock heather, deer weed, coast goldenbush, wild buckwheat, beach evening primrose, beach bur, salt grass, giant rye, alkali rye, foothill needlegrass, meadow sedge, dune sedge, alkali heath and yerba mansa. These shrub and groundcover species would be planted on and around a proposed six foot high berm which would be placed adjacent to and parallel with Harbor Boulevard as well as a various locations around the proposed project site.

Transmission Lines and Poles: As shown in Exhibit 1, SCE also proposes to install approximately 1,350 circuit feet of transmission line, seven new 55-80 foot tall transmission poles and replace seven existing transmission poles with new poles that are slightly larger and taller (ranging in size from 65-85 feet tall). The routing of the transmission line would require placement of four 55-60 foot tall wood power poles within the project site to connect the peaker plant to the transmission substation and two additional 55-65 foot wood power poles south of the substation to route the line to the point where it will cross Harbor Boulevard. After the line crosses Harbor Boulevard, it will be routed along an existing transmission corridor on the east side of the street. In order to accommodate the weight of the new transmission line, provide sufficient ground clearance for safety purposes, and route the line to the appropriate junction with the existing transmission line east of the existing Mandalay Substation, approximately seven wood power poles from the current transmission corridor will be replaced by new wood power poles in the same or nearby locations, and approximately two additional wood power poles and one additional steel power pole will be added in new locations.

Apart from the proposed steel pole, the new and replacement poles will be similar in appearance but approximately five to ten feet taller than the existing poles along Harbor Boulevard, which range from 60 to 75 feet in height. Placement of these poles and their anchoring systems require the excavation of 32 augured holes, each between six and ten feet in depth with a diameter of two feet, and one concrete foundation (25 feet deep and seven feet in diameter). SCE proposes to use approximately 25,120 square feet of undeveloped land to the east of Harbor Boulevard for transmission line construction staging activities and to facilitate truck and equipment access to the proposed pole and excavation sites.

Natural Gas Pipeline and Tie-in: As previously noted, the proposed peaker plant would be powered by natural gas and would require the construction of both an approximately 40 foot by 75 foot gas metering station and a 1,800 foot long by six inch diameter natural gas pipeline. While the metering station would be constructed adjacent to the proposed peaker plant, the proposed natural gas pipeline would cross Harbor Boulevard and continue north adjacent to the roadway before crossing the Mandalay Canal on an existing vehicle bridge and reaching a tie-in location where it would join with an existing 20 inch diameter natural gas pipeline. The proposed project site and approximate transmission line and natural gas pipeline routes are demonstrated on Exhibit 1. The pipeline would be installed at a minimum depth of 36 inches and a planned depth of 42 inches and would be trenched using a backhoe within a 30 to 54 foot wide construction easement from the edge of Harbor Boulevard – for an approximate total disturbance footprint of 1.3 acres. Approximately 1,200 cubic yards of material would be excavated during trench construction and any material remaining after backfill operations would be taken off site and disposed of at an approved facility. Pipeline construction is expected to occur concurrent with peaker plant construction and would take approximately 7 weeks to complete. Construction equipment required for pipeline installation would include pipe trucks, dump trucks, welding equipment, and backhoes as well as boring and lifting equipment. The proposed staging area for pipeline trenching and construction would be located within the project site in the same location as the peaker plant construction staging area.

SCE has committed to implement all mitigation measures identified in the uncertified Mitigated Negative Declaration prepared for this project and included within Exhibit 8.

Permit History: On June 28, 2007, the City of Oxnard Planning Commission denied the appellant's application for a coastal development permit to construct and operate the peaker plant. The Planning Commission also declined to adopt the Mitigated Negative Declaration (MND) prepared by the City pursuant to requirements of the California Environmental Quality Act. During the Planning Commission hearing of June 28, 2007, City of Oxnard Planning Commission staff explained their rationale for recommending that the MND not be adopted by citing an insufficient opportunity to respond to a letter submitted by the director of the Ventura County Department of Airports on June 26, 2007, directly prior to the Planning Commission hearing. This letter raised concerns regarding the proposed 80-foot peaker plant exhaust stack and the potential for this stack to alter departing aircraft flight patterns slightly and cause additional overflight of the Oxnard Shores neighborhoods, thus increasing noise

impacts to those areas. This issue was not addressed or analyzed in the MND and the City of Oxnard Planning Commission staff noted that

> *It does give us concern as to whether the MND is adequate since we don't know whether the changing flight pattern could generate noise in those neighborhoods. Because we don't have that analysis in hand, we really can't say whether [this potential impact is] mitigated or less than significant and for that reason we are changing our recommendation to not adopt the MND at this time.*

The Planning Commission declined to adopt the MND based on this recommendation by Planning Commission staff as well as additional concerns raised during public testimony and Commission deliberations regarding the need for a more comprehensive Environmental Impact Report, the inadequacy of the MND's discussion of potential biological, aesthetic and cumulative impacts and the fact that the Planning Commission would not be required to certify the MND if they did not approve the project.

On July 10, 2007, the appellant filed a timely appeal of the Planning Commission's decision with the Oxnard City Council. Despite the results of additional analysis of the airport and flight pattern issues which established several mitigation measures and revealed a lack of anticipated significant impacts, on July 24, 2007, in a single action, the City Council denied the appeal and also declined to adopt the MND. On July 27, 2007 the Coastal Commission received the City's Notice of Final Action and associated records to start the 10-working-day appeal period, which ended August 10, 2007. SCE filed its appeal on August 10, 2007, and on September 6, 2007, the Commission found that the appellant had raised a substantial issue regarding the conformance of the City of Oxnard's coastal development permit denial with the LCP. At this time, the MND remains an uncertified draft document.

Permit Jurisdiction: The proposed project would be located within the Coastal Zone in the City of Oxnard and is subject to the City's certified Local Coastal Plan (LCP). The proposed project is a "major energy facility" as defined in the Commission's regulations[5], and is therefore subject to appeal to the Coastal Commission, pursuant to Coastal Act Section 30603(a)(5).[6]

Standard of Review: As a "de novo" application and pursuant to Section 30604(b) of the Coastal Act, the standard of review for the proposed development is, in part, the policies, standards, and provisions of the City of Oxnard Local Coastal Program (LCP). In addition, pursuant to Section 30604(c) of the Coastal Act, all proposed development located between

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[5] Coastal Act Section 30107 defines "energy facility" as "any public or private processing, producing, generating, storing, transmitting, or recovering facility for electricity, natural gas, petroleum, coal, or other source of energy. 14 Cal. Admin. Code Section 13012(a) defines, in relevant part, "major energy facilities" as those "that cost more than one hundred thousand dollars ($100,000)…" Edison states that the project would cost approximately $50 million to build.

[6] Coastal Act Section 30603(a) states, in relevant part: "After certification of its local coastal program, an action taken by a local government on a coastal development permit application may be appealed to the commission for only the following types of developments: … (5) Any development which constitutes a major public works project or a major energy facility."

the first public road and the sea, including those areas where a certified LCP has been prepared, such as the project site, must also be reviewed for consistency with the Chapter 3 policies of the Coastal Act regarding public access and public recreation.

Appeal Issues Found to Raise a Substantial Issue: In its appeal, the appellant contends that the City's denial of its CDP application is based on an erroneous interpretation of its LCP. The appellant specifically contends that the City erred in determining that the City of Oxnard's Coastal Zoning Ordinance allows only "coastal-dependent" energy facilities to be located at the proposed project site. The appellant also contends that the proposed project could be permitted under the zoning designation's allowable conditional use as an "electrical power generating plant and accessory uses normally associated with said power generating facility." The question of whether or not the zoning designation of the proposed project site requires facilities developed on that site to be "coastal dependent" was found to raise a substantial issue by the Commission.

City of Oxnard Local Coastal Program Structure: The coastal development policies and standards that apply to the subject project site are found in the two documents that make up the City's LCP, namely the Coastal Land Use Plan and Coastal Zoning Ordinance. The Commission certified with suggested modifications the City of Oxnard's Coastal Land Use Plan (LUP) in July 1981. In May 1982, the City accepted modifications and the Land Use Plan was effectively certified.

There are numerous policies and discussions in the LUP that specifically address the type of development represented by SCE's proposed project. These policies generally relate to energy related development, sensitive habitat and wetlands, visual resources, public access, geologic hazards, water conservation, and land use and water quality.

The City's implementation program (Coastal Zoning Ordinance) was approved with Suggested Modifications in January 1985. In March 1985, the City accepted the suggested modifications, the Coastal Zoning Ordinance was effectively certified, and the City assumed permit authority over that portion of its Coastal Zone landward of the mean high tide line.

As described above, the coastal zoning map (Exhibit 7) shows one zone designation for all areas by which development associated with the proposed project will occur. The designation is "Coastal Energy Facilities" Sub-Zone (EC). This zoning allows only energy related uses on the property.

Expansion of Existing Power Plants: In 1978, 1984, and 1985 pursuant to Section 30413(b) of the Coastal Act, the Coastal Commission adopted, revised and re-adopted a report titled "Designation of Coastal Zone Areas Where Construction of an Electric Power Plant Would Prevent Achievement of the Objectives of the California Coastal Act of 1976." That report identified sensitive resource areas along the California coast and designated them areas *not* suitable for power plant siting. All designated protected areas (which include parks, sensitive plant and wildlife habitat areas, and special agricultural lands) are displayed on 162 maps of the coastal zone. The designations do not preclude "reasonable expansion" of the then 19 existing coastal power plants, including the Mandalay Power Plant.

As part of a parallel process that occurred in conjunction with the CCC and San Francisco Bay Conservation and Development Commission (BCDC), the California Energy Commission (CEC) released a report in June of 1980 titled, "Opportunities to Expand Coastal Power Plants in California." This report was also produced in response to the mandates of Coastal Act Section 30413 and is based on a study conducted by the CEC, CCC and BCDC that specifically examined opportunities for the "reasonable expansion" of existing coastal zone power plants in California. The study also considered the effects of the CCC and BCDC designation of areas not suitable for coastal power plant siting and specified the location and extent of those areas within the coastal zone that supported coastal power plants in 1980. As noted in the CEC report:

> *An important aspect of this study involves the concept of "reasonable" expansion opportunities. The legislative mandates of the CCC and the BCDC require that their designations to protect coastal resources not be applied to specific areas necessary for the "reasonable" expansion of existing coastal zone power plants of 50 MW or more. This broad declaration is sufficient to convey the Legislature's intent with respect to provision of expansion opportunities on a general level, but it results in ambiguity when application is attempted at site-specific levels. A practical definition of "reasonable," more applicable to the site-specific situations involved in the study, is required to maintain the study's validity.*
>
> *In the interests of these requirements, the staff has defined "reasonable" with respect to expansion opportunities as meaning the provision, or maintenance, of land area adequate to satisfy a specific site's share of the state's need for increased electrical power generating capacity over the CEC planning intervals of 12 and 20 years. The area provided should be sufficient to meet the site's share of the demand for sites on a statewide basis within or adjacent to the existing plant boundaries, or lying within a distance which would permit a cost-effective use by the new power units of the support facilities of the existing power units, where necessary, or advisable. The determination of the effects of CCC and BCDC designations on expansion opportunities at each site is also based on the effects of other conventional siting factors on these same opportunities, since the designations are not expected to exist in a land use planning vacuum. To the extent that the CCC and BCDC designations provide for this type of expansion opportunities, they are determined to be "reasonable."*

The CEC report built on this definition of "reasonable expansion" and included maps designating the location and extent of coastal power plants and the adjacent areas determined to be suitable for reasonable expansion of these facilities. The map provided of the Mandalay Generating Station in Oxnard (shown in Exhibit 11) clearly includes the location of the proposed peaker facility within that area designated as a "power plant area."

B. Zoning Designation

The project site is located within an area identified in the City of Oxnard's LCP as a Coastal Energy Facility Sub-zone. The LCP's Coastal Zoning Ordinance Section 17-20(A), describes the Coastal Energy Facilities Sub-Zone designation as follows:

Purpose - The purpose of the EC sub-zone is to provide areas that allow for siting, construction, modification and maintenance of power generating facilities and electrical substations consistent with Policies 51, 52, 54, 55 and 56 of the Oxnard coastal land use plan. Additionally, the EC sub-zone is designed to provide a framework for coordinating the requirements and responsibilities of applicable city, State and federal regulatory agencies vested with the authority for reviewing energy facility development. To assure consistency with the Oxnard coastal land use plan, the following coastal act provisions and land use plan policies shall apply:

(1) Coastal dependent energy facilities shall be encouraged to locate or expand within existing sites and shall be permitted reasonable long-term growth, where consistent with this article. (Coastal Act, Section 30260)
(2) All new energy related development shall conform to the air quality regulations set forth by the Ventura County Air Pollution Control District, the air quality management plan and new source review rule 26. (Policy 29)
(3) Energy related development shall not be located in coastal resource areas including sensitive habitats, recreational areas and archeological sites. All development adjacent to these resource areas or agricultural areas shall be designed to mitigate any adverse impacts. (Policy 30)
(4) All new energy related development shall be located and designed to minimize adverse effects upon public access to the beach. (Policy 54)
(5) No energy related development shall be located seaward of the 100 year flood/wave run-up line as designated by the U.S. Department of Housing Insurance Program Administration and the land use map of the Oxnard coastal land use plan. (Policy 56)
(6) Wastewater from any energy related facilities shall be treated as necessary and put to reuse including, but not limited to the following:
(a) Re-injection into the aquifer or ground water recharge system; and
(b) Recycling for industrial, agricultural or urban use. (Policy 64)

The LCP's Coastal Zoning Ordinance Section 17-20(B) describes the types of development that can be considered for approval within the Coastal Energy Facility Sub-zone as follows:

Conditionally permitted uses - The following uses are permitted subject to the approval of a coastal development permit pursuant to the provisions of article V:

(1) Off-street public parking facility;
(2) Electrical power generating plant and accessory uses normally associated with said power generating facility;
(3) Electrical substation; and
(4) Natural gas pump and extraction facilities.

As noted in Exhibit 5, the City's denial of the proposed project was based on its determination that the proposal did not conform to the designated zoning for the parcel on which the project is to be located. Pursuant to the City LCP's Coastal Zoning Ordinance at Section 17-20, the

parcel is designated as Coastal Energy Facility Sub-Zone. The City's rationale for denying the proposal is that the zoning designation requires any energy facility on the site to be coastal dependent.[7] SCE, the City and the Commission agree that the proposed peaker plant is not a coastal-dependent industrial facility because it does not rely on a site "on, or adjacent to, the sea" to function. SCE contends that this zoning designation allows non-coastal dependent facilities and that the City therefore erred when it determined the proposed project would have to be coastal-dependent to be sited at this location.

For this issue, the key subsection of this provision is Section 17-20(A)(1), which states that "coastal dependent energy facilities shall be encouraged to locate or expand within existing sites and shall be permitted reasonable long-term growth, where consistent with this article." The City's interpretation of this subsection is that the proposed project could not be sited at this location because it is not a coastal dependent energy facility. This subsection, however, is the only one that refers to "coastal-dependent" facilities, and it only "encourages" such facilities to locate within "existing sites." The other subsections apply generally to "energy related developments," not exclusively to "coastal-dependent" developments. Additionally, these subsections are all subject to the overarching provision of Section 17-20(A), which states that this zoning designation allows "power generating facilities and electrical substations" and is therefore not limited to "coastal-dependent" facilities.[8] Furthermore, as demonstrated in Exhibit 6, a review of other areas similarly identified with the Coastal Energy Facility Sub-zone designation reveals that at least one of these areas is not located "on, or adjacent to, the sea" and currently supports a non-coastal dependent energy use. Specifically, the location noted in Exhibit 6 supports an electrical substation, one of several non-coastal dependent conditionally permitted uses specified by the LCP's Coastal Zoning Ordinance Section 17-20(B) as potentially approvable within the Coastal Energy Facility Sub-zone. The Commission therefore finds that the City's Coastal Energy Facilities sub-zone designation is not exclusive to "coastal-dependent" energy developments and that as an "electrical power generating plant" the proposed project is a conditionally permitted use of the proposed project site.

C. Biological Resources and Water Quality

Local Coastal Policy 6 states, in relevant part: *As a part of the Phase III Implementation portion of the LCP process, a resource protection ordinance was created, defining the only uses permitted in areas designated on the land use map with the Resource Protection Zone. The ordinance incorporated the following policies which the City will implement to the extent of its legal and financial ability:*

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[7] Both the City's LCP at Section 17-3(12) and Section 30101 of the Coastal Act define a "coastal-dependent development or use" as "any development or use which requires a site on, or adjacent to, the sea to be able to function at all."

[8] Further, the LCP's definition of "energy facility" does not specify that such facilities must be coastal-dependent. LCP Section 17-3(25) defines an "energy facility" as "any public or private processing, producing, generating, storing, transmitting or recovering facility for electricity, natural gas, petroleum, coal or other sources of energy."

a. …
b. …
c. …
d. *New development adjacent to wetlands or resource protection areas shall be sited and designed to mitigate any adverse impacts to the wetlands or resource.*

A buffer of 100 feet in width shall be provided adjacent to all resource protection areas. The buffer may be reduced to a minimum of 50 feet only if the applicant can demonstrate the large buffer is unnecessary to protect the resources of the habitat area. All proposed development shall demonstrate that the functional capacity of the resource protection area is maintained. The standards to determine the appropriate width of the buffer area are:

1) biological significance of the area
2) sensitivity of the species to disruption
3) susceptibility to erosion
4) use of natural and topographical features to locate development
5) parcel configuration and location of existing development
6) type and scale of development proposed
7) use of existing cultural features to locate buffer zones

When a development is proposed within an environmentally sensitive habitat or a resource protection area, or within 100 feet of such areas, a biological report shall be prepared which includes applicable topographic, vegetative and soils information. The information shall include physical and biological features existing in the habitat areas. The report shall be prepared by a qualified biologist, and shall recommend mitigation measures to protect any impacted resources. All recommendations shall be made in cooperation with the State Department of Fish and Game. When applicable, restoration of damaged habitats shall be a condition of approval.

e. *When a development is proposed within or near an environmentally sensitive habitat area, applicable topographic, vegetative and soils information shall be provided. The information shall include physical and biological features existing in the habitat areas.*

The certified LCP contains policies that provide for the protection of biological resources and sensitive habitat areas and that establish buffer distances around wetlands and other resource protection areas. The certified LCP also includes policies that provide for the maintenance and restoration of the quality of coastal waters. Applicable LCP policies include Local Coastal Policy 6 which requires development adjacent to wetlands or resource protection areas to include a 50-100 foot buffer between any development and the wetlands or resource protection areas; Local Coastal Policy 10 which requires runoff into coastal waters to be minimized and riparian vegetation to be protected; Local Coastal Policy 52 which requires development adjacent to resource protection areas to mitigate any adverse impacts to these

resource areas; and Local Coastal Policy 57 which establishes a variety of routing and design considerations for the placement of pipelines within habitat areas and coastal resources. The full text of these policies is included in Appendix B.

Biological Features of Project Area: The proposed project site was once a tank farm that provided fuel oil storage for the Mandalay Generating Station. This former tank farm site has subsequently been graded flat, covered by fill material and vacated of structures and above ground utilities. Reports from biological surveys of the site conducted by Keane Biological Consulting on the mornings of September 20, 2006, and February 15, 2007, have noted that "no amphibian or fish species are expected to occur on the project site, which supports no aquatic or marine habitat" and "no reptile species were observed during the survey, although several species including the side-blotched lizard, western fence lizard, southern alligator lizard, San Diego coast horned lizard [a federal species of concern], western rattlesnake, and gopher snake are expected to occur in the project vicinity." Furthermore, the biological survey notes that "very few bird species were present on the site during the survey" with the most abundant species being the non-native European starling and additional observed species including American kestrel, black phoebe, American crow, house finch and belted kingfisher (heard offsite in the adjacent Mandalay Canal). Additional wildlife was observed indirectly, with tracks of coyote or grey fox, Botta's pocket gopher and Audubon's desert cottontail present.

Despite the apparently sparse biological resources noted during the biological surveys, the southern border of the proposed project site[9] is adjacent to a segment of Mandalay State Beach that supports one of the two remaining stretches of coastal sand dunes that exist within Ventura County. This inland portion of Mandalay State Beach has been identified in the City of Oxnard's certified LCP as an environmentally sensitive habitat area and designated as a Resource Protection sub-zone in the City of Oxnard's Coastal Zoning Ordinance. As noted in the LCP, this "26-acre area of dunes at the intersection of Fifth Street and Harbor Boulevard is an excellent example of this increasingly rare habitat" and has thus been provided with protected status due to the rarity and diversity of plant and animal life it supports. Among those species that have been observed foraging or inhabiting the dune habitat within or near Mandalay State Beach, several have been granted special protection status. These species include several designated as state and/or federal threatened or endangered species: western snowy plover, California least tern, peregrine falcon, Belding's savannah sparrow, and Ventura marsh milkvetch (the only known natural population of which is located to the east of Harbor Boulevard – outside the state park and project site). The area also supports several species included in the California Native Plant Society's list of rare native plants - red sand-verbena, dunedelion, estuary seablite, and wooly seablite - and several designated as federal species of concern - the sandy beach tiger beetle, globose dune beetle, wandering skipper butterfly, silvery legless lizard, San Diego horned lizard, and California horned lizard.

In addition, the northern border of the proposed project site is adjacent to the Mandalay Canal, a five mile long engineered coastal waterway that is linked to Channel Islands Harbor and provides the Reliant Mandalay Generating Station with ocean water for its cooling system.

[9] Please note discussion on the following page regarding the Commission staff's delineation of the project site.

Although the Mandalay Canal has not been specifically identified by the certified LCP as a wetland area,[10] it does contain brackish marine waters and is known to provide habitat and forage for a number of marine, estuarine and riparian species. Among those species that have been observed foraging within the Mandalay Canal are several that have been recognized with state and/or federal protection including the California least tern (state and federal endangered species), osprey (California species of special concern), and double-crested cormorant (California species of special concern). The 1998 Draft Environmental Impact Report for the nearby Northshore at Mandalay Bay residential development discusses the Mandalay Canal and notes that it "provides saltwater habitat, sheltered from ocean surge and winds, that is idea for supporting large schools of juvenile topsmelt, the primary forage species of least terns. As such, it can be reasonably be expected that least terns will regularly forage along the [Mandalay] Canal…" Comments submitted to the City of Oxnard in a June 1, 2007, letter from the Ventura County Watershed Protection District have also suggested that the federally endangered tidewater goby may be present in this canal. In response to these comments, SCE's biological consultants conducted a survey of the Mandalay Canal on January 9, 2008, to test for the presence of tidewater gobies. As noted in the report submitted to SCE upon completion of this survey:

> *In the Mandalay channel itself, seven hauls were taken with seines that were set with a small inflatable boat. This latter net measured 50 x 8 feet with one eighth inch mesh. All fishes were counted and sizes estimated.*
> …
> *While fish were more numerous in the Mandalay Canal, the species encountered were only a small subset of the fish diversity expected in southern California bay and harbor habitats (Allen et al. 2006; Allen and Pondella 2006). Our fine-meshed net thoroughly swept approximately 8400 square meters of the canal during a relatively low tide including the whole width and depth of the canal. Since no significant obstructions to the sweep of the nets were encountered and most of the potential hiding places were exposed above the level of the low tide, our samples were strongly representative of the fishes present…*
>
> *…No tidewater gobies were taken in the Mandalay Canal and the habitat is largely mud which is not a preferred substrate for the tidewater goby. Little or no freshwater influence exists in this canal so the water maintains a marine salinity or nearly so, which is undesirable for tidewater gobies.*

Although the occasional presence of small numbers of individual tidewater gobies within the Mandalay Canal may be possible, this area is located approximately 12 miles away from the nearest known potential source population of tidewater gobies (at the Santa Clara River lagoon) and is characterized by salinity levels and substrate types that are not within the tidewater goby's ideal habitat parameters. As such, the habitat within the Mandalay Canal does not appear well suited to support these fish.

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[10] The LCP notes that "The wetlands occurring in the city are located in the Ormond Beach area and a portion of the Santa Clara River mouth area covering approximately 131 acres."

On its west side, the proposed project site is approximately 750 feet from the Pacific Ocean, a lesser distance from the dunes of Mandalay State Beach and approximately 1,000 feet from McGrath State Beach. Mandalay and McGrath State Beaches contain wetland, dune, backdune and riparian habitats. These state parks also support significant breeding populations of both the state and federally endangered California least tern and the federally threatened western snowy plover. While McGrath State Beach, which is farther from the project site and located to the north of the Reliant Mandalay Generating Station, has been known to support a larger number of nesting individuals of these species over the past decade, records from the last several years have indicated that the dunes of Mandalay State Beach also support a number of western snowy plover nests each year (over four nests per year on average between 2003 and 2006 according to information provided by SCE and confirmed by the U.S. Fish and Wildlife Service). The U.S. Fish and Wildlife Service also notes that in this area the breeding season for the western snowy plover is from March 1 through September 15 and from mid-April through late-September for the California least tern.

SCE also proposes development activities east of Harbor Boulevard, both to the north and south of the Mandalay Canal. East of Harbor Boulevard is a southern coastal dune scrub community dominated by invasive ice plant (*Carpobrotus sp.*) and native heather goldenbush (*Ericameria ericoides*) which combine to make up an estimated 60-80% of the vegetative cover within the project area. Other native shrubs and herbaceous dune plant species are also supported in lesser abundance, including California encelia (*Encelia californica*), California buckwheat (*Eriogonum fasiculatum*), beach bur (*Ambrosia chamissonis*), lance-leaved dudleya (*Dudleya lanceolata*), beach sand verbena (*Abronia umbellata umbellata*), lemonade berry (*Rhus integrifolia*), California sagebrush (*Artemisia californica*), beach evening primrose (*Camissonia cheiranthifolia*), coastal prickly-pear (*Opuntia littoralis*), California cudweed aster (*Lessingia filaginifolia filaginifolia*), and coastal lotus (*Lotus salsuginosus*). The common non-native dune plant sea rocket (*Cakile maritima*) is also present. Also, there is the possibility that the state and federally endangered Ventura marsh milkvetch (*Astragalus pycnostachyus* var. *lanosissimus*) or other listed plant species could occur within the transmission line and pipeline portions of the project disturbance footprint. However, SCE's biological surveys of September and February of 2007 and recent surveys conducted by Commission staff ecologist and SCE's botanical consultant in May and June of 2008 did not reveal the presence of any special status species within the proposed disturbance area or its immediate vicinity.

This portion of the project area nevertheless contains the native species characteristic of southern dune scrub, a habitat type that is recognized by the California Department of Fish and Game in the California Natural Diversity Database's List of California Terrestrial Natural Communities as a rare natural community of highly limited distribution due to its scarcity and declining status in southern California. The remnant dunes adjacent to the southern edge of the project area, both to the west and east of Harbor Boulevard, have been characterized as remnants of the once-extensive Mandalay coastal dune complex. Portions of this dune complex outside the project area are designated as environmentally sensitive habitat areas by the Coastal Area Plan of the Ventura County General Plan. The City of Oxnard has also designated portions of the Mandalay dune complex, specifically those areas within Mandalay State Beach, as sensitive habitat. In addition, southern dune scrub habitat is ranked by the

California Department of Fish and Game as S1.1, which is described as "very threatened," and is of high priority for conservation. It is estimated that less than 2,000 acres of this habitat remain. In the Commission's review and approval of the adjacent Northshore at Mandalay Bay residential development project (major LCP amendment number OXN-MAJ-1-00) the Commission found that the SCE property to the east of Harbor Boulevard was both a "sensitive disturbed dune area" and one of three "sensitive resources" in the area "known to support sensitive plant and animal species."

However, the southern dune scrub habitat present within this portion of the project's disturbance limits is substantially degraded. Chronic disturbance from infrastructure installation and maintenance activities – several dirt roads and both a natural gas pipeline and numerous transmission poles and lines exist on the site - and the proximity to Harbor Boulevard has altered the topography, eliminated many native species from this area and facilitated the introduction and spread of non-native species such as ice plant and myoporum. In spite of these impacts and potentially due to the proximity of this area to more intact southern dune scrub habitat to the east of the transmission line corridor and across Harbor Boulevard at Mandalay State Beach, characteristic native dune scrub species continue to colonize and exist within the proposed project footprint. This is representative of many remaining dune communities, which despite experiencing degradation, continue to support an array of native plants and animals uniquely adapted to this sandy substrate transition zone between land and sea. This overlap and mixture between exotic and native vegetation types makes the plant communities within the SCE property difficult to categorize and assess for ecological function but in their current form and distribution, it is likely that these plant communities have a reduced ecological function and value because of their disturbed and dispersed nature. The continuing and chronic nature of disturbance within this area, primarily manifested through the presence of invasive species, also diminishes the biological and ecological value of these plant communities. The Commission's staff ecologist visually estimated the percent cover of the vegetation in this area. The results indicate that iceplant is typically 10% to 20% more abundant than native species in the majority of the project area to the east of Harbor Boulevard.

Potential Project-Related Biological Impacts: As noted above, several sensitive habitat areas are known to exist adjacent to or nearby the proposed project site and a variety of special status species are known to occupy these habitats either seasonally or year-round. Among those special status species with habitats in the vicinity of the proposed project site, those with the highest likelihood of being negatively affected by the proposed project include the western snowy plover, California least tern, and burrowing owl as well as rare dune plant species such as Ventura marsh milk vetch, salt marsh bird's-beak, red sand-verbena, dunedelion, estuary seablite, and wooly seablite. Potential adverse project affects on these species and their sensitive habitats will be discussed below.

Western Snowy Plover. Western snowy plovers nest in the foredune and forage along the shoreline at Mandalay State Beach. The western snowy plover is a small shorebird that uses sandy beaches for nesting and roosting from southern Washington to Baja California. At most, approximately 2,000 snowy plovers may breed along the U.S. Pacific Coast with a similar number breeding along the Baja California coast (USFWS 2001 citing Page et. al. 1995a).

Research has indicated that there has been a general decline in the West Coast population of snowy plover, including a substantial decrease between 1962 and 1984 in the abundance of wintering snowy plovers in southern California (Lafferty 2000 citing Page et al. 1986). Information provided by Page et al. (1991) indicated that between 1981 and 1991, snowy plovers experienced at least an 11 percent decline in abundance. Lafferty (2000) further reports that more recently, there has been a population decline of about 30% throughout the region (in the late 1990s). Among the factors linked to the regional decline in snowy plovers includes predation, beach erosion, encroachment of exotic vegetation and disturbance from recreation (Lafferty 2000 citing Page et al. 1995).

During local review of this project, the US Fish and Wildlife Service (FWS) raised concerns about the effect of SCE's proposed landscape plan on western snowy plovers and California least terns and the sensitive nesting habitat for these species located in close proximity to the project site (approximately 1000 feet to the west and northwest). In a June 18, 2007, letter to the City of Oxnard the FWS states:

> *Our concerns lie with the proposed row of trees. It is likely that this row of trees will provide habitat for American crows (Corvus brachyrhynchos) and ravens (Corvus corax) that prey on the California least tern and western snowy plover chicks and eggs located on the adjacent beaches. Specifically, we are concerned that these species are known to take up residence in areas with suitable breeding habitat and that are adjacent to food sources (e.g. California least tern colonies).*

Predation by corvids (the family of birds that includes American crows and ravens) is noted in U.S. Fish and Wildlife Service's August 2007, Recovery Plan for the Pacific Coast Population of the Western Snowy Plover (Recovery Plan), as a substantial threat to snowy plovers and is identified as a primary impediment to the recovery of this species. The Recovery Plan cites numerous examples of snowy plover nesting sites within California that have experienced nest failure rates of up to 69% as a result of corvid predation (Hickey et al. 1995). The Recovery Plan further notes that "Raven populations in coastal California have significantly increased in recent decades (Leibezet and George 2002), and as their range expands they are becoming increasingly significant as a nest predator on western snowy plovers" often counting as "the single most limiting factor on western snowy plover reproduction (Colwell et al. 2006)."

While the 2007 Recovery Plan and earlier 2001 Draft Recovery Plan for the Pacific Coast Population of the Western Snowy Plover both note that a limited amount of predation on snowy plovers from native corvid species is natural, this amount of predation can often be augmented to unnatural levels through human induced landform and land use alteration that allows predator species to exist at locally elevated abundances. The Recovery Plan notes that "Elevated predation pressures result from landscape-level alterations in coastal dune habitats which, in turn, now support increased predator populations within the immediate vicinity of nesting habitat for snowy plovers." Paramount among the "landscape-level alterations" identified in the Recovery Plan as key to an area's support of increased predator populations are "Unnatural habitat features such as landscaped vegetation (e.g., palm trees), telephone poles, fences, buildings, and landfills near snowy plover nesting areas…". The Recovery Plan

concludes with a consideration of predator management as a means for controlling such factors as corvid populations and notes that

> *In heavily-developed areas in particular, habitat protected for sensitive species may be a "magnet" to native predators that have lost foraging habitat elsewhere. Continuing to remove predators from these areas effectively creates a "sink," such that the need for ongoing predator removal never ends and negative ecological consequences occur over large areas beyond the boundaries of snowy plover nesting areas.*

There appears to be a strong positive correlation between the number of trees in coastal dune areas and the population of corvids in those areas (i.e. an increase in the number of trees is met with a corresponding increase in the number of corvids) as well as a negative correlation between local corvid numbers and snowy plover abundance (i.e. as the number of corvids increases, the abundance of snowy plovers declines).

Due to the abundance of dune scrub habitat and lack of landscaping in the area (the only landscaped parcel within the area, the Mandalay Generating Station, is sparsely landscaped with predominantly large shrub species such as juniper and myoporum), implementation of a landscaping plan that includes large vegetation such as trees would significantly augment the current number of potential nesting and roosting sites for corvids and raptors in the area. As discussed in Section C – Visual Resources - of this report, implementation of a landscaping plan is important to minimize the adverse visual effects of this industrial project. The Commission must, however, balance the need for project screening with protection of the sensitive species such as the Western snowy plover.

SCE's initially proposed landscape plan would have increased the number of trees in the immediate project area from less than 10 currently to more than 140 if SCE's landscaping plan were implemented as proposed – an increase of approximately 1400%. This dramatic increase in available nesting habitat for corvids, owls and raptors – all of which are known to prey on least tern and snowy plover adults, chicks and eggs – has the potential to substantially increase predation in the vicinity of the project site and would therefore reduce the habitat value of the existing nesting sites for California least terns and snowy plovers in the vicinity of the proposed project. To address the potential impact to sensitive species and habitats, SCE has revised its landscape plant to the currently proposed plan described and detailed in Exhibit 4. This revised landscaping plan has substituted proposed trees with native bush, shrub and groundcover species that are <u>not</u> known to support nesting corvids, owls or raptors. The revised landscaping plan also includes performance standards, ongoing monitoring and measures to minimize the use of water, fertilizer and herbicides. With the inclusion of the revised landscaping plan, as described above, the Commission believes the western snowy plover will be adequately protected from project-related activities.

<u>Burrowing Owl</u>. The burrowing owl (*Athene cunicularia*) is listed by the California Department of Fish and Game as a Bird Species of Special Concern. Although present throughout much of the western United States and Florida, the burrowing owl has been listed as a species of special concern in the majority of states that comprise its range. In addition,

this species has been listed as endangered in Canada and threatened in Mexico. The primary threats to the conservation of this species in California are associated with habitat destruction from land development and predation from feral cats and domestic pets. As noted by SCE's biological consultant:

> *This species is found in open areas of usually sparse vegetation. It occupies rodent burrows, most often of California ground squirrels (Spermophilus beechyi). There are historic records of the owl occurring in the project area, however only marginal habitat is present for this species in the project area. SCE has conducted surveys for the burrowing owl around the Mandalay Substation just to the northeast of the peaker unit location and near the transmission line portion of the project, but the results of these surveys were negative for the owl. No burrowing owls or burrows were observed during the* [biological] *survey for this project; however, one burrowing owl was observed on the project site during soil testing for the project on February 8, 2007. It is likely the owl was a winter visitor, since no burrows were located on the project site during the survey. However, a focused survey for burrowing owls will occur prior to project construction.*

SCE's biological consultant has concluded that the project area provides only marginal habitat for burrowing owls and no burrows that could feasibly support burrowing owls were observed during the various biological surveys of the project area that SCE has conducted. Nevertheless, due to the strong site fidelity of burrowing owls and the fact that an owl was observed at the project site during the breeding season, to ensure that this special status species and its habitat is not adversely affected by the proposed project, the Commission is requiring in **Special Condition 3(c)** that SCE no more than 30 days prior to the initiation of ground disturbance activities conduct a pre-construction survey for burrowing owls throughout all portions of the project area. This condition also requires that if any burrowing owls are observed during this survey or if burrows are found to be actively used within the project area, prior to the initiation of construction or ground disturbing activities, SCE shall submit an Impact Avoidance Plan for the Executive Director's review and approval. This plan shall include the implementation of specific measures to minimize disturbance including the avoidance of project activity within a minimum of 160 feet of occupied burrows during the non-breeding season of September 1 through January 31 or within a minimum 250 feet during the breeding season of February 1 through August 31 and the maintenance of a 300 foot foraging radius around each occupied burrow. If destruction of occupied burrows and/or disturbance within these 160-250 foot buffer distances is unavoidable, mitigation guidelines described within the California Burrowing Owl Consortium's April 1993, "Burrowing Owl Survey Protocol and Mitigation Guidelines" (detailed in Exhibit 9), shall be adhered to. Mitigation measures described in the California Burrowing Owl Consortium document include protocols for the establishment of alternate burrows as well as both on-site and offsite mitigation strategies.

Adjacent Sensitive Habitat Areas. LCP Policy 6 requires that "New development adjacent to wetlands or resource protection areas shall be sited and designed to mitigate any adverse impacts to the wetlands or resource." LCP Policy 6 also requires that "A buffer of 100 feet in width shall be provided adjacent to all resource protection areas" and "The buffer may be

reduced to a minimum of 50 feet only if the applicant can demonstrate the large buffer is unnecessary to protect the resources of the habitat area."

The project site borders Mandalay State Beach, a portion of which is designated in the LCP as a Resource Protection Area. Although the peaker plant would be sited 700 feet from the border of Mandalay State Beach, the placement of landscaping plants and berms as well as the construction of the main access and entry road for the proposed facility would be located closer to Mandalay State Beach. As required by **Special Condition 3(d)**, these project related activities will occur at least 50 feet from the southern border of the project site and approximately 72 feet from the designated Mandalay State Beach resource protection area described in the LCP. Although a 100 foot buffer area is preferred, this 50 foot separation distance satisfies the minimum distance required by LCP Policy 6. As LCP Policy 6 states that the preferred 100 foot buffer width "may be reduced to a minimum of 50 feet only if the applicant can demonstrate the large buffer is unnecessary to protect the resources of the habitat area." In support of the establishment of this minimum buffer area, SCE states:

> *SCE believes that a 50-foot buffer is appropriate to protect resources within the state parcel south of our site. The southern boundary of the SCE development is currently designed closer than this requirement allows, with landscaping, driveway and access road encroaching into the 50-100' buffer. I've attached a real estate parcel map that shows that the State resource protection area starts 22 feet south of SCE's fence line, to the south of the road parcel. Since this is a permanent road, the state partitioned their land to separate the right of way from the rest of the parcel. The map also shows clearly shows the oil drilling equipment that's half way down the road and all the dirt tracks that the oil trucks use to drive across the parcel. Because of the existing use of the land immediately south of the SCE parcel for oil drilling and access for large truck traffic, SCE believes that the 50' buffer should be adequate to protect resources on the state owned land south of SCE's land.*

The backdune portion of Mandalay State Beach designated as a Resource Protection area and adjacent to the project site is not known to support nesting western snowy plovers. Although snowy plovers do nest within the vicinity of the project site, as discussed previously, all known nesting sites are to the west and northwest of the project area and well over 1,000 feet distant. Nevertheless, the dune scrub habitat of Mandalay State Beach located adjacent to the project site is known to support a variety of other sensitive plant and animal species and is specifically designated as ESHA by the LCP. However, given the existing 22 foot wide dirt access road that currently separates the proposed project site from this ESHA area, as well as SCE's commitment to locate all proposed development and construction activities an additional 50 feet to the north of this road, the Commission finds that the establishment of a 50 foot buffer in this area provides an appropriate level of protection for the sensitive resources located within the inland portion of Mandalay State Beach. As specified under LCP policy 6, SCE has committed to apply this 50 foot wide buffer to the entire southern boundary of the project site that is adjacent to the inland parcel of Mandalay State Beach that has been identified in the LCP as a resource protection area. To further protect this resource protection area, several activities would be allowed within the proposed buffer area. These activities would be limited to the removal of existing invasive species including iceplant and myoporum

which currently exist within this buffer area and the removal of an existing chain link fence to facilitate invasive species removal. The Commission therefore finds that with the establishment of the 50 foot buffer along the southern border of SCE's proposed project site, as committed to by SCE and further required under **Special Condition 3(d)**, the proposed project activities in this area conform to the provisions and buffer distance requirements of LCP Policy 6.

The provisions of LCP Policy 6 also require the establishment of a 50 to 100 foot wide buffer area between new development and wetland areas. Although not specifically identified by the LCP as a wetland area, the Mandalay Canal meets the LCP definition of wetland contained within LCP Policy 9. Specifically, LCP Policy 9 defines a wetland as "Land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes." The Mandalay Canal in this area contains coastal waters during all times of the year and supports a variety of hydrophytic plant species. As such, LCP Policy 6 requires that a maximum 100 foot buffer is maintained between proposed development and this wetland area. As demonstrated in Exhibit 4, the northern border of the SCE property proposed as the project location is located approximately 100 feet from the Mandalay Canal. Additionally, in an effort to ensure that the use of this location does not adversely affect the resources of the Mandalay Canal, SCE has proposed to install a raised bioswale/biofilter along the northern and northwestern borders of the proposed peaker plant site. According to SCE's proposed landscaping plan, this bioswale would be vegetated with native salt grass (*Disticlis spicata*) as well as other native grass and groundcover species. The Commission therefore finds that considering the distance of the SCE property line from the Mandalay Canal and the inclusion of a vegetated bioswale along the northern edge of the proposed project site, project activities proposed for this area are not likely to adversely affect the wetland habitat provided by the Mandalay Canal. In addition, SCE has informed Commission staff that "Reliant uses the land between our fenceline and the canal for industrial purposes and has an access road running adjacent to our property along which they currently conduct maintenance activities closer to the water than 50 feet. Similarly, there is a transmission line running down this same strip of land." To further protect the resources of this canal, **Special Condition 3(d)** requires that all project development, with the exception of dewatering wastewater discharge and installation of the proposed natural gas pipeline on Harbor Boulevard over Mandalay Canal, remain more than 50 feet from the Mandalay Canal. The Commission believes the minimum buffer distance is sufficient in this area due to the existing buffer provided by the access road between proposed work and the Mandalay Canal (as described above). An exception to **Special Condition 3(d)** is specified for the discharge of dewatering wastewater because this discharge would occur through an existing storm drain and is anticipated to be drawn into the Reliant Mandalay Generating Station's cooling system with minimal potential to adversely impact the resources of the Mandalay Canal. An additional exemption is provided for the natural gas pipeline installation on Harbor Boulevard over the Mandalay Canal because this installation activity would make use of an existing bridge and roadway to remain outside and above the Mandalay Canal and therefore has very low potential to result in adverse impacts to the canal.

Although the proposed replacement of transmission poles shown on page 3 of Exhibit 1 appears to be within 50 feet of the Mandalay Canal to the east of Harbor Boulevard, SCE has

committed to maximize the transmission line span distance over the canal to ensure that new and replacement poles are installed at least 50 feet from the edge of the Mandalay Canal and all associated construction and removal activities occur outside of the buffer area required under **Special Condition 3(d)**. While a larger buffer distance in this area may provide a greater level of protection for the wetland vegetation and resources of the canal, SCE notes that an additional increase in the transmission line span across the Mandalay Canal to accommodate a larger buffer area would necessitate the installation of taller and larger engineered steel transmission poles on either side of the canal in this location. These poles would require a larger disturbance footprint during installation and would be 5 to 10 feet taller than the wood transmission poles that are currently proposed. Considering this larger disturbance footprint as well as the current buffer provided by the existence of a dirt access and maintenance road between the proposed southern pole location and the canal (shown on page 1 of Exhibit 1), the Commission finds that the establishment of a 50 foot buffer, as specified in **Special Condition 3(d)** is sufficient to minimize the potential adverse impacts to the wetland resources of the Mandalay Canal that may result from the proposed installation of transmission poles. With the inclusion of this condition, the Commission finds that the proposed project is in conformance with the provisions and buffer distance requirements of LCP Policy 6.

Biological Resources East of Harbor Boulevard. In this area, SCE proposes the installation and removal of transmission poles and lines as well as the trenching and placement of an approximately 1,800 foot long natural gas pipeline. These activities and their associated staging areas, equipment and vehicle access routes and excavation and trenching footprints would require the use of approximately two acres to the east of Harbor Boulevard. The majority of this proposed disturbance area would be within approximately 30 feet of the road itself and would be used to facilitate natural gas pipeline trenching and installation. During these activities all vegetation from the pipeline corridor would be removed and heavy equipment would access the site from the easternmost lane of Harbor Boulevard to dig a trench approximately one to two feet wide and three to four feet deep and install the proposed six inch diameter natural gas pipeline. During this time the easternmost lane would be temporarily closed and traffic and safety personnel would be employed to minimize disruption to vehicle transit on Harbor Boulevard. Approximately 1,200 cubic yards of excavated material would be stored on site adjacent to and along the proposed trench and this material would subsequently be used to backfill the pipeline trench. Trenching and pipeline construction activities are anticipated to require approximately seven weeks.

It should be noted that approximately one-third of this pipeline corridor, a distance measuring roughly 650 feet along Harbor Boulevard from the site where the proposed natural gas pipeline would cross under Harbor Boulevard to the bridge over Mandalay Canal, has been previously approved by the Commission (through major LCP amendment OXN-MAJ-1-00) and the City of Oxnard to undergo street improvements and roadway widening associated with the Northshore at Mandalay Bay residential development project and specified in the City of Oxnard General Plan Circulation Element. Although this work has yet to commence, the construction of an additional northbound lane to the eastern side of Harbor Boulevard would occur in much of the same area currently proposed to be cleared and trenched to facilitate the installation of the proposed natural gas pipeline.

In addition to the proposed pipeline installation activities, SCE has also proposed to install ten new 65 to 85 foot tall transmission poles and to remove seven existing 55 to 80 foot tall poles (as shown in Exhibit 1). These activities would occur within an existing transmission line corridor but would nevertheless require the removal and disturbance of vegetation and sandy habitat both within the individual footprint of each individual transmission pole as well as the proposed vehicle access and equipment staging areas. SCE has committed to use Harbor Boulevard and existing dirt access roads on the site as much as possible to bring equipment and materials to the transmission pole locations (these roads are visible near the Mandalay substation and parallel to the Mandalay Canal and Harbor Boulevard on Exhibit 1) but new vehicle, equipment, material and personnel access routes would also be required. Activities associated with transmission pole installation and removal include clearing and excavating holes for the individual pole footings as well as the support cable anchor points. Support footings and anchors would require the excavation of 32 two foot diameter by six to ten foot deep augured holes and one seven foot diameter by 24.5 foot deep concrete foundation. In addition, roughly 23,000 square feet[11] would be cleared and temporarily occupied to allow for access, staging and transmission line stringing activities to occur.

The Commission staff's ecologist and SCE botanical consultants conducted several biological and botanical surveys in this area to determine the presence or absence of sensitive plant species or vegetation communities. These surveys, conducted in September and February of 2007 and May and June of 2008 did not reveal the presence of any rare plant species within the proposed disturbance areas or their immediate vicinity.

Despite the fact that the project site is in a degraded condition and does not currently support rare plant species, it nevertheless supports vegetation representative of the southern dune scrub plant community. The dominant species in this portion of the project area is invasive iceplant, yet a substantial diversity of native dune and scrub species are still present at the site and in surrounding areas and the substrate and physical features of the site are conducive to the continuing presence of native species and habitats. The proposed project activities at this site would be largely concentrated in areas with a substantially higher proportion of invasive species than natives but adverse impacts to native dune and scrub species are anticipated to occur both as a result of direct disturbance and removal as well as a result of increased opportunity for the further establishment and spread of invasive species following ground clearance and disturbance. Like many of the most invasive species, iceplant especially is well know to colonize newly disturbed sandy areas more quickly than native plant species can become established. This situation is exacerbated if iceplant already exists and dominates areas surrounding or in the vicinity of these disturbed areas. Therefore, to preserve, restore and enhance the ecological integrity of the site, **Special Condition 3(b)** requires SCE to develop and implement a comprehensive invasive species eradication program to remove iceplant and other non-native species from throughout SCE's property to the east of Harbor Boulevard and a restoration program, concentrated on the project's disturbance footprint, which includes planting native dune and dune scrub species collected from locally collected

[11] Because of its location within the peaker plant parcel to the west of Harbor Boulevard, the 2,000 foot stringing/staging area has been subtracted from the ground disturbance estimate included in Exhibit 1.

seed and annual monitoring to ensure that native species become re-established and invasive plants do not reoccur in these areas.

Restoration of disturbed areas to the east of Harbor Boulevard would ensure that the effect of natural gas pipeline and transmission pole installation and construction activities on native dune scrub vegetation is minimized and mitigated. In addition, removal of invasive plant species shall provide for a decrease in competition among native and invasive species and enhance the restoration and growth of native dune scrub species.

Additional Mitigation Measures. In addition to those measures described above and required through **Special Condition 3**, SCE has committed to implement several additional measures identified in the uncertified Mitigated Negative Declaration to further minimize the project's potential to adversely affect the biological resources and water quality of the project area. These measures are included in Exhibit 8 as biological resource and hazardous materials mitigation measures. SCE will hire a qualified biologist to conduct a pre-construction survey of each construction area to identify occupied nests of native birds prior to grubbing or grading activity. This measure requires a minimum buffer distance of 100 feet to be established between occupied nests and the limits of construction and would prohibit construction activities within this buffer area until a subsequent biological survey revealed the nest(s) to no longer be occupied. If work within the established buffer cannot be avoided, SCE shall consult with CDFG and FWS to determine if there are appropriate measures that may be taken to continue work in these areas. To further protect water quality and sensitive biological resource areas through avoidance of potential hazardous materials spills, the hazardous materials mitigation measure described in Exhibit 8 requires hazardous materials stored on-site to be limited to small quantities of paint, coatings, and adhesive materials, and emergency refueling containers. These materials would be stored in their original containers inside a flammable materials cabinet and shall be transported to the construction site on an as-needed basis by equipment service trucks.

Conclusion: With implementation of the Special Conditions, the proposed project is not expected to cause significant adverse impacts to sensitive biological resources. The Commission therefore finds that the project, as conditioned, is consistent with the applicable provisions of LCP Policies 6, 9, 10, 52 and 57.

D. Visual Resources

> ***Local Coastal Policy 37 states:*** *All new development in the coastal zone shall be designed to minimize impacts on the visual resources of the area. Particular care should be taken in areas of special quality, such as those identified in the LCP.*

The proposed project would be primarily developed within a brownfield site that has previously supported energy related infrastructure and is in close proximity to the existing Mandalay Generating Station, several functioning oil wells and both McGrath and Mandalay State Beaches.

As demonstrated by the photographs in Exhibit 3, many of the existing views of and around the project site are industrial and energy related in nature. The project site is bordered on three sides by energy, industrial or transportation infrastructure (specifically, an oil extraction and processing facility, a power plant cooling water supply canal and Harbor Boulevard) and on the fourth side by Mandalay State Beach. However, the portion of the state park that is immediately adjacent to the project site, although recognized as a resource protection area (as shown in Exhibit 7 – LCP exhibit 2.5), does not currently provide public access or recreational opportunities and visitors to the park do not use this area. No significant visual or aesthetic resources are apparent on the proposed project site and currently, the most dominant aspects of the proposed site are the adjacent dunes of the state park, the nearby Mandalay Generating Station and the approximately eight foot high screened chain-link and barbed-wire fence that surrounds the vacant and graded site itself.

Apart from the adjacent state park, the LCP notes that the project area lacks significant or notable visual resources and states that "the ocean is generally not visible from Harbor Boulevard, limiting the visual resources north of Fifth Street." (The project site is located approximately ¾ of a mile north of Fifth Street). The LCP does, however, reference the tall sand dunes south of Fifth Street and south of Wooley Road, the lower dunes in the Mandalay Beach County Park (now referred to as Mandalay State Beach) north of Fifth Street, and the wetlands in the Ormond Beach area. Of these three designated visual resource areas, "the lower dunes" of Mandalay State Beach are the closest to the project site. These dunes extend from south of the project site to the intersection of Harbor Boulevard and Fifth Street.

Some elements of the project – the 80-foot tall exhaust stack, the seven new power poles and seven replacement transmission poles – would be visible from both the resource protection and publicly accessible portions of Mandalay State Beach. However, constructing the peaker plant at this site will add another industrial facility to an area that already supports other industrial development. The Mandalay Power Plant, which is sited directly landward of a stretch of Mandalay State Beach, dominates the visual profile of this stretch of coastline. The peaker plant, however, would be sited further inland and south of the existing power plant. The uncertified project Mitigated Negative Declaration states that:

> *Views of the proposed project site from the beach and shoreline would be essentially blocked by the intervening topography and the existing oil processing structures. Recreational users at the Mandalay State Beach Park located approximately 1,000 feet southwest of the proposed project site would be able to view the tallest project structure (i.e. the 80-foot exhaust stack). However, the intervening land between the Mandalay State Beach Park and the proposed project site is dotted with existing oil processing structures, which are approximately 70 feet high, and the stack at the Mandalay Power Generating facility which is 203 feet high. The existing oil derricks would be the main visual element of the view looking north from the Park and would overshadow the more distant, and therefore smaller and less intrusive, view of the proposed project elements.*

To minimize the adverse visual effects of the project, SCE considered reducing the height of the exhaust stack and poles and using alternate paint colors. However, the proposed color was

considered to have the least visual impact when accounting for all lighting conditions and vantage points and, as noted by SCE, reducing the height of the stack would cause other undesirable results.

> *Reducing the height of the stack is not feasible, and could result in additional undesirable impacts such as change in emission characteristics. The height of the stack has already been minimized to the maximum extent feasible and cannot be reduced further.*

Similarly, a reduction in the height of the proposed transmission poles is not feasible due to the size and weight of the proposed transmission lines and the safety and design requirements placed on transmission infrastructure. The Commission therefore finds that the required height of the proposed peaker plant's exhaust stack and transmission poles preclude efforts to screen these features from all nearby vantage points. As previously noted, however, the vantage points within the project vicinity that would be affected by the proposed project do not include visual resource areas that have been identified in the LCP as sensitive or protected under the LCP's visual resource policy, Policy 37.

Nevertheless, to enhance the proposed project's visual profile, SCE has proposed implementing a landscaping plan to provide visual screening of the project site. The initially proposed landscaping plan included construction of a 1,000 foot long, six foot tall earthen berm within the project site along the west side of Harbor Boulevard and the placement of various indigenous and non-native plant species around and atop this berm to provide additional visual screening. To promote visual continuity, proposed plant species were selected from of those previously approved for use within the Northshore at Mandalay Bay development – native tree and shrub species such as Monterey cypress, Torrey pine, California wax myrtle, California bay, lemonade berry, toyon, qualibush and California brittlebush as well as two faster growing non-native tree species, the New Zealand Christmas Tree and Australian red flowering gum. As described in the Biological Resources section above, due to the potential for the placement of substantial numbers of trees on the project site to significantly degrade the viability of nearby sensitive habitat areas, including snowy plover and least tern nesting sites, SCE has revised its proposed landscape plan to eliminate the proposed tree species. As demonstrated in the revised landscape plan included as Exhibit 4, all tree species have been replaced by native bush, shrub, grass and groundcover species that will provide a maximum level of visual screening while remaining unsuitable as nesting habitat for corvid, owl and raptor species that may prey on local tern and plover populations.

Considering the biological constraints outlined above and to ensure the successful implementation of the maximum possible vegetative screening, SCE's revised landscaping plan includes periodic monitoring, success criteria, contingency plans and maintenance standards. If after five years, the Executive Director determines that SCE has not fully met the success criteria of the approved plan, SCE must submit to the Commission in the form of a permit amendment a revised landscaping plan to address those elements of the original approved plan that did not satisfy the success criteria.

With implementation of the landscaping plan, as described within Exhibit 4, the Commission finds that the project's adverse visual effects will be minimized and therefore will be consistent with LCP Policy 37.

E. Hazards

The certified LCP contains policies that provide for the consideration and minimization of potential threats posed by natural hazards. Applicable LCP policies include:

> ***Local Coastal Policy 39 states:*** *All applications for grading and building permits and subdivisions shall be reviewed for threats from hazards such as seismic activity, liquefaction, tsunami run-up, seiche, beach erosion, flood, storm wave run-up, and expansive soils. Geologic reports may be required in known hazard areas. Appropriate mitigation measures shall be applied to minimize threat from any hazards.*
>
> ***Local Coastal Policy 56 states:*** *No industrial or energy-related development shall be located seaward of the 100-year flood/wave run-up line as designated by the U.S. Department of Housing Insurance Program Insurance Program Administration and the Land Use Map.*

Regarding potential hazards posed by natural events and geologic features at the site, the project Mitigated Negative Declaration states:

> *The proposed project will be constructed in an area of known seismic activity. Approximately 38 active faults are known to exist within a 60-mile radius of the project site. Of primary concern is the Oak Ridge Fault (Blind Thrust Offshore), approximately 3.9 miles southwest of the project site which represents the most significant potential source of strong seismic ground shaking at the project site. The fault trends in an east-west direction and extends from offshore in the Pacific Ocean toward the Ventura-Oxnard coastline. This fault is considered capable of generating a 6.9 magnitude earthquake. Based on the California Geological Survey's Probabilistic Seismic Hazards Mapping Ground Motion Page (2006), there is a 10 percent probability of earthquake ground motion exceeding 0.582 times the acceleration of gravity (g) at the project site over a 50-year period.*
> …
> *Because the proposed project is located in a seismically active region, there is the potential for damage to the new project structures in the event of an earthquake. According to the latest geotechnical report for the proposed site, (Kleinfelder, 2006), differential seismic settlements at the site could be on the order of ¼ inch. New structures must be designed to comply with the recommendation presented in the geotechnical report (Kleinfelder, 2006), the California Building Code (CBC)(2001 edition) and the Uniform Building Code (UBC) Zone 4 requirements because the project is located in a seismically active area. The CBC and UBC are considered to be standard safeguards against major structural failures and loss of life. The goal of the codes is to provide structures that will: (1) resist minor earthquakes without damage; (2) resist moderate earthquakes without structural damage, but with some non-structural damage; and (3) resist major earthquakes without collapse, but with*

some structural and non-structural damage. The UBC bases seismic design on minimum lateral seismic forces ("ground shaking"). The UBC requirements operate on the principle that providing appropriate foundations, among other aspects, helps to protect buildings from failure during earthquakes. SCE will design all structures to meet the latest UBC codes. With adherence to proper design and construction practices, no significant impacts from seismic ground shaking would be expected.

…

There is the potential for liquefaction induced impacts at the project site. The appropriate parameters for liquefaction exist at the project site, including unconsolidated granular soils and a high water table. In addition, Seismic Hazard Zone maps prepared by the State of California (Division of Mines and Geology 2002) indicate that the site is in an area with the potential for liquefaction. In addition, the site has a high potential for liquefaction to occur during seismic event based on subsurface soil conditions observed during the most recent geotechnical study (Kleinfelder, 2006). If liquefaction should occur at the site, there is the potential for up to approximately two to three inches of lateral displacements to occur towards the adjacent channel (Kleinfelder, 2006). The CBC and UBC requirements consider liquefaction potential and establish more stringent requirements for building foundations in areas potentially subject to liquefaction. Therefore, compliance with the CBC and UBC requirements is expected to minimize the potential impacts associated with liquefaction. Thus, liquefaction impacts are expected to be less than significant.

…

The uppermost 10 feet of soil at the project site is generally composed of loose, fine to medium-grained sand with gravel. The USDA Soil Conservation Service (1970) classifies these soils as having a low potential for expansion and are not considered an expansive soil as defined in Table 18-1-B of the UBC (1994), and thus, the proposed project would not be expected to create substantial risks to life or property due to expansive soils.

Because SCE proposes to site the peaker plant near the northwestern edge of the project site, within approximately 150 feet of the southern bank of the Mandalay Canal, one of the potential consequences of seismically induced liquefaction at this site is the lateral movement of soil towards this un-reinforced canal. This type of soil movement is referred to as lateral spreading and has a potential to occur up to two to three inches. While this level of lateral spreading has the potential to substantially affect the structural integrity of the proposed facility, it is within the range that can be addressed and mitigated by engineering and design modifications.

SCE prepared a geotechnical report addressing the high potential for seismic activity, liquefaction and lateral spreading at this site. The report recommends a number of design changes to ensure the structural integrity of the facility. If the structural design of the facility cannot tolerate the potential 2 to 3 inches of lateral spreading that may occur at the site due to liquefaction, the report recommends pile foundations, a soil-mixing wall to cut off the lateral spreading and stone columns to mitigate the liquefaction. The report also recommends that the plant be supported on shallow mat foundations underlain by engineered fill and that the

upper native soil materials and any existing artificial fill below the foundations be over-excavated and replaced with reinforced engineered fill with three layers of geogrid sheets.

The Commission's staff geologist reviewed the geotechnical report and agrees with the recommendations it contains. **Special Condition 4** requires that SCE implement the recommendations detailed in the project's geotechnical report (Kleinfelder, 2006) as well as the relevant policies of the Uniform Building Code and California Building Code. Although Kleinfelder Inc. has no longer been retained as SCE's geotechnical consultant, because this firm developed the hazard risk minimization recommendations proposed to be used for this project, **Special Condition 4** requires that Kleinfleder Inc. provide review and approval of all final project design and construction plans to ensure that its design criteria have been appropriately incorporated. As conditioned, the Commission finds the proposed project consistent with LCP Policy 39.

With respect to LCP Policy 56, the 100-year wave run-up line designated in the LCP's land use map is located approximately 700 feet to the west of the proposed project site. The proposed project is therefore not located seaward of the 100-year flood/wave run-up line as designated by the U.S. Department of Housing Insurance Program Insurance Program Administration and the LCP land use map and is in conformance with LCP Policy 56.[12]

F. Water Conservation and Municipal Services

The certified LCP contains policies that require water conservation measures to be included in new development and require a consideration of municipal service capacity. Applicable LCP policies include:

> ***Local Coastal Policy 41 states:*** *All new development in the coastal zone shall employ the most recent water conservation methods, including (but not limited to):*
>
> *a. low-flow pipes and toilets;*
> *b. flow restrictions on all shower heads;*
> *c. underground drip irrigation systems; and*
> *d. use of low-water use vegetation for landscaping.*
>
> ***Local Coastal Policy 42 states:*** *Consideration of all proposed projects in the coastal zone shall include consideration of the remaining water and sewer capacities. This shall include a calculation of the proposed project's use of remaining capacity in percent. Projects shall be approved only when sufficient water and sewer services are available.*
>
> ***Local Coastal Policy 64 states:*** *It shall be a condition of approval that, wherever possible, wastewater from any industrial or energy-related facility be treated as necessary and put to reuse including, but not limited to, the following: the re-injection into the aquifer or groundwater recharge system, recycling for industrial use, agricultural use, or urban services.*

[12] The Commission notes, however, that the 100-year flood/wave run-up line designated by the U.S. Department of Housing Insurance Program Insurance Program Administration does not factor in continued sea level rise.

The applicable provisions of the LCP's policies directed towards water conservation and municipal services relate to three separate aspects of the proposed project, landscaping water use and low-water use vegetation for landscaping (LCP Policy 41), municipal service supply capacity (LCP Policy 42) and wastewater reuse (LCP Policy 64).

To satisfy the provisions of LCP Policy 41 regarding the use of low-water use vegetation for landscaping, SCE's landscape plan exclusively relies on locally adapted native bush and shrub species. Given the tolerance of most native California species for low water conditions, the use of these species would ensure that the potentially elevated water requirements of non-native species and trees would be avoided. In addition, SCE's landscape plan also includes the use of an irrigation system that minimizes water use (through the use of evapotranspiration sensors and climate based irrigation scheduling) and is appropriate for native plant species. Although LCP Policy 41 specifies that water conservation methods include underground drip irrigation systems, such systems may not be appropriate for the native shrub, bush and grass species that would be used within the project's landscaping. Some native species do not do well with drip irrigation as too much water may be added to the roots with this type of system to encourage root growth and avoid rot due to over-saturation. In addition, because the project would make use of low-water use vegetation for landscaping, within several years landscaping plants should be sustained with little or no water beyond what is provided through natural precipitation. The installation of a permanent underground irrigation system may therefore not be needed or appropriate in this case. As proposed and described in Exhibit 4, the Commission believes the project's landscaping conforms to the requirements of LCP Policy 41.

With regard to Local Coastal Policy 42, SCE states that,

> *There are adequate public services for the proposed use including, but not limited to, fire and police protection, water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety. The MND concluded that the project will not impact any public services.*

The proposed project's sewer and municipal water requirements are discussed in detail in the project Mitigated Negative Declaration, which states that:

> *For at least the first year of operation, the wastewater will be collected in a tank, and hauled offsite for disposal because there is no sewer system in the site vicinity. SCE expects that a sewer connection will be installed sometime in the future, at which time the wastewater, will be discharged to the City's sewer system and will meet the City's pretreatment standards. There will be no effect on the City's physical or biological treatment processes.*
>
> …
>
> *The Oxnard Wastewater Treatment Plant (OWTP) has an average dry weather flow (ADWF) design capacity of 31.7 million gallons per day with provisions for an ultimate ADWF design capacity of 39.7 million gallons per day… The wastewater*

> *flow from the project of eight gallons per minute is insignificant compared to the capacity of OWTP.*
> ..
> *Overall, the volume of water required to operate this type of facility [the peaker plant] is very low, the main water uses are for direct injection into the turbine to control NOx emissions (50 gpm) and spraying a mist into the inlet of the combustion turbine to lower air temperature to improve efficiency (12 gpm). Daily water use during the operational phase is estimated to average 62 gpm during unit operation… The City's potable water supply is sufficient to meet the unit's water requirements.*
> …
> *The project's demand for water during construction and operation is not significant compared to the water supply available in the City of Oxnard.*

Because a portion of the proposed project's municipal water use shall be directed towards landscaping and a final revised landscaping plan has yet to be developed by SCE and provided to the Commission, it is not possible to include a specific calculation of the proposed project's total water requirements as a percentage of the remaining water supply capacity within the City of Oxnard. As noted above, however, neither the project's sewer nor water requirements are expected to be significant compared to existing supply.

As stated in SCE's appeal to the Commission in regard to Local Coastal Policy 64,

> *Wastewater produced by the Project* [during operation] *will be minimal. Eight gallons per minute of wastewater from the evaporative cooler would be produced during the limited hours that the unit will operate. This water will have elevated levels of total dissolved solids but no other added pollutants and will be collected and disposed of at a facility that complies with the above requirement* [Local Coastal Policy 64].

The limited amount of wastewater generated by the proposed project during operation (just over 1 million gallons per year based on a maximum anticipated use of the peaker plant – 2,121 hours per year) and the discharge proposal outlined above appears to satisfy the requirements of LCP policy 64. With regard to the substantially greater levels of wastewater proposed to be generated during preparation of the peaker plant site, SCE has proposed to discharge approximately 455 million gallons of wastewater associated with these activities into the Mandalay Canal during de-watering. SCE proposes such extensive de-watering to lower the groundwater level at the peaker plant site so that installation of a foundation and support pad for the facility may be achieved. The discharge of this wastewater into the Mandalay Canal also appears to be in conformance with policy 64 because the proposed wastewater discharge site in the Mandalay Canal is directly adjacent to the cooling water intake site for the Mandalay Generating Station. The proximity of these discharge and intake locations would allow the vast majority of wastewater discharged from the proposed de-watering activities would be taken-up by the Mandalay Generating Station for use as cooling water. This would allow de-watering wastewater to be recycled for an industrial type use, as specified under LCP policy 64, while offsetting the amount of coastal water extracted from the Mandalay Canal by the Mandalay Generating Station.

The Commission finds that with the inclusion of SCE's revised landscaping plan, the proposed project is consistent with the water conservation and municipal service provisions of LCP Policies 41, 42 and 64.

G. Air Quality

The certified LCP contains policies that provide for the protection and management of local and regional air quality. Applicable LCP policies include:

> ***Local Coastal Policy 47 states:*** *The Ventura County Air Quality Management Plan (AQMP) is incorporated into the LCP by reference. All new development located within the coastal zone shall occur in a manner consistent with the AQMP.*
>
> ***Local Coastal Policy 51 states:*** *All new industrial and energy-related development shall conform to the air quality regulations set by the Ventura County Air Quality Management Plan and New Source Review Rule 26.*

The City's LCP requires that the peaker plant project conform to the air quality regulations of the Ventura County Air Quality Management Plan. Specifically, this project must meet the requirements of New Source Review Rule 26. Rule 26 requires an applicant to provide Best Available Control Technology ("BACT") and, if certain emission thresholds are exceeded, provide emission offsets. As part of its review of this project, Coastal Commission staff consulted with staff of the Ventura County Air Pollution Control District (VCAPCD). VCAPCD is requiring an Authority to Construct Permit for the project and has issued a Draft Authority to Construct Permit. The VCAPCD has concluded that the project meets Rule 26's BACT requirements and that no emission offsets are required.

Construction Emissions

The project will generate construction and operational air emissions. Construction emissions principally consist of equipment exhaust emissions (CO, ROC, NO_x, sulfur dioxides (SO_x) and particulate matter with an aerodynamic diameter of 10 microns or less (PM_{10}), fugitive dust from grading and excavation, and ROC from painting and asphaltic paving. Emissions during construction also include exhaust emissions from worker commute trips and trucks, and emissions associated with natural gas pipeline construction (trenching, welding and paving). VCAPCD recommends a CEQA mitigation threshold of 25 pounds per day for construction-related emissions of ozone precursors NOx and ROC to avoid a significant adverse impact to ozone air quality during project construction. The uncertified Mitigated Negative Declaration (MND) estimates that during construction the project's NO_x and ROC emissions will exceed 25 pounds per day. The MND estimates 157.1 pounds per day of NOx and 32.3 pounds per day of ROCs will be emitted during construction. The MND recommends measures to reduce these construction-related emissions. These measures include:

- Controlling fugitive dust on all graded, excavated and exposed soil areas. Treatment will include periodic watering, application of "environmentally safe" soil stabilization materials and/or roll compaction. Reclaimed water is to be used, if feasible;
- Minimizing equipment idling time;

- Limiting on-site traffic to 15 miles per hour or less;
- Curtailing all grading, clearing, earth-moving and excavation operations during periods of high wind (i.e., wind speed sufficient to cause fugitive dust to impact adjacent properties; and
- Use of alternative fueled construction equipment, such as compressed natural gas (CNG), liquefied natural gas (LNG), electric, or equipment meeting Tier 2 standards, if feasible.

As part of its project, SCE proposes to implement all these recommended mitigation measures. Implementation of these mitigation measures will reduce these potential adverse air impacts to less than significant levels.

Operational Emissions
Operation of the peaker plant due to the combustion of natural gas fuel will also result in emissions of NO_x, CO, $PM_{10,}$ ROC and SO_2. Of most concern here is the release of NO_x and ROC that produces ozone. Ozone is a criteria pollutant that is formed when NO_x and ROCs – both byproducts of combustion – under slow photochemical reactions in the presence of sunlight.

The proposed project's operational emissions were presented in the MND, but there was an error in the methodology and so the calculations are not accurate. In accordance with VCAPCD CEQA guidelines, equipment that receives a VCAPCD air permit is not included in the CEQA significance calculation. For this project, the combustion turbine generator will receive a VCAPCD permit. Mistakenly, the combustion turbine generator was included in the MND's operational emissions significance evaluation. Applying the proper methodology, the project's operations will result in 5.62 lbs/day NO_x and 0.66 lbs/day ROCs. The total peak daily emissions for ROC and NO_x are therefore much less than VCAPCD's significance threshold of 25 lbs/day. VCAPCD's CEQA guidelines do not require mitigation or offsets in cases where project emissions fall below significance thresholds.

As stated above, SCE must obtain from VCAPCD an air permit for the combustion turbine generator and satisfy the district's Rule 26 requirements. Rule 26 requires an applicant to provide emission offsets only if a project emits 5.0 tons per year or more of NO_x and ROC. Because this facility will operate only a limited number of hours per year (up to 2,000 hours), the annual potential to emit from permitted equipment (the combustion turbine generator) is less than 5.0 tons per year of NO_x (4.9 tons per year) and less than 5.0 tons per year of ROC (1.3 tons per year). Therefore, the VCAPCD will not require emission offsets for NO_x and ROC emissions from the combustion turbine generator.

As described above, through issuance of an Authority to Construction Permit, the VCAPCD will require that the project be carried out consistent with VCAPCD's air quality regulations. The Commission thus finds the project consistent with LCP Policies 47 and 51.

H. Public Access and Recreation

The certified LCP contains policies that provide for the protection of public access to the beach. Applicable LCP policies include:

Local Coastal Policy 54 states: *All new industrial and energy-related development shall be located and designed to minimize adverse effects upon public access to the beach. Where appropriate, an access dedication shall be a condition of approval.*

Local Coastal Policy 72 states: *Public access to and along the shoreline and the Inland Waterway shall be required as a condition of permit approval for all new developments between the shoreline and the first public roadway inland from the shore, except as provided below:*

1. *Exceptions may be made when access would be inconsistent with public safety, military security, the protection of fragile coastal resources, or when agriculture would be adversely affected.*

…

In addition, due to the proposed project location between the first public road and the sea, pursuant to Section 30604(c) of the Coastal Act, the proposed project must also be reviewed for consistency with the Chapter 3 policies of the Coastal Act regarding public access and public recreation. Relevant Coastal Act public access and public recreation policies include:

Coastal Act Section 30210 *states that:*

> *In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

Coastal Act Section 30211 *states:*

> *Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

Coastal Act Section 30212(a) *provides that in new shoreline development projects, access to the shoreline and along the coast shall be provided except in specified circumstances, where:*

> *(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources.*
>
> *(2) adequate access exists nearby, or,*
>
> *(3) agriculture would be adversely affected. Dedicated access shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.*

Coastal Act Section 30220 *states that:*

> *Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such use.*

The project site is not located adjacent to the shoreline and is separated from the beach by an existing oil extraction and treatment facility which abuts the project site on the west side. Currently, no public beach access exists within the immediate vicinity of the project site. The closest recreational facility and beach access point is located near the entrance to Mandalay Beach State Park, at the intersection of Harbor Boulevard and Fifth Street, approximately one mile south of the project site. An additional coastal access point is located several miles to the north of the project site, at the entrance to McGrath State Beach. Lateral access from McGrath State Beach to Mandalay State Beach west of the project site is currently restricted due to the presence of the cooling water discharge canal for the Mandalay Generating Station which transects the beach and restricts passage.

During project construction, all workers shall park on-site and impacts to existing beach access parking lots (at the entrances to Mandalay and McGrath State Beaches) are not anticipated to occur. Construction of the proposed natural gas pipeline would occur within the public right-of-way on the east side of Harbor Boulevard for a distance of approximately 1,800 feet and is may necessitate the periodic closure of the northbound lane. Pipeline installation and trenching is anticipated to require approximately seven weeks to complete. Harbor Boulevard in this area does not have bicycle lanes, pedestrian walkways or on-road parking that would be affected by these land closures. Potential impacts to traffic flows along the pipeline route would be minimized by limiting the construction period to those periods specified by the City in the approved encroachment permit and through implementation of the mitigation measures identified in the uncertified Mitigated Negative Declaration (MND). The MND requires that a registered traffic control engineer prepare a Traffic Control Plan for City approval, follow the standards set forth by Caltrans, designate required traffic patterns or temporary road closures for construction, provide construction work road signs and provide safety measures to separate motorists from the construction workers and the work zone. SCE has committed to implement these measures.

The Commission therefore finds that the proposed project will not interfere with the public's access to and recreational use of the beach along this stretch of coast and therefore is consistent with the public access policies of the LCP and Coastal Act.

I. Climate Change

The City of Oxnard Coastal Land Use Plan specifically protects many of the resources that would be directly affected by global climate change resulting from increases in greenhouse gases. LUP sections and policies specific to these resources include section 3.2.2 (Habitat Areas) which contains Local Coastal Policy 6 (protection of sensitive habitat, wetlands and resources) and Local Coastal Policy 10 (protection and restoration of coastal waters); section 3.2.3 (shoreline structures, diking and dredging) which contains Local Coastal Policy 13 (prohibition on shoreline protective devices and protection of existing beaches); section 3.3 (Hazards) which includes Local Coastal Policy 39 (minimization of threat from storm wave

runup) and Local Coastal Policy 40 (development within flood and wave runup zones); section 3.6 (industrial and energy development) which contains Local Coastal Policy 52 (minimization of impacts from energy development); and section 3.8 (acquisitions), which contains Local Coastal Policy 91 (continuous protection of coastal resources).

Climate Change and the Coastal Zone: In July 2006, the California Climate Change Center released a series of reports describing ongoing and future effects of global warming on the California environment (Baldocchi and Wong, 2006; Battles et al., 2006; Cavagnaro et al., 2006; Cayan et al., 2006a; Cayan et al., 2006b; Cayan et al., 2006c; Drechsler et al., 2006; Franco and Sanstad, 2006; Fried et al., 2006; Gutierrez et al., 2006; Joyce et al., 2006; Lenihan et al., 2006; Luers et al., 2006; Luers and Moser, 2006; Medellin et al., 2006; Miller and Schlegel, 2006; Moritz and Stephens, 2006; Vicuña, 2006; Vicuña et al., 2006; Westerling and Bryant, 2006). Drawing on three projected warming scenarios (low, medium, and high), the reports projected severe impacts by the end of the century in the areas of public health, water resources, agriculture, forests and landscapes, and sea level. Many of these effects will impact the coastal zone, including impacts to air quality, species distribution and diversity, agriculture, expansion of invasive species, increase in plant pathogens, wildfires, rising sea level, coastal flooding, and coastal erosion and will affect resources specifically protected by the Coastal Act and the City's LCP. In addition, absorption of carbon dioxide by the ocean leads to a reduction in ocean pH with concomitant consumption of dissolved carbonate ions, which adversely impacts calcite-secreting marine organisms.

As identified in the 2006 Climate Change Center reports, the median emission scenario will lead to 75-85% more days in the Los Angeles area conducive to smog generation. Air quality will also be compromised by soot from wildfires, which the report predicts will increase. Coastal agriculture, already threatened by land development and habitat fragmentation, will be subject to further impacts from climate change. Impacts to coastal agricultural will include impacts to wine grapes, which will be subject to premature ripening and decreased fruit quality; impacts to fruit and nut trees, many of which require a certain number of "chill hours" per day for proper ripening; and impacts to milk production. Other threats to coastal agriculture identified by the Climate Change Center reports include the expansion of the ranges of agricultural weeds and an increase in plant pests and pathogens. Coastal forests and scrublands will be increasingly susceptible to wildfires due to longer and warmer periods of summer drying. This, together with the warmer climate itself, will lead to shifts in vegetation type, probably resulting in the loss of coastal scrub as it is converted to grasslands. Inasmuch as suitable habitat exists, species requiring cooler climates can migrate northward or to higher elevations. Their ability to do this, however, will be limited by the speed with which they are able to disperse, the suitability and interconnectivity of available habitat, and their ability to compete with non-native invasive species which, by definition, are able to disperse and exploit habitat efficiently. All of these effects will lead to a decline in forest productivity, with a concomitant loss in habitat.

The most direct impacts of global warming focused on the coastal zone are sea level rise and its associated impacts, ocean warming, and ocean acidification.

Sea Level Rise: According to tide gage data, global mean sea level has been rising at the rate of approximately 1.8 mm/yr for the past century (IPCC, 2001). Although no acceleration of this rate is apparent from the tide gage data (IPCC, 2001), satellite measurements starting in the early 1990s indicate an annual rate of approximately 2.8 mm/yr (Church and White, 2006). Sea level is clearly rising, and the rate of increase may in fact be accelerating. Since land can also change elevation due to either uplift or subsidence, global sea level change affects various coastal areas differently. Much of the California coast is rising; however the rate of uplift is, everywhere except northernmost California, lower than the rate of sea level rise. The *relative* historic rate of sea level rise (relative sea level rise is global sea level minus local land uplift or plus local land subsidence) has been calculated by Commission staff to range from a high of 2.16 ± 0.11 mm/yr in San Diego to a low of 0.92 ± 0.17 mm/yr in Los Angeles. Relative sea level is actually falling at Crescent City due to the high rates of tectonic uplift at that locality. (California Coastal Commission, 2001).

Even the 0.18 to 0.59 meter rise in sea level by 2100 predicted by the IPCC will have a large impact on the California coast. The effects of a much larger increase in sea level due to large contributions from the Greenland and/or Antarctic ice sheet would be truly catastrophic. The 2001 Coastal Commission report concluded:

> *The most obvious consequence of a large rise in sea level will be changes in areas that are submerged. Lands that now are only wet at high tide could be wet most of the day. Structures that are built above the water, like docks and piers, will be closer to the water, or eventually submerged. A second consequence will be an increase in wave energy. Wave energy is a factor of wave height. Waves heights along the California coast are influenced greatly by bottom depths and for most locations along the coast, the heights of nearshore waves are "depth limited". When the water depth increases, the wave height can be higher. Thus, higher waves impact the coast during high tide than during low tide. Wave energy increases with the square of the wave height. Thus, a 2-foot (0.6-meter) wave would have 4 times the energy of a 1-foot (0.3-meter) wave. Small changes in water level can cause significant changes in wave energy and the potential for shoreline damage from wave forces. A 1-foot to 3-foot (0.3 to 0.9 meter) rise in sea level, such as projected to occur over the next 100 years, would cause enormous changes in nearshore wave energy. The consequences of a 1-foot to 3-foot (0.3 to 0.9 meter) rise in sea level are far reaching. Along the California coast, the best analogy for sea level rise is thought to be El Niño, where a significant rise in sea level will be like El Niño on steroids. One of the factors that contributed to the amount of damage caused by the 1982/83 El Niño was that several storms coincided with high tide events and the elevated water levels (from tides and low pressure system combined) brought waves further inland than would have occurred otherwise…*
>
> *Beaches and Coastal Bluffs: Open coastal landforms like beaches and bluffs will be exposed to greater and more frequent wave attack. There will more potential for erosion and shoreline retreat. For gently sloping beaches, the*

> *general rule of thumb is that 50 to 100 feet of beach width will be lost from use for every foot of sea level rise… Some global circulation models predict significant increases in run-off from coastal watersheds in California (Wolock and McCabe, 1999) …*

In general, erosion of the landward edge of a beach, dune, or coastal bluff creates additional beach area, and so even in a period of sea level rise such as the present, in which the seaward extent of the beach is reduced by flooding and erosion, new beach creation can result in a relatively constant beach width. However, when threats to existing development from erosion lead to the construction of shoreline protective devices that halt the landward migration of the back beach, continued flooding of the seaward beach results in a reduction in beach width. Thus, on beaches experiencing erosion due to rising sea level, the protection of threatened structures will result in the loss of beaches wherever property owners choose to harden the coast to prevent coastal erosion. This loss of beach has immense negative impacts, including loss of recreational value, tourism, marine mammal haul-out area, sandy beach habitat, and buffering capacity against future bluff erosion.

Other potential impacts of sea level rise on the California coast include inundation and conversion of coastal wetlands to intertidal and subtidal habitats and the need to enlarge breakwaters and jetties to keep up with rising sea level. Additionally, seawalls and other engineered shoreline protection would be exposed to greater scour and the main structure would be exposed to greater and more frequent wave forces. As with breakwaters and jetties, these structures would need to be reinforced to withstand these greater forces, or a lower level of protection will have to be accepted for the backshore property.

Ocean Warming: In December 2006 the Commission held the first in a series of workshops on global warming. One of the well-recognized connections between the atmosphere and the ocean is heat exchange. Global warming of the atmosphere is expected to cause an increase in ocean warming as the ocean absorbs greater amounts of thermal energy from the atmosphere. At the workshop, Dr. James Berry (Associate Scientist, Monterey Bay Aquarium Research Institute) presented a summary of observed and predicted effects of ocean warming on California coastal ecosystems. Dr. Barry inventoried intertidal animals along the Monterey coast, and compared his results to a 1932 baseline inventory. He found that species that increased in abundance in southern California had increased markedly since the baseline study. Over the same time, there was a dramatic decline in species more associated with northern California. This demonstrates that the observed warming of the ocean over the past 60 years has resulted in a shift in the geographic ranges of species. With continued warming, species can be expected to continue to migrate northward as long as suitable habitat is available.

Some instances of remarkable biodiversity are due to the fortuitous combination of suitable ocean temperature and suitable geomorphic conditions. For example, one of the most diverse shallow water habitats in California is found in the rocky-bottom waters around the northern Channel Islands. This is a zone of mixing of species characteristic of a “southern California realm” and a “northern California realm.” The abundant rocky bottom habitat in the shallow waters ringing the islands provides a niche in which this diversity is expressed. If, because of

global warming, the suitable temperature zone migrates northward, it will be moved off of the abundant rocky bottom habitat and the diversity and ocean productivity might decrease significantly.

Declines in ocean productivity due to habitat shifts are an indirect consequence of ocean warming. Ocean warming can cause a direct loss of primary productivity as well. Warming of the surface of the ocean results in increased ocean stratification, limiting the upwelling of deep, nutrient-rich waters that are responsible for California's rich coastal productivity.

Ocean warming could also create a disconnect between historic feeding and breeding grounds for many species. Sockeye salmon, which spend 2-3 years in waters of the northern Pacific, migrate northwards to areas of high productivity, such as the Bering Sea, in the summer. Productivity decreases with temperature increase, however, and as the Bering Sea warms, migration routes would have to be longer. Eventually, the metabolic cost of migrating further northwards to feeding grounds could make the migration infeasible. When summer feeding grounds are disconnected from winter breeding grounds, a population crash may be anticipated. A population crash in such species would not only impact commercial fishing in California, but would ripple up through the food chain, impacting protected coastal resources such as marine mammals and birds. At the December 2006 workshop, Dr. Barry concluded that although ocean warming will be a direct consequence of global warming, and ocean warming will cause ocean communities to change, perhaps drastically, the nature of future ocean ecosystems remains unclear.

Ocean Acidification: Just as there is an exchange of thermal energy between the atmosphere and the oceans, there is an ongoing exchange of gases between the atmosphere and the ocean. Each year some 92 billion metric tonnes of CO_2 annually are directly absorbed by the ocean from the atmosphere. At the same time, approximately 90 billion metric tonnes are released back to the atmosphere (Schlesinger, 1997). The net increase in dissolved CO_2 in the ocean is a direct result of increases in the atmosphere related to changes humans are making to the carbon cycle—most notably fossil fuel burning and land use changes (deforestation, mostly in the tropics). The ocean is an enormous reservoir that can absorb a vast amount of CO_2, although the rate of ocean mixing is too slow to prevent the current buildup in the atmosphere. Without this net absorption of CO_2 by the oceans, the atmospheric buildup—and global warming—would be far greater than it is now.

Over the past 200 years, the oceans have taken up approximately half of the industrial age CO_2 emissions, substantially reducing the net atmospheric concentrations of CO_2. This effect does not come without a cost, however. When CO_2 is absorbed by the ocean, some of it combines with water to form carbonic acid (H_2CO_3). This results in only a modest decrease in ocean pH, however, because most of the carbonic acid recombines to form bicarbonate ions (HCO_3^-). However, in the process, carbonate ions (CO_3^{-2}) are consumed. The net result is that absorption of CO_2 by the ocean consumes carbonate ions and reduces the pH of the ocean. The decrease in pH is minor because of the "buffering capacity" of these carbonate reactions, but appears to have decreased mean average surface water pH by 0.1 pH units over the past 200 years (Caldeira and Wickett, 2003). Because the pH scale is logarithmic, this decrease in ocean pH (commonly called "ocean acidification," but more properly referred to as a decrease

in alkalinity) means that hydrogen ion activity (which defines acidity) has increased by some 30% in this time frame (The Royal Society, 2005).

The effects of decreasing ocean alkalinity and carbonate ion concentration are twofold. First, many species are directly affected by the reduction in pH. In his presentation before the Commission in December 2006, Dr. Barry identified several physiologic stresses to which some species are susceptible. These stresses include respiratory stress (reduced pH limits oxygen binding and transport by respiratory proteins, such as hemoglobin, leading to reduced aerobic capacity), acidosis (disruption of acid/base balance which impairs function and requires energy to restore or maintain optimal pH balance), and metabolic depression (reduced pH associated with increased environmental CO_2 can cause some animals to enter a state of torpor or semi-hibernation). In addition to these physiologic effects, calcite-secreting organisms (including many phytoplankton, zooplankton, clams, snails, sea stars, sea urchins, crabs, shrimp, and many others) have more difficulty secreting their shells or tests under reduced carbonate ion concentrations. Deep-sea species will be particularly affected because increasing CO_2 levels in seawater decreases the saturation state of seawater with respect to calcium carbonate ($CaCO_3$) and raises the saturation horizon closer to the surface. The $CaCO_3$ saturation horizon is a depth in the ocean above which $CaCO_3$ can form, but below which $CaCO_3$ dissolves. Increasing surface CO_2 levels could have serious consequences for organisms that make external $CaCO_3$ shells and plates (The Royal Society, 2005).

The consequences of reduced calcification are not fully known, but are likely to include changes to plankton communities, higher metabolic costs for water-breathing species, resulting in lower growth, survival and reproduction, and higher metabolic costs for calcite secreting organisms. The effect on food webs is unclear, but it is very likely that these effects will result in a loss of biodiversity and complexity in California's coastal marine ecosystems.

Reducing Greenhouse Gas Emissions from Electrical Generation: The State of California and the California Public Utility Commission (CPUC) have adopted numerous greenhouse gas laws, regulations and policies in order to address greenhouse gas emissions from electricity generation sources. One of the key requirements is AB32 – The California Global Warming Solutions Act of 2006 – that requires the California Air Resources Board (CARB) to promulgate regulations to reach the 2020 goal of reducing greenhouse gas emissions to 1990 levels. The regulations are to go into effect in 2012. In order to achieve AB32's stated goal of reducing greenhouse emissions to 1990 levels by 2020, CARB is in the process of developing regulations for all major contributing source categories, including the electricity industry. CARB will determine the quantity of emission reductions that will be allocated to each contributing emission segment (transportation, electricity, manufacturing, etc.) and individual emission company or source, as well as setting forth the regulatory mechanisms by which these reductions will be implemented. For the electricity sector, CARB is developing a program that will reduce CO_2 emissions on a systemwide basis in order to ensure that all emissions created to serve California's load are captured and that all generating sources, regardless of ownership or location, are being treated uniformly and equitably. CARB is currently developing a Scoping Plan that will provide a blueprint on how AB32 will be implemented (i.e., command and control measures and market-based programs). In a recent decision (D.08-03-018), the CPUC recommended to CARB that a cap-and-trade system be

used to reduce greenhouse gas emissions from the electricity sector, with sources being required to purchase at least a certain portion of the credits. The net effect is that greenhouse gas emissions from SCE's generation portfolio would be capped and would be required to be reduced as directed by CARB to meet the State's greenhouse gas reduction goals.

Peaker Plant Emissions: As part of its review of this project, Commission staff requested SCE submit the annual quantity and sources of all greenhouse gases and that would be emitted as a result of the project. On April 9, 2008, SCE submitted to the Coastal Commission its estimate of peak annual emissions of greenhouse gases from the proposed peaker plant (included as Exhibit 10). The peaker plant will emit greenhouse gases from the combustion of natural gases in its turbine and emergency generator. The principal greenhouse gases emitted from fossil fuel combustion are carbon dioxide (CO_2), methane (CH_4), and nitrous oxide (NO). According to SCE, the Ventura County Air Pollution Control District (VCAPCD) will limit combustion turbine operation to 2,121 hours per year (1,881 operating hours plus 240 hours of start up and shut down periods). The emergency generator will only operate during routine testing and maintenance activities and if there is a system blackout on the local electric grid. Reliability testing is a maximum of 50 operating hours per year. Based on these limits, SCE estimates the maximum potential to emit from the proposed peaker plant is 51,032.7 Metric Tonnes CO_2E per year. If a 30-year life is assumed, then the maximum potential to emit over the life of the project is 1,530,981 Metric Tonnes CO_2E. Under the economic dispatch scenario, the scenario which most closely estimates the anticipated operation of the unit by assuming that the peaker would only be operated when it would be most cost effective, the peaker plant would operate for an average of approximately 93 hours per year. Under this scenario potential emissions from the proposed project are 2,496 Metric Tonnes CO_2E[13] per year, or 74,881 Metric Tonnes CO_2E over a 30-year operating period.

Construction of the peaker plant will also generate greenhouse gases. Greenhouse gas emissions from construction activities are primarily due to CO_2 emissions from on-site construction equipment and motor vehicle trips to and from the site. SCE estimates emissions from construction activities to be 618.00 Metric Tonnes CO_2E.

Preparation of the local distribution system in anticipation of the peaker plant's operation would also result in greenhouse gas emissions. These emissions would come from the installation of a new SF_6-insulated circuit breaker, which contains 52 pounds of sulfur hexafluoride (SF_6). SF_6 has a relatively high global warming potential (approximately 23,900 times that of CO_2), so even small emissions of SF_6 can contribute to climate change. The leak rate for this equipment is guaranteed by the manufacturer to not to exceed one percent per year. Therefore, the maximum potential to emit of this circuit breaker will be 0.52 pounds of SF_6 per year, which is equivalent to 5.6 Metric Tonnes CO_2E per year. Assuming an

[13] When quantifying GHG emissions, the different global warming potentials (GWP) of the various greenhouse gases are usually taken into account by normalizing their rates into an equivalent CO_2 emission rate. Carbon dioxide equivalent emissions (CO2 Eq, CO_2E or CO_2e) represents the amount of CO_2 emissions that it would take to create a climate impact equivalent to the emissions of the specific gas or source of interest. This standardization is useful for comparison purposes, since the emissions impact of different source types and gases can then be directly compared.

operational life of 30 years, the maximum potential to emit over the life of the project is 168 Metric Tonnes CO_2E.

In addition to emission calculations, SCE submitted an emission analysis which concludes that operation of the peaker plant will be nearly neutral and will result in only a slight increase (approximately 726 Metric Tonnes CO_2E) in CO_2E emissions across SCE's generation portfolio. This conclusion is based on SCE's use of the Ventyx Market Analytics and the Ventyx Planning and Risk models to simulate the operation of its electric system and the net change in CO_2 emissions that would occur both with and without the proposed peaker unit. These models calculate the CO_2 emissions from SCE's system as a whole based on its projected annual load profile and are currently used to comply with CPUC directives to evaluate the net CO_2 emissions from new energy projects and other reporting requirements. The use of this modeling approach allowed SCE to incorporate factors such as power plant loading order[14] and generating efficiency into its analysis. As SCE states in its analysis,

> *Because the marginal cost of natural gas fired peakers is high compared to other resources, they dispatch last in the loading order after all other available resources have been brought on line. Therefore, when the proposed peaker project is dispatched, it will almost always replace a higher emitting natural gas fired unit. Because all natural gas fired peakers are reasonably efficient, the relative difference in CO_2 emissions between the proposed peaker and the less efficient units would be expected to be small. This means that the net decrease in annual CO_2 emissions would also expected to be small.*

In other words, during operation, SCE anticipates that direct emission increases from the peaker (which would be approximately 2,496 Metric Tonnes of CO_2E per year for 93 hours of operation) would be completely offset by emission decreases at other power plants on the system, resulting in a slight net emissions decrease.

SCE's analysis also suggests that further emission reductions would be achieved through increases in transmission efficiency and decreases in line loss resulting from the peaker plant's ability to tie in directly to the local 66 kv transmission system that provides the local Oxnard area with electricity. Whereas power currently generated at the Mandalay and Ormond Beach Generating Stations must first travel to the Santa Clara substation on 230 kv transmission lines before it can return to Oxnard over the 66 kv system (a situation that results in the loss of power during travel in both directions), the placement of a peaker plant in Oxnard would allow locally produced power to be transmitted directly to the local 66 kv system first without traveling to Santa Clara. This would reduce the amount of electricity lost during transit over the transmission lines which would decrease the amount of energy that needs to be produced and therefore reduce production related emissions.

SCE agreed to provide funding for the Commission to hire an independent consultant to review its emission calculations and analysis. The independent review of SCE's analysis

[14] Loading order is determined through an evaluation of the marginal cost of the generation resource – generating stations with the lowest marginal cost are dispatched first and those with the highest cost are dispatched last.

performed by Marine Research Specialists substantiates SCE's analysis and also indicates that only a slight increase in CO_2E emissions across SCE's generation portfolio would result from the proposed project. Specifically, Marine Research Specialists found that CO_2E emissions would increase by approximately 726 Metric Tonnes of CO_2E over the anticipated 30 year project life (as demonstrated in Exhibit 12). This figure matches the conclusion reached by SCE considering the economic dispatch scenario. Over a 30 year project life, this is a relatively small number. To provide perspective on this level of CO_2E emissions, the U.S. Environmental Protection Agency has estimated that eight Toyota Prius cars operated for 15,000 miles (45% highway driving and 55% city driving) per year would produce 744 Metric Tonnes of CO_2E over 30 years.

Based on these relatively low levels of greenhouse gas emissions over the life of the project, the Commission agrees with SCE that no mitigation or offset is required.

J. Alternatives

Overview: CEQA Guidelines Section 15126.6 provides direction for the discussion of alternatives to the proposed project. This section requires:

(1) a description of "…a range of reasonable alternatives to the project, or to the location of a project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives." [15126.6(a)]
(2) a setting forth of alternatives that "…shall be limited to ones that would avoid or substantially lessen any of the significant effects of the project. Of those alternatives, the [CEQA document] need examine in detail only the ones that the lead agency determined could feasibly attain most of the basic objectives of the project." [15126.6(f)]
(3) a discussion of the "no project" alternative, and "…if the environmentally superior alternative is the "no project" alternative, the [CEQA document] shall also identify an environmentally superior alternative among the other alternatives." [15126.6(e)(2)]
(4) a discussion and analysis of alternative locations "…that would substantially lessen any of the significant effects of the project need to be considered in the [CEQA document]."[15126.6(f)(2)(A)]

In defining feasibility, the Coastal Act, Section 30108, states that:

> *"Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.*

In addition, the CEQA Guidelines, Section 15126.6 also defines the feasibility of alternatives and states:

> *Among the factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries (projects with a regionally significant impact should consider the regional context), and*

whether the proponent can reasonably acquire, control or otherwise have access to the alternative site.

Project Purpose: California Public Utilities Commission Rulemaking #06-02-013 requires SCE to pursue development of additional generation units capable of producing up to 250 megawatts in its service territory and specifies the criteria that these new generation units must satisfy to comply with the rulemaking. As stated by the CPUC, "…SCE should pursue development of not more than five [SCE owned] generation units. Such units should be black-start capable and dispatchable, and should bring collateral benefits to SCE's transmission and distribution system as well as the [California Independent System Operator Corporation] grid." Based on this CPUC requirement, SCE must therefore develop: (1) up to five generation units; (2) that are black start capable (i.e. able to come online without reliance on an outside source of power); (3) that are dispatchable (i.e. able to be turned on when needed rather than running continuously); (4) that are able to benefit SCE's transmission and distribution system; and (5) that are able to benefit the California Independent System Operator Corporation (CAISO) electricity grid.

SCE determined that five 45 megawatt natural gas fired peaker generating facilities with attached natural gas fired black start generators located throughout southern California would meet these CPUC criteria. SCE therefore pursued the development of peaker units within the cities of Norwalk, Stanton, Ontario and Rancho Cucamonga as well as the Ventura/Santa Barbara county area. Based on information provided in SCE's *Supplemental Analyses for the Southern California Edison Mandalay Peaker Project* (the relevant section of which has been included as Exhibit 13), the Ventura/Santa Barbara county area was selected specifically because SCE has identified two local reliability projects, (1) providing black start service for the Mandalay Generating Station and (2) providing additional emergency generation to the Goleta subsystem, that may be required in the future but would possibly no longer be needed if a peaker plant were constructed in this area. In other words, an additional goal was established for the proposed project in that the construction of a peaker plant in this area could simultaneously eliminate the need for several future SCE projects.

Alternative Substation Sites: Once the Ventura/Santa Barbara region was selected, SCE established additional screening criteria to facilitate the selection and comparison of potential project sites within this region. The three criteria that were developed are based primarily on financial and regulatory considerations associated with construction and include: (1) SCE ownership of the property; (2) the presence of 2-3 acres of available land within or adjacent to a 66 or 115kV substation; and (3) the absence of a school or hospital within 1,000 feet of the project site.

Using the three criteria described above, SCE reviewed 56 SCE and customer owned substation sites and SCE properties other than the proposed project site within the cities of Camarillo, Goleta, Carpinteria, Ventura, Oxnard, Isla Vista, Calabasas, Santa Barbara, Fillmore, Gaviota, Malibu, Port Hueneme, Agoura Hills, Moorpark, Thousand Oaks, Ojai, Summerland, Newbury Park, Simi Valley, Saticoy, Somis and Santa Paula. Of these sites, thirty-nine were rejected as infeasible due to a lack of sufficient space, one was rejected as

infeasible due to its proximity to an elementary school, and thirteen were rejected as infeasible because SCE did not own the property.

However, three sites were determined to satisfy the criteria and qualify for further review. These sites are the Goleta substation in Santa Barbara County, the Moorpark substation in Moorpark and the Santa Clara substation in Ventura.

Goleta Substation: The Goleta substation site, located at 1425 Glenn Annie Road in Santa Barbara County, was initially determined to provide adequate space for the development of the peaker plant. However, upon closer review the Goleta substation site was rejected as infeasible due to a combination of factors detailed in SCE's June 17, 2008, *Supplemental Analyses for the Southern California Edison Mandalay Peaker Project* (Exhibit 13) and its June 24, 2008, letter to Commission staff. Many of these factors concerned the need for extensive site preparation activities including grading, vegetation clearance, substation upgrades, several miles of trenching for natural gas supply lines and the redesign of access roads that would have required considerable time and financial commitments. In addition, initial review by SCE's biological staff indicated the potential occurrence of state and/or federally listed plant and animal species within the project footprint. Considering the amount of vegetation clearance, grading, trenching and land disruption required to develop this site, it was also rejected based on the fact that its development was unlikely to result in fewer environmental impacts when compared to the proposed project site. Furthermore, the Goleta substation site would not meet the project purpose and goals specified above as essential to the proposed project. Specifically, although the installation of a peaker plant at this site would meet the CPUC criteria and provide the Goleta area with emergency generation capacity, black start support for the Mandalay Generating Station could not be provided at this site. The Goleta substation site was therefore rejected as a feasible, less environmentally damaging alternative.

Moorpark Substation: SCE's documents of June 17 and 24 also detail the factors supporting its rejection of the Moorpark substation. Although this site clearly met the CPUC criteria described above, provided sufficient space for development of the peaker plant and would likely have presented fewer potential environmental impacts when compared to the proposed project site (due to its location in a suburban area with no known sensitive species, habitats or resource protection areas within the immediate vicinity), after additional review SCE determined that this site did not meet the project purpose. Specifically, the construction of a peaker plant at the Moorpark substation site would not provide the same local reliability as the proposed project site (i.e. both black start support of Mandalay Generating Station and emergency generation for the Goleta subsystem would not be possible from this location). This alternative site was therefore rejected as a feasible alternative.

Santa Clara Substation: The Santa Clara substation site was also rejected by SCE based on additional site specific review. As noted by SCE in its June 17, 2008, *Supplemental Analyses for the Southern California Edison Mandalay Peaker Project* (Exhibit 13),

> *This site possesses significant engineering challenges that may make it non-constructible. This site was rejected in 2007 because it could not be constructed on the*

> *required schedule and more favorable sites existed. Greater environmental impacts and fewer reliability benefits, coupled with identified construction issues continue to weigh against this site.*

The Santa Clara substation site presented a number of engineering and construction challenges due to the topography of the site and its location within hilly terrain. As noted by SCE

> *The property is located in fairly steep terrain and is basically a small canyon which was graded to allow for the installation of the* [existing] *Santa Clara substation. The west side of the property located outside of the fenced area of the existing substation is on a steep slope covered primarily by native vegetation. The excess property in this location is also crisscrossed by the many existing 66 kv and 230 kv transmission lines making this area unavailable for development. Another area exists on the southeast corner of the property which appeared initially to be large enough for a peaker installation. However, this area would require extensive grading due to the steep slope, encroach on the existing substation and access road and require large retaining walls to be installed in order to try and squeeze the peaker onto the site.*

SCE has estimated that approximately 75,000 cubic yards of material would need to be imported to the site to facilitate construction.

Due to the extensive engineering and construction challenges that it presents, the Santa Clara substation site does not provide a feasible alternative site for the proposed project.

Ormond Beach and Tayshell Substations: Based on Commission staff's review of the information submitted by SCE regarding its site selection process, namely the June 17, 2008, *Supplemental Analyses for the Southern California Edison Mandalay Peaker Project* and SCE's June 24, 2008, letter to Commission staff, two sites in addition to Moorpark, Goleta and Santa Clara also appear to satisfy the selection criteria and project purpose detailed above. These sites include the Ormond Beach substation in Oxnard, and the Tayshell substation in Ventura. SCE's rejection of these sites appears to have been based on the assumption that 2-3 acres of available land is not available at either site. However, Commission staff's review of the aerial photographs that were used to formulate this conclusion suggests that two to three acres of undeveloped land may indeed exist in these locations. In response to Commission staff's request for additional information regarding the rejection of these sites, SCE has suggested that much of its property at the Ormond Beach site is comprised of transmission line right-of-ways and that the presence of existing transmission lines that are not readily visible from aerial photographs would preclude the construction of the peaker facility here. Regarding the Tayshell site, SCE has provided subsequent information to Commission staff which suggests that SCE's property at this site comprises less than the 2-3 requisite acres needed for peaker plant construction.

Customer Substations: Although SCE has specified that only property it currently owns would be acceptable as a site for the proposed project, its June 17, 2008, *Supplemental Analyses for the Southern California Edison Mandalay Peaker Project*, nevertheless includes

an assessment of 20 customer owned substations. Initial review by SCE and Commission staff has suggested that 13 of these sites would potentially provide enough open land in close proximity to a 66 or 115kV substation and sufficiently far from a school or hospital to serve as acceptable location for a peaker unit. However, as described in the June 17, 2008, *Supplemental Analyses for the Southern California Edison Mandalay Peaker Project*, SCE rejected five of these sites because they are not located within the Santa Clara transmission subsystem and "the Mandalay Generating Station can only be black started from within the Santa Clara subsystem when the peaker is connected to a non-bulk power 66 kv substation." In other words, SCE rejected three sites within the Goleta subsystem and two sites within the Moorpark subsystem because construction of a peaker unit at these sites would not meet the project purpose by simultaneously eliminating the need for an additional future project that would provide the Mandalay Generating Station with black start support. As noted previously, providing the Mandalay Generating Station with black start support was one of the two principle local reliability projects that resulted in SCE's selection of the Ventura/Santa Barbara region for a peaker facility.

However, the other principle local reliability project that drove the selection of the Ventura/Santa Barbara region, providing additional emergency generation to the Goleta subsystem, would potentially be resolved by locating the peaker unit within the Goleta subsystem. As SCE notes, a peaker facility located within the Goleta transmission subsystem would still provide "important local reliability benefits to the Goleta subsystem that would otherwise require the construction of a new generation project in the Santa Barbara area." SCE also states that if a Goleta site were chosen "a second generation project would need to be proposed and constructed in the Oxnard area [at a future date] in order to provide black start capability [for the Mandalay Generating Station[15]]." In other words, each of the three customer owned substation sites within the Goleta area appears to meet most of SCE's site selection criteria (with the exception of the criteria which specifies that SCE should already own the proposed peaker unit site). Nevertheless, SCE has rejected these sites and appears to have prioritized the sites with the potential to eliminate the necessity for a future project which would provide the Mandalay Generating Station with black start support (i.e. sites which would allow the peaker unit itself to provide this black start support). In its letter of June 25, 2008, to Commission staff, SCE explained this prioritization as follows,

> *The Santa Clara substation has three emergency tie-lines that can be used to route emergency power into the Goleta 66kv subsystem network. When the Santa Clara subsystem is used to provide power simultaneously to both the Santa Clara and Goleta subsystems, local generation must be turned on inside the Santa Clara 66kv subsystem to provide additional energy, voltage and frequency support to this area to anchor it while bypass power is being routed to the north. Existing cogenerators and the Mandalay [Generation Station] peaker can be used to provide a portion of this anchor. The [proposed] new McGrath Beach peaker would be used to provide the remaining power needed to anchor the system.*

[15] It is important to note that because a peaker unit currently exists at the Mandalay Generating Station, a small black start generator could be added to this peaker unit which would then be able to provide black start support for the generating station.

According to SCE, a peaker unit within the Santa Clara subsystem could potentially provide both additional emergency generation to the Goleta subsystem as well as black start support for the Mandalay Generating Station.

SCE therefore rejected those sites outside of the Santa Clara subsystem and seriously considered only those sites that would allow the peaker unit to provide the Mandalay Generating Station with black start support. With this additional selection criteria SCE evaluated the remaining eight customer owned substation sites that had already met all the other selection criteria. Of these eight sites, all but one were rejected after a review of the transmission circuit distances between the site and the Mandalay Generating Station revealed that they were located beyond a 17 circuit mile radius. As noted by SCE, "in the Oxnard area, a black start generator must be located within 10-12 circuit miles to allow a successful black start [of the Mandalay Generating Station]." As demonstrated in SCE's June 17, 2008, *Supplemental Analyses for the Southern California Edison Mandalay Peaker Project*, only the Unioil substation site is located within this distance. As SCE notes in reference to this site, "The Unioil 66kv substation is located within the DCOR oil processing facility located adjacent and to the west of the [proposed] project site and between it and the ocean. Therefore, connecting the peaker to this location would not move its proposed footprint. As such, the existing site remains the preferred alternative."

EF Oxnard Alternative: Another site considered by SCE was the property owned by EF Oxnard Inc. As noted by SCE

> *EF Oxnard contacted SCE in March 2007 suggesting that its site would be suitable for the Proposed Project. At that time, SCE conducted a preliminary screening investigation of the site and concluded that the site did not meet its initial screening criteria. SCE has reviewed this site again as part of its current review and has reached the same conclusion.*
>
> *The primary reason the site is not suitable is that it does not posses the required amount of unoccupied land to house the project's 2-3 acre footprint. The land that was identified by EF Oxnard as available for SCE's use contains less than 0.5 acres of available space. Even assuming that existing structures could be removed, only 1 acre of space is available in which to construct both the project and a new substation.*
>
> *The existing substation and transmission lines at this location were not designed to accommodate more than a single generating unit. The existing underground 66 kV transmission line is located in a vault that would need to be expanded to house a second line. In addition, a new loop substation would need to be constructed to accommodate the additional SCE peaking unit. This new substation would require an additional 0.25 acres of contiguous fenced space.*
>
> *Because there is insufficient space at this location to construct the Proposed Project, this alternative does not meet the purpose and need of the Proposed Project.*

Mandalay Generating Station Alternatives: In addition to those alternative locations and projects detailed above, SCE also considered several project alternatives associated with the Mandalay Generating Station and the peaker unit that currently exists on the Mandalay Generating Station site. SCE's rejection of these options is based on a variety of factors and is excerpted from SCE's June 17, 2008, *Supplemental Analyses for the Southern California Edison Mandalay Peaker Project* and included below.

Use the Existing Mandalay Generating Station Peaker

Using the existing Reliant Energy peaker does not meet the purpose and need of the Proposed Project. The output of this peaker was taken into account when the need for additional generation was identified by the CAISO and the CPUC. Therefore, the CPUC order to construct 250 MW of new generation would not be satisfied by assuming that the existing unit is providing the needed electricity.

Further, this unit is not capable of meeting the grid reliability requirements needed in the area. The Reliant peaker has been in operation since 1970 and is capable of producing up to 140 MW of energy on peak, although its operation is limited to approximately 85 hours per year due to air quality permit emission limits. The equipment is over 30 years old and has been discontinued, such that parts are no longer readily available in the event of a breakdown. This unit is not configured to either black start or to provide auxiliary power to the main Mandalay generators; therefore, it cannot provide black start services. Due to its limited hours of operation, it cannot provide energy to the Goleta subsystem during extended outages. For these reasons, the existing unit does not have the desired reliability characteristics for an emergency function.

Because it was concluded that unit does not conform to the requirements of the CPUC directive, and neither provides additional energy or capacity benefits nor the required local reliability benefits, this alternative does not satisfy the purpose and need of the Proposed Project.

Replace the Existing Mandalay Generating Station Peaker

The existing Mandalay Generating Station peaker is operated by Reliant Energy. SCE neither owns property nor makes business decisions on behalf of Reliant Energy. SCE is not aware of any plans for Reliant Energy to retire this unit, which currently supplies power to the SCE system and produces revenue for Reliant's shareholders. Construction on the Reliant site was originally rejected in 2007 because SCE-owned land was needed to meet the required schedule. Although the Summer 2007 deadline has passed, timing is still an issue.

As noted above, the CPUC directive requires 250 MW of new SCE-owned generation. Therefore replacing the existing 140 MW peaker with the proposed 45 MW peaker would not meet the purpose and need of the Proposed Project. A project capable of supplying a net total of 185 MW of power would be needed to ensure that an additional 45 MW of power would be available. This would require designing and permitting a significantly

> *larger and completely different project than what has been proposed. The Proposed Project does not include removal and replacement of existing equipment, only the construction of a project on clear and available land. Such a project would trigger lengthy CEC review, which is inconsistent with project objectives.*
>
> *Finally, any new project would be SCE-owned. This would require independent support equipment in order to provide mechanical and electrical separation from the Reliant facility. Even assuming the original 45 MW project, this requirement would result in a larger footprint (2-3 acres) than is being utilized by the existing equipment, which would require siting the unit at a different location on the property.*
>
> *For all these reasons, replacing the existing unit with the Proposed Project is not viable, and would not meet the purpose and need of the Proposed Project.*

Renewable Energy/Demand Side Management/Energy Efficiency Alternative: SCE considered a variety of alternative energy projects in its June 17, 2008, *Supplemental Analyses for the Southern California Edison Mandalay Peaker Project*, including wind and solar power projects and energy efficiency systems. Due to the specific criteria within the CPUC rulemaking which requires the development of new sources of black start capable dispatchable energy, these alternatives were rejected as incapable of meeting the project goals. As noted by SCE,

> *Renewable energy, demand side management and energy efficiency projects are valuable to help reduce demand on SCE's system; however, they do not fulfill the purpose and need for the Proposed Project. Projects in these three categories are neither black start capable or dispatchable as required by the CPUC directive. More importantly, none of these project categories have the physical characteristics required to provide black start capability to the Mandalay Generating Station, nor to provide the voltage support inside the Santa Clara system that is required to allow additional emergency generation to be routed into the Goleta system via the 66 kV network.*

SCE additionally notes that

> *Wind and solar project cannot be counted on to start at all times and provide stable, continuous power over an extended period of time (i.e., 12-24 hours) as is required during emergency situations. The wind is not always blowing and the sun is not always shining. Although demand side management and energy efficiency projects are effective in reducing the demand for electricity, they do not generate additional electricity, and therefore cannot provide reliability benefits.*

Existing Local Cogeneration Alternative: As noted by SCE in its June 17, 2008, *Supplemental Analyses for the Southern California Edison Mandalay Peaker Project*, local cogeneration facilities were considered as a project alternative, however,

> *The output of all existing generation resources, including cogenerators, was taken into account by the CAISO and the CPUC prior to their determination that more peak generation was necessary. Therefore, the CPUC order to construct 250 MW of new generation would not be satisfied by assuming that existing cogeneration units can provide the needed electricity.*
>
> *Further, because the output of cogenerations are designed to remain stable to support industrial processes, they are not dispatchable on peak, nor can they provide the other system reliability benefits that would be provided by a peaker. Finally, these units are not configured for black start capability and have already been taken into consideration when determining the amount of generation needed within the Santa Clara Subsystem to allow emergency power to be routed into the Goleta subsystem.*
>
> *Consequently, these units do not meet the purpose and need of the Proposed Project.*

No Project Alternative: SCE's June 17, 2008, *Supplemental Analyses for the Southern California Edison Mandalay Peaker Project*, also included an analysis of the "no project alternative." As stated by SCE, this alternative was rejected because

> *The Ventura/Santa Barbara system west of the Pardee Substation area has been identified as the area on the SCE system most in need of the proposed project. In this area, local reliability needs include: 1) providing black start service for the Mandalay Generating Station, and 2) providing additional emergency generation to the Goleta subsystem through the 66 kv system. No other projects have been proposed that will provide the reliability benefits of the proposed project. If the proposed project is not constructed, one or more future generation or transmission projects will need to be constructed in this same area to address these issues.*
>
> *This alternative does not satisfy the fundamental purpose and need for the project.*

Commission staff agrees that "no other projects have been proposed that will provide the reliability benefits of the proposed project" and that the "no project alternative does not satisfy the fundamental purpose and need for the project as specified by the CPUC.

Conclusion: As detailed in the findings above, the Commission finds that, within the meaning of the Coastal Act and California Environmental Quality Act of 1970, there are no feasible alternatives which would substantially lessen any significant adverse effect which the proposed project may have on the environment.

K. Cumulative Impacts

As noted by SCE in its June 17, 2008, *Supplemental Analyses for the Southern California Edison Mandalay Peaker Project*,

> *According to CEQA Guidelines Section 15065(a)(3), "cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the*

effects of probably future projects. Given its size and proximity to the proposed project site, the environmental impacts from the Northshore at Mandalay Bay residential development, a 292-unit low-density development approximately 750 southeast of the proposed project site, were evaluated as part of the proposed project's cumulative impacts analysis.

The [uncertified] *MND concluded that the proposed project would not have an impact on agricultural resources, geology/soils, hydrology/water quality, land use/planning, mineral resources, population/housing, or recreation. As such no mitigation was required for these areas. Since the proposed project itself will not cause adverse impacts in these areas, it will not, in conjunction with the Northshore development, cause cumulatively considerable impacts.*

While the proposed project will have some less than significant impacts with respect to aesthetics, air quality, biological resources, cultural resources, hazards and hazardous materials, noise, public services, transportation/traffic, and utilities and service systems, the incremental effects of the proposed project are not significant cumulative impacts when combined with the impacts of the Northshore development.

The Commission supports this analysis. In addition, based on comments submitted by the City of Oxnard regarding the potential role that the proposed project would have on extending the use and presence of the Mandalay Generating Station, Commission staff and SCE have examined the likelihood that this facility would be removed within the near future and have reviewed the potential effect that the proposed project would have on allowing this generating station to continue to operate beyond when it may be otherwise required to cease operation. The results of this review are appropriately summarized below in an excerpt from a letter from SCE to Commission staff on June 30, 2008:

SCE is not aware of any plans for Reliant Energy's Mandalay Generating Station to shut down. Mandalay's two steam boilers (2-215 MW) and one peaker (140 MW) currently provide 560 MW of peak power to the SCE system under existing contracts. SCE has not identified any California Independent System Operator (CAISO), California Energy Commission (CEC), California Public Utility Commission (CPUC), Western Electricity Coordinating Council (WECC), California Ocean Protection Council (OPC), State Water Resources Control Board (SWRCB), or other federal, state, or local agency study or report that concludes that the plant is not needed, cannot be repowered, cannot meet Section 316(b) of the federal Clean Water Act related to once-through cooling (OTC), or is otherwise scheduled to shut down. On the contrary, recent reports have concluded that the existing coastal power plant fleet continues to provide important peak reliability services to the California grid[16]*, there are benefits to modernizing the current fleet at existing locations*[17]*, repowering*

[16] "Electric Grid Reliability Impacts from Regulation of Once-Through Cooling in California," April 2008, prepared for the OPC and SWRCB by Jones & Stokes. pp. 17-19

[17] Ibid pp. 19-29. Also, "Scenario Analyses Of California's Electricity System: Preliminary Results For The 2007 Integrated Energy Policy Report. Appendix A. Analysis Of Transmission Implication Of Aged Power

existing facilities is favored in both state law and state policy[18], and that the Mandalay plant can be converted to comply with recent OTC requirements.[19]

The conclusion that the facility will be shut down because it does not have a Reliability Must Run (RMR) contract is not correct. RMR contracts identify plants that must run to provide energy or capacity to meet peak electric load under normal operating conditions because insufficient generation currently exists inside of a transmission constrained area. Plants that provide other important location-specific grid reliability or emergency functions are not covered under the RMR process. The fact that an RMR contract does not exist does not mean that a plant is not needed at a particular location.

It is difficult to predict the future of any particular plant. Each owner must assess the economics, pros and cons of restricting operations, retrofitting, repowering, or shutting down a plant as it ages. In the Ventura/Santa Barbara County area, where (i) electricity demand levels are similar to existing local generating capacity, (ii) topography and other factors prevent major new transmission lines from easily being sited to bring additional power into the area, and (iii) the configuration of the system results in a considerable potential for islanding during grid emergencies, SCE expects that it will continue to be important for the foreseeable future to maintain the current level of generation at or near its present location.

Based on the information and findings included above, the Commission finds that the proposed project would not result in adverse cumulative impacts.

L. CEQA

Section 13096(a) of the Commission's administrative regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as conditioned 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 a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Commission finds that, within the meaning of the California Environmental Quality Act of 1970, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the proposed project may have on the environment. Therefore, the proposed project, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA.

Plant Retirement And Replacement," August 2007, prepared for the CEC by Navigant Consulting, Inc. (CEC-200-2007-010-AD2-AP)

[18] "Electric Grid Reliability Impacts from Regulation of Once-Through Cooling in California," April 2008, prepared for the OPC and SWRCB by Jones & Stokes. p. 55

[19] "California Coastal Power Plants: Alternative Cooling System Analysis," February 2008, prepared for the OPC by Tetra Tech, Inc.

Appendix A: List of Exhibits and Substantive File Documents

List of Exhibits: Click on upper box to access Exhibits 1-3 and click on lower box to access Exhibits 4-13

1. Project Site Plan, Transmission Line Route and Natural Gas Pipeline Route
2. California Public Utilities Commission Rulemaking No. 06-02-013
3. Photographs of Existing Visual Condition of Site
4. Revised Landscaping Plan
5. City of Oxnard Planning Commission and City Council Resolutions
6. LCP Land Use and Zoning Map No. 3 (Example of non-coastal EC Sub-zone)
7. LCP Land Use and Zoning Map No. 2 (Project Area)
8. Relevant Mitigation Measures from project Mitigated Negative Declaration
9. Relevant Mitigation Guidelines from California Burrowing Owl Consortium's April 1993, "Burrowing Owl Survey Protocol and Mitigation Guidelines"
10. SCE's McGrath Beach Peaker Project Greenhouse Gas Emission Discussion and Construction Emission Calculations
11. California Energy Commission, Coastal Power Plant Siting and Zoning Map
12. Marine Research Specialists, "SCE McGrath Beach Peaker Project Greenhouse Gas Emissions," July 1, 2008
13. Excerpt from SCE's *Supplemental Analyses for the Southern California Edison Mandalay Peaker Project*, June 17, 2008

Substantive File Documents:

City of Oxnard Coastal Land Use Plan, last updated May 2002

City of Oxnard Coastal Zoning Ordinance, last updated February 2004

City of Oxnard Mitigated Negative Declaration No. 07-02 for Coastal Development Permit No. PZ-06-400-5, SCE Peaker Plant, May 11, 2007.

City of Oxnard Planning Commission Staff Report for Coastal Development Permit No. PZ-06-400-5, SCE Peaker Plant, June 28, 2007.

City of Oxnard Planning Commission Staff Report for Appeal of the Planning Commission's Denial of Planning and Zoning Permit No. 06-400-5 (Coastal Development Permit), July 12, 2007.

City of Oxnard Planning Commission Resolution No. 2007-19, June 28, 2007.

City of Oxnard City Council Resolution No. 13,340, July 24, 2007.

City of Oxnard, Letter to Southern California Edison Company re: Coastal Development Permit PZ 06-400-5, Proposed SCE Peaker Plant, Request for Additional Environmental Analysis for the Mitigated Negative Declaration, March 15, 2007.

City of Oxnard, Letter to California Coastal Commission re: Notice of Final Decision on Coastal Development Permit No. 06-400-5, July 25, 2007.

City of Oxnard, Letter to California Coastal Commission re: Appeal of the City of Oxnard's Denial of the Edison Peaker Plant Proposal; Appeal No. A-4-OXN-07-096, May 12, 2008.

California Coastal Commission Staff Report A-4-OXN-00-172

California Coastal Commission Staff Report OXN-MAJ-1-00

California Coastal Commission Staff Report A-4-OXN-07-096 (Substantial Issue)

California Coastal Commission, "Designation of Coastal Zone Areas Where Construction of an Electric Power Plant Would Prevent Achievement of the Objectives of the California Coastal Act of 1976," September 1978 (revised in 1984 and re-adopted in December 1985).

California Public Utilities Commission Rulemaking Nos. 05-12-013 and 06-02-13.

California Regional Water Quality Control Board, Los Angeles Region, "Notice of Intent to Comply with General Waste Discharge Requirements and National Pollutant Discharge and Elimination System Permit," December 4, 2006.

California Department of Parks and Recreation, Letter to City of Oxnard - Planning and Environmental Services Division re: MND 07-02 Edison Peaker Plant, June 15, 2007.

United States Department of the Interior – Fish and Wildlife Service, Letter to City of Oxnard - Planning and Environmental Services Division re: Comments on the Mandalay Peaker Project, Mitigated Negative Declaration, June 18, 2007.

Ventura County Air Pollution Control District, Memorandum: Engineering Analysis of Application No. 07891-100, February 1, 2007.

Ventura County Watershed Protection District – Planning and Regulatory Disvision, Memorandum: RMA 07-027 Mandalay Peaker Project, June 1, 2007.

California Burrowing Owl Consortium, "Burrowing Owl Survey Protocol and Mitigation Guidelines," April 1993.

California Energy Commission, "Opportunities to Expand Coastal Power Plants in California – Staff Report," May 30, 1980.

Northshore at Mandalay Bay Draft Environmental Impact Report, August 1998.

Northshore at Mandalay Bay Final Environmental Impact Report, March 1999.

Southern California Edison Company, Letter to City of Oxnard – Planning and Environmental Services Division, February 16, 2006.

Southern California Edison Company, Letter to City of Oxnard – Planning and Environmental Services Division, April 19, 2007.

Southern California Edison Company, Letter to City of Oxnard – Planning and Environmental Services Division, June 13, 2007.

Southern California Edison Company, Letter to City of Oxnard – Planning and Environmental Services Division, June 27, 2007.

Southern California Edison Company, Appeal from City of Oxnard CDP No. 06-400-05, August 9, 2007.

Southern California Edison Company, Letter to California Coastal Commission (with attachments), February 21, 2008.

Southern California Edison Company, Letter to California Coastal Commission (with attachments), March 21, 2008.

Southern California Edison Company, Letter to California Coastal Commission (with attachments), April 9, 2008.

Southern California Edison Company, Letter to California Coastal Commission (with attachments), June 24, 2008.

Southern California Edison Company, Letter to California Coastal Commission (with attachment), June 17, 2008.

Southern California Edison Company, Letter to California Coastal Commission, June 26, 2008.

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Appendix B: Selection of Applicable Local Coastal Policies

Local Coastal Policy 6 states, in relevant part: *As a part of the Phase III Implementation portion of the LCP process, a resource protection ordinance was created, defining the only uses permitted in areas designated on the land use map with the Resource Protection Zone. The ordinance incorporated the following policies which the City will implement to the extent of its legal and financial ability:*

f. …
g. …
h. …
i. *New development adjacent to wetlands or resource protection areas shall be sited and designed to mitigate any adverse impacts to the wetlands or resource.*

A buffer of 100 feet in width shall be provided adjacent to all resource protection areas. The buffer may be reduced to a minimum of 50 feet only if the applicant can demonstrate the large buffer is unnecessary to protect the resources of the habitat area. All proposed development shall demonstrate that the functional capacity of the resource protection area is maintained. The standards to determine the appropriate width of the buffer area are:

1) biological significance of the area
2) sensitivity of the species to disruption
3) susceptibility to erosion
4) use of natural and topographical features to locate development
5) parcel configuration and location of existing development
6) type and scale of development proposed
7) use of existing cultural features to locate buffer zones

When a development is proposed within an environmentally sensitive habitat or a resource protection area, or within 100 feet of such areas, a biological report shall be prepared which includes applicable topographic, vegetative and soils information. The information shall include physical and biological features existing in the habitat areas. The report shall be prepared by a qualified biologist, and shall recommend mitigation measures to protect any impacted resources. All recommendations shall be made in cooperation with the State Department of Fish and Game. When applicable, restoration of damaged habitats shall be a condition of approval.

j. *When a development is proposed within or near an environmentally sensitive habitat area, applicable topographic, vegetative and soils information shall be provided. The information shall include physical and biological features existing in the habitat areas.*

Local Coastal Policy 9 states: *Wetlands shall be defined as:*

> *Land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes. In certain types of wetlands, vegetation is lacking and soils are poorly developed or absent as a result of frequent and drastic fluctuations of surface water levels, wave action, waterflow, turbidity or high concentrations of salts or other substances in the water or substrate. Such wetlands can be recognized by the presence of surface water or saturated substrate at some time during the year, and their location within, or adjacent to, vegetated wetlands or deep-water habitats.*

Local Coastal Policy 10 states, in relevant part: *The water quality of the City's coastal waters shall be maintained and, where feasible, restored by the following:*

a. The effects of wastewater discharges which release toxic substances into coastal waters, streams, wetlands, estuaries and lakes shall be minimized, and, where feasible, toxic substances should be removed. Wastewater discharges which do not contain toxic substances and which are necessary to sustain the functional capacity of streams, wetlands, estuaries and lakes shall be maintained.
b. …
c. The effects of increased amounts of runoff into coastal waters, streams, wetlands, estuaries and lakes due to development shall minimize through, among other means, grading and other site development controls, and buffer zones.
d. …
e. Naturally occurring vegetation that protects riparian habitats shall be maintained and, where feasible, restored.
f. …
g. …

Local Coastal Policy 52 states, in relevant part: *Industrial and energy-related development shall not be located in coastal resource areas, including sensitive habitats, recreational areas, and archaeological sites. All development adjacent to these resource areas or agricultural areas shall be designed to mitigate any adverse impacts…*

Local Coastal Policy 57 states: *If it is not possible to reroute pipelines around coastal resource areas, including habitat, recreational and archeological areas, they shall be permitted to cross the areas with the following conditions:*

a. Pipeline segments shall, in case of break, be isolated by automatic shut-off valves or with other safety techniques approved by the City. If the City determines it is necessary, the valves may be located at intervals less than the maximum required by the Department of Transportation.
b. Any routing through resource areas shall be designed to minimize the impacts of a spill, should it occur, by considering spill volumes, durations and trajectories.

Plans for appropriate measures for cleanup shall be submitted with permit applications for all pipeline project proposals.

c. *Except for pipelines exempted from coastal development permits under Sections 30610(c) and (e) of the Coastal Act as defined by the State Coastal Commission's Interpretive Guidelines, a survey shall be conducted along the route of any proposed new pipeline in the coastal zone to determine what, if any, coastal resources may be impacted, by construction and operation of the proposed pipeline. The costs of this survey shall be borne by the applicant. This survey may be conducted as part of environmental review if an EIR is required.*
d. *The survey shall be conducted by a consultant selected jointly by the applicant, the City, and the Department of Fish and Game. If it is determined that the area to be disturbed will not re-vegetate naturally or sufficiently quickly to avoid erosion or other damage, the applicant shall submit a re-vegetation plan. The plan shall also include provisions for the restoration of any habitats disturbed by construction or operation of the proposed pipeline.*
e. *For projects where a re-vegetation plan and/or habitat restoration plan has been required, the area crossed by the pipeline shall be re-surveyed one year after completion of construction to determine the effectiveness of the plan. This survey shall continue on an annual basis to monitor progress in returning the site to preconstruction conditions until the City has determined that the vegetation restoration is complete.*
f. *The City shall require the posting of a performance bond by the applicant to ensure compliance with these provisions.*
g. *Herbicides shall not be used during pipeline construction. The sidecasting of soil may be restricted where the City deems necessary by removal of excess soil to an approved dumping site after the excavation has been backfilled and compacted. The City may require that the trenches be filled by replacing the soil horizons in sequence.*