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STAFF REPORT: REGULAR CALENDAR

Application No.: 9-20-0257

Applicant: San Diego Gas and Electric Co.

Location: Cities of Del Mar and San Diego, primarily along the Interstate 5 corridor and within San Dieguito Lagoon, San Diego County

Project Description: Reconfiguration of existing overhead power line to new underground configuration, removal of overhead power line, and conversion of existing overhead power line to underground configuration. ([Exhibit 1](#)).

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

San Diego Gas and Electric Co. (SDGE) proposes to perform work on existing utility lines between the Del Mar Substation and the Del Mar Tap, including removing 6 miles of overhead power line, undergrounding 4,530 feet of distribution lines, and reconfiguring 700 feet of overhead power line to 1 mile of new underground duct bank ([Exhibit 2](#)). The proposed Project includes work on four different lines, TL674A, TL666D, C510, and C738. Work would occur entirely in the coastal zone, in the City of Del Mar and the northern portion of the City of San Diego along the Interstate 5 corridor ([Exhibit 1](#)).

The proposed Project will reduce impacts that the existing lines have on environmentally sensitive areas within and adjacent to the Torrey Pines Extension and the San Dieguito and Los Peñasquitos lagoons by removing power lines from those areas. The existing power lines cross sandy beach, coastal wetlands, bluffs, and eroded canyons that restrict access needed for repair and maintenance work on power lines and supporting infrastructure. SDGE also proposes to underground overhead distribution lines in order to increase the safety and reliability of the transmission system.

The proposed Project qualifies as a repair and maintenance project under the Coastal Act but nevertheless requires a CDP because the Project involves the clearing of more than 500 square feet (0.01 acres) of vegetation and would involve the removal of vegetation within sensitive habitat areas. In considering a permit application for a repair or maintenance project, the Commission's evaluation focuses on the proposed methods of repair and maintenance and does not extend to an evaluation of the underlying existing development's conformity with the Coastal Act.

The key Coastal Act issues raised by the proposed Project are the potential for adverse impacts to marine and upland sensitive habitat areas. The proposed Project will have 168.5 square feet of temporary impacts in coastal salt marsh and southern arroyo willow riparian forest habitats. To minimize adverse impacts to these wetland habitats, the staff recommends the Commission adopt several conditions. **Special Condition 4** requires SDGE to submit a Recovery and Monitoring Plan, and **Special Condition 5** requires SDGE to submit a Spill Prevention and Response Plan. The proposed Project will also have approximately 2,393 square feet (0.06 acres) of temporary impacts and 7.1 square feet of permanent impacts to sensitive upland habitats, including coastal sage scrub. As mitigation for permanent impacts to coastal sage scrub, **Special Condition 3** requires SDGE to provide mitigation at an existing mitigation banking site, known as the Cielo B Banking Site, at a mitigation credit to impact ratio of six to one on an area basis. If areas of sensitive habitat that are temporarily affected by the proposed Project do not meet recovery criteria following two years of monitoring, **Special Condition 4** requires that mitigation credits from the Cielo B Banking Site also be provided at the same six to one ratio.

The proposed Project has been designed to avoid impacts to identified cultural resources near specific work sites. However, there is potential for previously unidentified cultural resources to be disturbed as a result of ground disturbance associated with Project construction activities. If cultural resources are found, to minimize potential adverse impacts to cultural resources, **Special Condition 6** requires buffers to be established around every known and previously unidentified archaeological site in areas where ground disturbance is anticipated. **Special Condition 6** also requires that a Cultural Resource Monitor will be present for all ground disturbing activities in cultural resource sites of significance.

Staff recommends the Commission find the proposed Project, as conditioned, consistent with the environmental, biological, cultural, and other resource protection

policies of the Coastal Act. Staff recommends that the Commission **approve** coastal development permit application 9-20-0257 as conditioned. The motion is on page 5.

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EXHIBITS

[Exhibit 1](#) – Project Map

[Exhibit 2](#) – Project Components

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[Exhibit 4](#) – Vegetation Community Maps

I. MOTION AND RESOLUTION

1. Coastal Development Permit

Motion:

*I move that the Commission **approve** Coastal Development Permit No. 9-20-0257 pursuant to the staff recommendation.*

Staff Recommendation:

Staff recommends a **YES** vote on the foregoing motion. 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:

The Commission hereby approves Coastal Development Permit No. 9-20-0257 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) 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

The Coastal Development Permit (CDP) No. 9-20-0257 is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. **Interpretation.** Any questions of intent 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 the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

CDP No. 9-20-0257 is subject to the following special conditions:

1. **Mitigated Negative Declaration Mitigation Measures.** This permit incorporates those mitigation measures identified in the March 2019 Initial Study Mitigation Monitoring and Reporting Plan concerning biological resources, cultural resources, paleontological resources, hazardous materials, and public access that are attached to this report as [Exhibit 3](#).
2. **Other permits and approvals.** PRIOR TO THE COMMENCEMENT OF PROJECT ACTIVITIES, the Permittee shall provide to the Executive Director copies of all other local, state, and federal permits and authorizations required to perform Project-related work, or evidence that no permits are required. These permits and approvals include:
 - a. **Regional Water Resources Control Board.** Non-point Discharge Elimination System (NPDES) authorization under the Construction General Permit (Order No. 2009-0009-DWQ).
 - b. **California State Parks.** Right-of-entry-permit for construction, operation and maintenance within state park land.
 - c. **California Department of Transportation.** Encroachment permit for construction, operation and maintenance within, under, or over a state right-of-way.
3. **Mitigation for Permanent Impacts to Sensitive Habitats.** WITHIN 30 DAYS OF THE COMPLETION OF THE PROJECT, the Permittee shall provide to the Executive Director for review and approval a detailed report describing permanent impacts that occurred to sensitive habitats, including coastal sage scrub, as a result of the Project. This report shall include identification of such impacts at individual work sites as well as a cumulative total across the Project, and thus shall provide the basis for establishing the amount of mitigation banking

credits that will be obtained from the existing Cielo B Mitigation Bank. Mitigation banking credits shall be provided at a ratio of six credit units (square feet) per square foot of permanent impact to sensitive habitats. Within 30 days of the Executive Director's approval of the permanent impact report, the Permittee shall provide the Executive Director with evidence of having obtained the appropriate amount of mitigation banking credits.

- 4. Recovery and monitoring plan for temporary Impacts.** PRIOR TO THE START OF CONSTRUCTION, the applicant shall provide to the Executive Director for review and approval a recovery and monitoring plan to address temporarily disturbed sensitive wetland and upland habitats. The recovery and monitoring plan shall incorporate the pertinent activities outlined in the SDGE NCCP applicable to this Project (including the identification of a reference site for monitoring purposes, hydroseeding and reuse of stockpiled topsoil, and measures for the prevention of establishment of non-native vegetation). The plan shall describe monitoring protocols, timelines for evaluation of restored habitat, and recovery success criteria for each target vegetation type including the diversity of native species and percent vegetation cover of native species and non-native species. The cover of native species should increase and the cover of non-native species should decrease to values comparable to established stands of the target vegetation or a model reference site. Success criteria will demonstrate net loss of habitat value within two years and show that biological productivity will be maintained. The recovery and monitoring program shall also incorporate the following measures:

 - a. After one year of monitoring, SDGE shall provide the Executive Director with a status report, documenting progress of temporarily affected sites toward meeting success criteria and any adaptive measures that will be undertaken.
 - b. After two years of monitoring, SDGE shall provide the Executive Director with a final monitoring report, identifying areas of sensitive wetland and upland habitat that have and have not met recovery success criteria.
 - c. Areas of sensitive wetland and upland habitat identified in this final monitoring report that have not met success criteria at the end of the two year monitoring period shall be mitigated for at a 6:1 credit to impact ratio (calculated on an area basis) using credits obtained from the Cielo B mitigation site. Within 30 days of the Executive Director's review and approval of this final monitoring report, the permittee shall provide the Executive Director with evidence of obtaining the appropriate amount of mitigation banking credits.
- 5. Spill Prevention and Response Plan.** PRIOR TO THE COMMENCEMENT OF PROJECT ACTIVITIES, the Permittee shall submit a Project-specific Spill Prevention and Response Plan to the Executive Director for review and approval. The Plan shall identify the worst-case spill scenario and demonstrate that adequate spill response equipment will be available. The Plan shall also include a detailed description of all preventative measures the Permittee will implement to avoid spills and clearly identify responsibilities of Permittee personnel and any

contractors employed, and shall list and identify the location of oil spill response equipment and appropriate protocols and response times for deployment. Vehicles and heavy equipment left at laydown area during non-work hours shall have drip pans or other means of collecting dripped fuel, lubricants or other hazardous materials, which shall be collected and disposed of off-site.

6. Tribal monitoring of ground disturbance activities. In addition to paleontological and habitat monitoring required by the mitigation measures identified in the March 2019 Initial Study Mitigation Monitoring and Reporting Plan (incorporated into this permit under Special Condition 1), the Permittee shall provide for monitoring of all ground disturbance activities associated with the proposed Project by the Viejas Band of Kumeyaay Indians. Following completion of construction activities, copies of the final archeological, cultural, and paleontological resource monitoring reports shall be submitted to the Executive Director for review and approval.

7. Indemnification by Applicant. By acceptance of this permit, the permittee agrees to reimburse the Coastal Commission in full for all Coastal Commission costs and attorney's fees -- including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorney's 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 permittee against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION

San Diego Gas and Electric Co. (SDGE) proposes to remove, reconfigure, and underground four existing utility lines located along the Interstate 5 corridor in the City of Del Mar and the northern portion of the City of San Diego ([Exhibit 1](#)). The entire Project lies within the coastal zone, with portions occurring within and adjacent to the Torrey Pines Extension and the San Dieguito and Los Peñasquitos lagoons. According to SDGE, the Project would eliminate the need to access poles in environmentally sensitive areas and increase the safety and reliability of the transmission system. The Project is divided into four components: removal of overhead power line TL666D, reconfiguration of overhead power line TL674A, conversion of overhead power line C510, and conversion of overhead power line C738. [Exhibit 2](#) identifies the entire extent of the Project and depicts the locations of the four Project components.

SDGE proposes to depower and remove 6 miles of existing overhead power line, referred to as TL666D. TL666D begins at the Del Mar Substation and extends south passing through the San Dieguito Lagoon, residential areas, Torrey Pines State Natural Reserve Extension, Torrey Pines State Natural Reserve, Los Peñasquitos Lagoon and ends at a steel pole east of Sorrento Valley Road. TL666D is comprised of 93 existing

wood and steel poles. As part of the TL666D component, 34 existing wood poles would be removed, 51 wood poles would be topped, and one wood pole would be reconfigured. An additional six existing steel poles would be topped and one existing steel pole would be reconfigured. Topped poles would be cut approximately one foot above the distribution level. Poles located within the Torrey Pines Extension, and San Dieguito and Los Peñasquitos lagoons would be cut near ground level with pole bases left in place to reduce potential adverse impacts from ground disturbance. SDGE will employ helicopters to facilitate pole removal in environmentally sensitive areas where ground-based crews would have difficulty accessing safely. Helicopters would be staged at specific fly yards and depart from local airports following SDGE's existing right-of-way (ROW). SDGE will submit a flight authorization request to the Federal Aviation Administration for review and approval of all helicopter operations.

As part of the TL674A reconfiguration, SDGE proposes to remove approximately 700 feet of existing overhead power line and install 1.1 miles of underground duct bank that would connect to the Del Mar Substation. As part of this work, the Rancho Santa Fe tap, an existing wood pole, would be modified by removing its existing hardware, and two new dilled steel poles would be installed within Del Mar Horsepark. The new steel poles would be approximately 85 feet tall, 3 to 4 feet in diameter at their base, and taper to 1.5 feet at their tip. One steel pole would be constructed on approximately 7 foot diameter concrete pier foundation and have footings extending 32 feet below ground surface. The second steel pole would be direct-buried with no foundation. The new 1.1 miles of underground duct bank would consist of 3 copper cables and would connect to the Del Mar Substation. At the Del Mar Substation, the existing circuit breaker would be replaced with a new circuit breaker.

As part of the C510 conversion, SDGE proposes to remove five existing wood poles and convert 3,900 feet of C510 overhead power line to an underground configuration. As part of this work, one new wood pole, approximately 41.5 feet tall, would be directly buried at the northwest end of C510 east of San Dieguito Road. New wood riser poles would measure 1.5 feet in diameter at the base and taper to approximately 0.75 feet at the top. One new, dilled steel pole, approximately 50 feet tall, would be installed on a foundation approximately two feet above grade at the southeast end of C510 east of Racetrack View Drive. The concrete pier foundation would be approximately 6 to 7 feet in diameter and extend approximately 20 to 30 feet deep. A temporary wood pole, approximately 80 feet tall, would be directly buried near the new steel pole to provide clearance for the existing wire and would be removed once the new wood pole is installed. To connect the new underground duct bank to existing overhead poles, two new 50-foot-tall wood riser poles would be installed. Approximately 3,600 feet of new underground duct bank, containing five PVC conduits, would extend along San Dieguito Drive and Racetrack View Drive. An aboveground transformer would be installed on a 78 by 59 inch concrete pad along the underground route.

As part of the C738 conversion, SDGE proposes to install one new 50-foot-tall wood riser pole at the beginning of the C738 segment, convert one existing wood pole to a riser pole at the end of the C738 segment, and remove two existing wood poles from

service. The new poles would have a base diameter of approximately 1.5 feet and taper to approximately 0.75 feet at the top. SDGE would also convert one existing steel pole to a stub pole approximately 45 feet tall, with a diameter of 4 feet at the base and 1.5 feet at the top. Approximately 190 feet of overhead power line crossing Peñasquitos Lagoon would be removed. Two new riser poles and 630 feet of underground duct bank containing two PVC conduits would be installed along the Sorrento Valley Pedestrian/Multi-Use Path at the end of C738.

Construction activities are anticipated to occur during normal work hours, six days a week. SDGE will use existing public roadways, access roads, all-terrain vehicle roads, and footpaths. Vehicles would remain on existing roads, previously disturbed areas, and designated temporary work areas. Temporary footpaths may require vegetation trimming and removal of a 0.35 acre area. Four temporary staging and fly yard sites would be located on flat and previously disturbed or developed areas. SDGE would use these areas as storage for construction equipment, vehicle parking, pole assemblage, refueling area, and landing areas for helicopters. Helicopters flight paths would remain within SDGE's ROW to the maximum extent practical. SDGE expects helicopters to operate for up to eight hours a day for ten days during Project construction.

Wood poles removed as part of the proposed Project would be re-used, recycled, or appropriately disposed. SDGE will restore areas that have been impacted by Project-related activities to pre-construction conditions. Restoration plans could include reseeding, planting replacement vegetation, replacing removed or damaged structures and paved surfaces, and removing all construction materials and debris.

B. OTHER AGENCY APPROVALS AND TRIBAL CONSULTATIONS

Jurisdiction and Standard of Review

The proposed Project components would be located in several jurisdictions within and outside the coastal zone. The Commission is conducting a consolidated permit review for those components within the coastal zone and certified Local Coastal Program ("LCP") jurisdiction of the City of Del Mar and City of San Diego. The standard of review for these Project components is Chapter 3 of the Coastal Act.

California Public Utilities Commission (CPUC)

The California Public Utilities Commission (CPUC) serves as lead agency under the California Environmental Quality Act (CEQA), meaning it has primary responsibility for carrying out the environmental review of the proposed project. The CPUC completed a Mitigated Negative Declaration (MND) for the proposed Project in March 2019 and determined that the proposed project would not have a significant effect on the environment with the incorporation of the proposed mitigation measures.

Regional Water Resources Control Board

Because the Project includes construction activities that would affect more than one acre of land, it requires authorization under the federal Clean Water Act National Pollutant Discharge Elimination System (NPDES). The Project qualifies for an NPDES Construction General Permit (State Water Board Order No. 2009-0009-DWQ). SDGE is in the process of acquiring this permit.

Tribal Outreach and Consultations

During the review of this Project, Commission staff reached out to representatives from Native American Tribes understood to have current and historic connections to the Project area: Barona Group of the Capitan Grande, Campo Band of Diegueno Mission Indians, Ewiiapaayp Band of Kumeyaay Indians, Lipay Nation of Santa Ysabel, Inaja-Cosmit Band of Indians, Jamul Indian Village, Kwaaymii Laguna Band of Mission Indians, La Posta Band of Diegueno Mission Indians, Manzanita Band of Kumeyaay Nation, Mesa Grande Band of Diegueno Mission Indians, San Pasqual Band of Diegueno Mission Indians, Sycuan Band of the Kumeyaay Nation, and Viejas Band of Kumeyaay Indians. Contact information for these Tribal Representatives was provided by the Native American Heritage Commission.

The Jamul Indian Village of California Tribal Historic Preservation Office responded to Commission staff's outreach letter and requested to be notified about Project updates regarding previously reported or newly discovered cultural sites within the Project boundaries. At the time of publication of this staff report, no other Tribal questions or concerns had been brought to the attention of Commission staff. Any concerns raised subsequent to the publication of this report will be included in an addendum to this staff report.

C. PERMIT AUTHORITY, EXTRAORDINARY METHODS OF REPAIR AND MAINTENANCE

The proposed Project qualifies as a repair and maintenance project, as it consists of maintenance of portions of existing utility lines through the removal of power lines and conversion of overhead lines to underground configurations. Coastal Act Section 30610(d) generally exempts from Coastal Act permitting requirements the repair or maintenance of structures that does not result in an addition to, or enlargement or expansion of the object of the repair and maintenance activities. This proposed Project would not result in any enhanced capacity or expansion of the existing power line.

However, even if a project qualifies as a repair and maintenance project under Section 30610(d), the Commission retains authority to review certain "extraordinary methods of repair and maintenance" of existing structures that involve a risk of substantial adverse environmental impact as described in Section 13252 of the Commission regulations.

Section 30610 of the Coastal Act provides, in relevant part (emphasis added):

Notwithstanding any other provision of this division, no coastal development permit shall be required pursuant to this chapter for the following types of development and in the following areas: ...

(d) Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of those repair or maintenance activities; provided, however, that if the commission determines that certain extraordinary methods of repair and maintenance involve a risk of substantial adverse environmental impact, it shall, by regulation, require that a permit be obtained pursuant to this chapter.

Section 13252 of the Commission administrative regulations (14 CCR 13000 et seq.) provides, in relevant part, for the following (emphasis added):

(a) For purposes of Public Resources Code section 30610(d), the following extraordinary methods of repair and maintenance shall require a coastal development permit because they involve a risk of substantial adverse environmental impact:...

(3) Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area, any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams that include:

(A) The placement or removal, whether temporary or permanent, of rip-rap, rocks, sand or other beach materials or any other forms of solid materials;

(B) The presence, whether temporary or permanent, of mechanized equipment or construction materials.

All repair and maintenance activities governed by the above provisions shall be subject to the permit regulations promulgated pursuant to the Coastal Act, including but not limited to the regulations governing administrative and emergency permits. The provisions of this section shall not be applicable to methods of repair and maintenance undertaken by the ports listed in Public Resources Code section 30700 unless so provided elsewhere in these regulations. The provisions of this section shall not be applicable to those activities specifically described in the document entitled Repair, Maintenance and Utility Hookups, adopted by the Commission on September 5, 1978 unless a proposed activity will have a risk of substantial adverse impact on public access, environmentally sensitive habitat area, wetlands, or public views to the ocean....

Section II-B-1-e of the document entitled "Repair, Maintenance and Utility Hookup Exclusions from Permit Requirements" adopted by the Commission on September 5, 1978 states the following, in relevant part:

e. Grading and Clearing. Maintenance activities shall not extend to the construction of any new roads to the site of the work. A permit is required for grading an undisturbed area of greater than 500 sq. ft., removal of trees exceeding 12 inches dbh or clearing more than 500 sq. ft. of brush or other vegetation...

According to Section 30610 of the Coastal Act and Section II-B-1-e of the 1978 Utility Exclusions, the proposed Project has the potential to have adverse environmental impacts because construction activities would involve vegetation clearing of more than 500 square feet (0.01-acre) of vegetation, and would involve the temporary (0.051 acres) and permanent (<0.001 acres) removal of vegetation within sensitive upland areas. The proposed pole removal and power line undergrounding Project therefore requires a coastal development permit under Section 30610 of the Coastal Act, Section II-B-1-e of the 1978 Utility Exclusions, and Section 13252 of the Commission regulations.

In considering a permit application for a repair or maintenance project pursuant to the above-cited authority, the Commission reviews whether the proposed *method* of repair or maintenance is consistent with the Chapter 3 policies of the Coastal Act. In other words, the Coastal Commission's authority over repair and maintenance activities applies only to the methods by which a repair and maintenance activity is carried out. The Commission's evaluation of such repair and maintenance projects does not extend to an evaluation of the underlying existing development's conformity with the Coastal Act.

D. WETLAND RESOURCES

Coastal Act Section 30233 states:

The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

- (4) *Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*
- (5) *Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*
- (6) *Restoration purposes.*
- (7) *Nature study, aquaculture, or similar resource dependent activities.*

The proposed Project includes construction activity in wetland habitats along an approximately six mile long existing utility corridor, extending over a Project area of approximately 28.2 acres. SDGE conducted a wetland delineation for the Project area in accordance with the “one parameter definition” described in the Coastal Act. SDGE conducted preliminary surveys within the Biological Survey Area, an approximately 8-mile-long existing utility corridor with a 150-foot-wide buffer along either side of the center line of linear proposed Project features, and a 100-foot-wide buffer surrounding non-linear proposed Project features. SDGE also identified on maps where vegetation communities and special status species occur in the Project area ([Exhibit 4](#)). Approximately 19.9 acres of the Project area would occur in urban, developed, or disturbed habitat. Habitat assessments confirmed that these areas do not support native vegetation or support predominately non-native introduced species.

Vegetation surveys conducted for the proposed Project identified four wetland communities along the Project corridor that would be potentially affected by the proposed Project. These four communities include approximately 4.92 acres of coastal salt marsh, coastal and valley freshwater marsh, Southern Arroyo willow riparian forest, and open water habitats. Coastal salt marsh typically supports woody-stemmed species such as seablite, willows, and Alkali heath. Estuary seablite (*Suaeda esteroa*) is a special-status plant present within one mile the Project area. Belding’s Savannah Sparrow (*Passerculus Sandwichensis Beldingi*) is a California endangered species and has been observed within one mile of the Project area. Aquatic plant species including cattails, sedges, reeds, spikerushes, and bulrushes are typically found in coastal and valley freshwater marsh. Least Bell’s Vireo (*Vireo bellii pusillus*), Least Bittern (*Ixobrychus exilis*), and Northern Harrier (*Circus cyaneus*) are special-status bird species that have a high potential to occur or are present within one mile of the Project area. Southern Arroyo willow riparian forest supports broadleaf trees like the arroyo willow (*Salix lasiolepis*) and understory shrub like mulefat (*Baccharis salicifolia*). Open water habitats include multiple vegetation communities that are either periodically or permanently flooded including beaches, mudflats, freshwater, and estuarine communities.

Although the end result of the TL666D removal will ultimately decrease adverse impacts to wetland habitats, removal activities have the potential to result in temporary impacts. Approximately 168.5 square feet (<0.01 acres) of coastal salt marsh and Southern Arroyo willow riparian forest would be temporarily impacted by construction activities. SDGE does not expect any permanent impacts to wetland habitats. Construction

activities in wetland areas include removal of overhead power line and poles using helicopters, topping of poles, and creation of temporary walking paths to work areas. Construction activities may have adverse impacts on wetland habitats through trampling, inadvertent disturbance, or removal of native vegetation. Accidental spill of hazardous materials and waste from staging areas and vehicles could also result in adverse impacts to water quality.

Projects that include excavation or fill of wetlands must meet the three tests of Coastal Act Section 30233(a). The first test requires that the proposed activity fit into one of seven categories of uses enumerated in Coastal Act Section 30233(a)(1-7). However, in this case, because the Commission is solely reviewing the method by which the applicant executed the repair and maintenance activities, the first test under Section 30233(a) is not applicable. The second test requires that there be no feasible less environmentally damaging alternative. The third and final test mandates that feasible mitigation measures be provided to minimize the Project's adverse environmental effects.

The second test of Section 30233 requires an assessment of whether there are feasible less environmentally damaging alternatives. As discussed above, the purpose of the Project is to remove a utility line out of sensitive wetland habitat areas in the San Dieguito and Los Peñasquitos lagoons. SDGE is required to periodically access these sensitive areas and perform maintenance and repair of TL666D. TL666D crosses through the San Dieguito and Los Peñasquitos lagoons, both of which contain a variety of environmentally sensitive habitats and support special-status animal and plant species. Allowing the existing utility lines to remain in place would result in continued adverse impacts including trampling and disturbance of vegetation and wildlife. The diverse landscape of these areas also restricts vehicular and equipment access needed for regular maintenance and repair of TL666D. SDGE calculated that the long-term adverse impacts of continued maintenance and repair of TL666D would result in 500 square feet of permanent and 9,400 square feet of temporary impacts to sensitive upland and wetland habitats. Therefore, avoiding the work is not an environmentally preferable option.

In addition, SDGE has developed mitigation measures to reduce potential adverse impacts from construction activities related to the removal of utility line in wetlands. For example, buffers would be implemented around wetland areas and Project activities, based on the biological sensitivity of the area and the level of disturbance expected from the activity. Temporary footpaths would not require any vegetation trimming or removal prior to use. Temporary staging areas, fueling sites, and equipment maintenance would be located a minimum distance of 50 feet away from aquatic resources and sensitive habitats in order to minimize impacts to vegetation and water quality. Helicopters would be used in sensitive wetland areas to avoid trampling and other construction-related disturbance to vegetation and wildlife. A biological monitor will observe Project activities within such areas from a safe distance, assisted by binoculars as needed. **Special Condition 4** requires SDGE to develop a recovery and monitoring plan for temporary impacts to wetland areas. The plan shall describe recovery success

criteria for each habitat type and monitoring protocols and timelines for evaluation of restored habitat. If wetland habitats do not recover after two years of monitoring, these impacts would then be mitigated for at a 6:1 credit to impact ratio (calculated on an area basis) using credits obtained from the Cielo B mitigation site, as described below.

The proposed removal of TL666D and undergrounding would ultimately be beneficial for sensitive habitats and wildlife in this area by eliminating long-term adverse impacts related to continued maintenance and repair of this line. Furthermore, the proposed Project has been designed to avoid or minimize wetland impacts. Based on the above considerations, the Commission therefore finds that there are no feasible less environmentally damaging alternatives to the proposed Project, and that the Project therefore has met the second test of Coastal Act Section 30233.

The third test under section 30233 requires that the Project include feasible mitigation measures to minimize adverse environmental effects. SDGE implemented several mitigation measures related to wetland and upland monitoring of vegetation and wildlife, water quality and spill prevention and response, as described in further detail in the following section of this report. In addition, to minimize adverse impacts, to wetland habitats during construction activities, the Commission is requiring **Special Conditions 1, 4, and 5**. These measures require SDGE to flag, fence, and/or install signage indicating to workers the locations of biologically sensitive habitats. In addition, biological monitors would be present during all activities within special-status species habitat and sensitive natural communities and would have the authority to stop construction if they determine that Project-related activities present a threat to sensitive biological resources. A Nesting Bird Management Plan will be prepared that will include pre-construction nesting bird surveys, buffers for active nests, and daily nesting bird reports. To help prevent potential spills and ensure adequate response measures are in place, **Special Condition 5** requires SDGE to submit a Spill Prevention and Response Plan to the Executive Director for review and approval prior to the commencement of construction activities. With these conditions in place, the Commission finds that the third test of Coastal Act Section 30233(a) was met.

For the reasons above, and as conditioned, the Commission has determined that the Project represents the least environmentally damaging feasible alternative and includes feasible mitigation measures, and is therefore consistent with Section 30233 of the Coastal Act.

E. UPLAND HABITAT IMPACTS

Section 30107.5 of the Coastal Act states:

“Environmentally sensitive area” means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activity and developments.

Coastal Act Section 30240 states:

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

Coastal Act Section 30232 states:

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

Approximately one acre of sensitive upland vegetation communities occur within the Project area, including Torrey pine forest, scrub oak chaparral, southern maritime chaparral, southern mixed chaparral, and coastal sage scrub. These habitats typically contain suitable habitat for rare and sensitive species. Torrey pine forest supports the Torrey pine (*Pinus torreyana*), an endangered species endemic to the Torrey Pines State Natural Reserve and Santa Rosa Island. There is an existing natural stand of Torrey pine forest near the City of Del Mar and Torrey Pines State Reserve and several non-naturally occurring individuals have been observed in Del Mar within the Project area. Scrub oak chaparral is a densely wooded chaparral community dominated by Nuttall's scrub oak, a seriously threatened plant in California, and occasionally inland scrub oak. The federally endangered Del Mar Manzanita (*Arctostaphylos glandulosa*) and wart-stemmed ceanothus dominate southern maritime chaparral, an open chaparral community. Southern mixed chaparral is a shrub community with an open understory, dominated by lilacs, Nuttall's scrub oak, Belding's orange-throated whiptail (*Aspidoscelis hyperythra beldingi*), and San Diego desert woodrat are also known to occur in southern mixed chaparral. Coastal sage scrub is dominated by low, woody shrubs, with succulent species also present. California sagebrush (*Artemisia californica*), California buckwheat (*Eriogonum fasciculatum* var. *fasciculatum*), laurel sumac (*Malosma laurina*), lemonadeberry (*Rhus integrifolia*), California encelia (*Encelia californica*), and black sage (*Salvia mellifera*) are the dominant plant species. In previous surveys, Coastal California gnatcatcher (*Polioptila Californica Californica*) has been observed within the larger study area.

Approximately 0.03 acres of coastal sage scrub, 0.02 acres of mixed chaparral, and less than 0.01 acres of Torrey pine forest would be temporarily impacted by

construction activities. Construction activities in these upland areas include removal of overhead power line, removal of poles from service, topping of existing poles, replacement of two wood poles with steel poles, and reconfiguration of pole hardware. Although the Project would be located mostly within existing utility corridors and established paved work areas of existing facilities, it is also expected to result in 7.1 square feet (~0.0001 acres) of permanent impact in coastal sage scrub habitat. Permanent impacts include the installation of operation pads for new steel and wood poles, and openings associated with undergrounding of new cable. Approximately 0.051 acres of vegetation would be removed from coastal sage scrub, riparian forest, southern coastal salt marsh, chaparral, and Torrey pine forest habitats for work clearance but be allowed to grow back. In addition, 0.001 acres of vegetation within coastal sage scrub would be permanently removed to prepare construction areas for use. SDGE would use mowers, excavators, and/or hand tools to clear vegetation from work areas as needed. To minimize adverse impacts, SDGE has committed to using mitigation measures to avoid and minimize impacts to ESHAs during construction activities. For example, SDGE will develop a Natural Community, Protected Tree, and Plant Protection Plan that will provide measures to protect special-status plants including minimal trimming of trees, topsoil salvage, recontouring areas to pre-construction conditions, and allowing disturbed areas to revegetate naturally. There would be no removal of trees, although tree trimming may be required to ensure construction areas are accessible. Pre-construction surveys would identify the locations of special-status plants which would be demarcated with flagging, fencing, and/or signage to prevent damage from Project-related activities. If areas of sensitive wetland and upland habitat have not recovered from temporary impacts at the end of a two year monitoring period, **Special Condition 4** requires SDGE to mitigate for these now permanent impacts at a 6:1 credit to impact ratio (calculated on an area basis) using credits obtained from the Cielo B mitigation site.

Mitigation measures

To address potential effects to biological resources found in both wetland and upland Project areas, the March 2019 Initial Study Mitigation Monitoring and Reporting Plan for the proposed Project includes design measures and construction restrictions. Through **Special Condition 1**, these measures are incorporated into this permit. For example, special-status plant species will be fenced off, biological monitors will be present to observe and stop any work that threatens sensitive biological resources, no work will be done in the lagoons during the nesting bird season, and areas with nesting birds and roosting bats will be protected through avoidance and minimization buffers.

The Regional Water Quality Control Board administers the Non-point Discharge Elimination System (NPDES) general permit for construction activities that disturb more than one acre of land and could result in wastewater charges. Under this permit, SDGE is required to prepare and implement a Stormwater Pollution Prevention Plan and best management practices to minimize potential adverse effects from construction activities including vegetation removal and increased stormwater runoff. **Special Condition 2** requires SDGE to provide proof of Project NPDES authorization to the Executive

Director. For example, best management practices in the SWPPP would include temporary soil stabilization methods, silt fences, and preservation of existing vegetation to the extent practicable.

Direct impacts to special-status bird species include vehicle or helicopter strikes that could result in bodily harm or death or noise disruption that could result in nest abandonment. Indirect impacts could include loss of habitat from vegetation removal or construction runoff. Project-related noise, including helicopter operations, would be intermittent and would mostly remain below the 75 dBA threshold established in local ordinances. To minimize adverse impacts, SDGE has committed to using mitigation measures to avoid and minimize noise impacts to wildlife during construction activities. For example, SDGE will implement noise-reduction measures such as limiting heavy equipment activity adjacent to residences or other sensitive receptors to the shortest possible period required to complete the work activity, ensuring that proper mufflers, intake silencers, and other noise reduction equipment are in place and in good working condition, and when possible, using construction equipment specifically designed for low noise emissions, such as equipment that is powered by electric or natural gas engines instead of diesel or gasoline reciprocating engines.

Mitigation for Permanent Impacts

As indicated previously, the proposed Project would result in permanent impacts to 7.1 square feet of coastal sage-scrub. As mitigation for these impacts, SDGE proposes to use credits from an existing mitigation banking site, known as the Cielo B Mitigation Bank, which contains these types of vegetation communities and is known to host California gnatcatcher.

The Cielo B Mitigation Bank is part of an agreement originally established in 1995 with the US Fish and Wildlife Service and the CA Department of Fish and Wildlife (then named the Department of Fish and Game), under the authority of the federal Endangered Species Act (ESA) and the California Endangered Species Act (CESA) and Natural Communities Conservation Planning Act. This 1995 agreement implements a Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP) that forms the basis for CESA/ESA authorization for SDGE activities such as routine maintenance and repair of existing utility lines. The NCCP/HCP includes general mitigation measures to avoid and reduce impacts to species listed under the CESA/ESA, including coastal California gnatcatcher. The 1995 agreement was updated in 2016 through USFWS approval of a Low-Effects Habitat Conservation Plan prepared by SDGE which provided for an additional 60 acres of banking “credit” through SDGE funding of additional land acquisition. A Low-Effects Habitat Conservation Plan is a term defined in the ESA as involving minor effects on federally listed, proposed, or candidate species and their habitats, and minor effects on other environmental values or resources.

As part of this agreement, SDGE funded the acquisition of relatively large blocks of land with habitats used by CESA/ESA-listed species, thus establishing a “mitigation bank” to

mitigate unavoidable impacts from SDGE projects to species included in the HCP up to a total footprint of 400 acres. Implementation of this mitigation banking program since 1995 has occurred through Interagency Agreements with the USFWS and CDFW, and includes annual reporting of projects to the agencies to ensure that the mitigation banking sites continue to contain sufficient acreage and credit for SDGE project impacts. Under the terms of the USFWS/CDFW agreement, use of this mitigation bank typically has included a credit to impact ratio of two to one on an area basis (i.e., two units of credit required for each square foot of impact).

The Cielo B Mitigation Bank is located approximately seven miles inland of the coast, south of Camp Pendleton and inland of Encinitas. Cielo B consists of four parcels of land within what is sometimes referred to as the Keithley Unit of the Escondido Creek Conservation Area in an area known as the Elfin Forest. The history and geography of these four parcels are described by SDGE as follows:

SDGE was approached by the U.S. Fish and Wildlife Service (USFWS) (Carlsbad office) and California Department of Fish and Wildlife (CDFW) to assist with purchasing these four parcels in order to provide a large contiguous area capable of supporting genetic diversity in the region and to create a viable wildlife corridor between Cleveland National Forest in the mountains and San Elijo Lagoon on the coast.

[This property] encompasses 730 acres of high-quality habitat and it is further surrounded by conserved land owned by a variety of entities (i.e., Greenlands Preserve and Onyx Ridge Preserve). While [this property] is not located in the coastal zone, it has listed species and sensitive habitat in conservation that also occur in the MCBCP project area and it contributes to creating a viable wildlife corridor connecting to San Elijo Lagoon on the coast. The four parcels funded by SDGE and others encompass 242 acres, which includes the two sensitive habitats associated with TL692: coastal sage scrub (153.9 acres) and valley needlegrass grassland (0.7 acres).

In assessing previous mitigation proposals, the Commission has prioritized addressing habitat impacts through in-kind efforts in which the same habitat that is impacted is provided through mitigation requirements. In this instance, information about the Cielo B properties provided by SDGE demonstrates that the proposed mitigation site does contain similar habitat (coastal sage scrub) that would be affected by the proposed Project, and coastal California gnatcatcher has been documented at the mitigation site. Thus, the proposed mitigation site would provide in-kind mitigation.

The mitigation banking site is located outside of the coastal zone, however. Typically, the Commission requires habitat mitigation to be located at a site within close proximity the proposed Project and to be located within the coastal zone. Furthermore, SDGE's mitigation proposal will result in the preservation of existing ESHA habitat, instead of the

creation or substantial restoration of new habitat areas. In reviewing the proposed mitigation at the Cielo B site, Commission staff considered the following factors:

- The proposed Project is considered repair and maintenance, as described previously, and the purpose is to remove utility lines out of sensitive habitats.
- The relatively small footprint of permanent impact (7.1 square feet) on sensitive habitats has been minimized through pole-specific work site design. The total impact footprint is the cumulative total of proposed work along approximately eight miles of utility line, so that the impacts to sensitive habitat are in small, dispersed, locations.
- Permanent impacts to coastal sage scrub would occur at four locations along the Project alignment. Impacts from installing new wood poles are located directly adjacent to existing roadways or paved paths and are less than two square feet each. Two of the newly installed poles would be offset by the removal of adjacent existing poles. These locations are set in narrow strips of coastal sage scrub located at the edge of the habitat's boundary and offer limited connectivity to adjacent special-status species habitat due to surrounding and future development. Coastal gnatcatcher has not been documented within the areas of expected permanent alignment.
- The proposed mitigation would be at an already-established mitigation banking site that has had longstanding oversight from USFWS and CDFW. The bank includes large blocks of relatively high quality habitat that is occupied by coastal California gnatcatcher, and there is active management of land included in the bank to remove invasive species and prevent habitat degradation resulting from unauthorized access and pathways. Thus, the likelihood that the mitigation bank habitat will be successful in replacing habitat resources lost by the proposed Project is high.

Considering the above factors, the Commission finds that the Cielo B banking site is the best available mitigation alternative and would adequately mitigate impacts associated with the proposed Project. However, the Commission also finds the two-to-one ratio used in the existing mitigation program with USFWS/CDFW does not provide an appropriate acreage of mitigation for the proposed Project due to the following factors: the sensitivity of the affected habitat; the distance of the proposed mitigation banking site from the impact site; the fact that the proposed mitigation is preservation, not restoration; and the banking site's location outside of the coastal zone. Therefore, through **Special Condition 3**, the Commission requires that SDGE provide for

mitigation of these habitats at a ratio of six units from the mitigation banking site for each unit of permanent impact, calculated on an area (square footage) basis, similar to the Commission's recent approval of a 6:1 mitigation ratio for impacts to coastal sage scrub within the Marine Corps Base Camp Pendleton (CDP 9-20-0008). Based on the habitat impact calculations associated with the Project design, this would result in approximately 42.6 square feet of credit applied to this Project from the mitigation banking site. **Special Condition 3** requires SDGE to provide a detailed accounting for Executive Director review and approval of impacts that occur as a result of the proposed Project, including calculation of the square footage of permanent impacts at individual work sites. This accounting shall provide the basis for establishment of the amount of mitigation banking credits that will be obtained.

SDGE proposes to restore areas that are temporarily affected by access to work sites by workers and construction vehicles. In such areas, vegetation would be cleared to no less than four inches above ground and may also be trampled. SDGE will return work areas to original contours, stabilize soil, and restore vegetation as necessary. SDGE will monitor these temporarily disturbed areas to ensure appropriate vegetation recovery and minimize the establishment of invasive or non-native species. It is possible that temporarily disturbed areas will not return to pre-disturbance conditions, and thus their present habitat value will be diminished.

To address this potential, **Special Condition 4** requires that SDGE prepare a recovery and monitoring plan for Executive Director review and approval that describes the monitoring and restoration measures that SDGE will employ for these temporarily affected areas of sensitive wetland and upland habitat. **Special Condition 4** also requires that for such habitat areas that do not meet recovery success criteria following two years of monitoring, impacts would be considered permanent and additional banking credits will be provided from the Cielo B site at the same six to one ratio required in **Special Condition 3**. The analysis of the Cielo B site as mitigation for temporary impacts incorporates similar considerations as applied to the approach to mitigating permanent impacts: the repair and maintenance nature and purpose of the proposed Project; the small, fragmented habitat impact footprints; and already-established use of Cielo B as a mitigation banking site.

The use of construction vehicles could result in the accidental discharge of fuel or other spills that could negatively affect sensitive habitats. To help prevent such spills and ensure adequate response measures are in place, **Special Condition 5** requires SDGE to submit a Spill Prevention and Response Plan to the Executive Director for review and approval prior to the commencement of construction activities.

As described above, the proposed Project consists of repair and maintenance activities associated with the existing utility line, the Commission reviews only the consistency of the proposed method of maintenance with Coastal Act policies, and not the consistency of the underlying existing development. For the reasons described above, the Commission finds that the method of repair and maintenance proposed for this Project, as conditioned by **Special Conditions 1, 2, 3, 4, and 5** will be carried out in a manner

that protects environmentally sensitive habitat areas against any significant disruption of habitat values and is therefore consistent with applicable policies of Coastal Act Section 30232 and 30240.

F. CULTURAL RESOURCES

Coastal Act Section 30244 states:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

Coastal Act Section 30604(h) states:

When acting on a coastal development permit, the issuing agency, or the commission on appeal, may consider environmental justice, or the equitable distribution of environmental benefits throughout the state.

Project activities could disturb or damage archeological and paleontological resources or Native American artifacts by destroying a previously unrecorded resource or disrupting a site with known resources such that the resource's historic, cultural, or archaeological context is adversely altered.

A cultural resources technical report completed in 2017 resulted in the identification of seven known cultural and historical resources sites within the Project area. This technical report included a literature review, records search, and a cultural resources survey. The four identified cultural resource sites are assumed to be eligible for the California Register of Historic Resources but have not been formally added. The three historic resources are the Del Mar Racetrack, Sorrento Valley Industry Park Building (which was demolished following the historical survey), and segments of El Camino Real and Old El Camino Real. No direct impacts to historic built resources are anticipated. A qualified architectural historian will photograph El Camino Real and the Del Mar Racetrack within and adjacent to the Project area before and after construction to document effects resulting from the proposed Project.

A paleontological resources study was completed to identify the potential for the Project area to contain subsurface geologic formations possibly containing paleontological resources. This study found no significant fossil localities in the Project area.

Commission staff engaged Native American Tribes pursuant to the Commission's Tribal Consultation Policy which, as described in Section IV.B, included the Barona Group of the Capitan Grande, Campo Band of Diegueno Mission Indians, Ewiiapaayp Band of Kumeyaay Indians, Iipay Nation of Santa Ysabel, Inaja-Cosmit Band of Indians, Jamul Indian Village, Kwaaymii Laguna Band of Mission Indians, La Posta Band of Diegueno Mission Indians, Manzanita Band of Kumeyaay Nation, Mesa Grande Band of Diegueno

Mission Indians, San Pasqual Band of Diegueno Mission Indians, Sycuan Band of the Kumeyaay Nation, and Viejas Band of Kumeyaay Indians tribes. The Jamul Indian Village of California Tribal Historic Preservation Office responded to Commission staff's outreach letter and requested to be notified about Project updates regarding previously reported or newly discovered cultural sites within the Project boundaries. Commission staff notified SDGE staff to this request and SDGE will ensure that the Jamul Indian Village receives updates and participates in Project update meetings.

As described in a Cultural Resources Monitoring Plan for the proposed Project submitted as part of the CDP application, the Project incorporates several measures to avoid negative effects to identified cultural resource sites. First, cultural resources awareness training for all Project construction personnel will be conducted prior to the commencement of construction activities. This training will also occur throughout the life of the Project to ensure that all contractors and subcontractors will receive such training. Second, a fifty-foot buffer will be established around each of the known archeological sites near where ground disturbance is anticipated. The buffer will be marked with fencing or other means of identifying the buffer area where ground disturbance must be avoided. Third, an archeological monitor shall monitor ground-disturbing activities in identified cultural resource sites within Project work areas. The monitor shall be familiar with the types of historic and prehistoric resources that could be present in the Project area. The archeological monitor shall have a stop-work authority if there is an unanticipated cultural resources discovery during Project construction. The monitor will also make recommendations for additional monitoring in areas of potential buried deposits. Following construction, the archeological monitor shall submit the results of Project monitoring to the Executive Director, as required by Special **Condition 6**. Fourth, if unanticipated cultural resources or human remains are discovered during construction, appropriate protocols for stopping work, evaluation of discovered resources, and curation/cataloging practices appropriate to the find shall be employed. Finally, SDGE will provide for a Native American monitor for the proposed Project. During the preparation of the Project MND, the Viejas Band of Kumeyaay Indians recommended that a Kumeyaay cultural monitor be on site for ground disturbance activities. As described in the Cultural Resources Monitoring Plan, SDGE will contract with a Kumeyaay Native American monitoring firm to schedule an experienced Native American monitor to be present in conjunction with the archeological monitor.

To address the potential for the proposed Project to affect paleontological resources, SDGE will provide for paleontological resource monitoring. A qualified paleontologist, with experience with the geology and paleontology of San Diego County, will be on site to observe any excavation operations that involve the disturbance of previously undisturbed deposits with high paleontological resource sensitivity. If fossils are encountered, the paleontological monitor will have the authority to divert or temporarily halt construction activities to allow fossil recovery. Such finds will be evaluated for their significance prior to construction activities resuming. All fossil remains collected during monitoring and salvage will be cleaned, repaired, sorted, cataloged, and deposited at a scientific institution with permanent paleontological collections. At the conclusion of

paleontological monitoring, the paleontologist shall submit a monitoring report to the Executive Director, as required by **Special Condition 6**.

For these reasons and the incorporation of **Special Condition 6**, the Commission finds that the proposed Project contains measures to mitigate the potential for negative effects to cultural, archeological, and paleontological resources, and is consistent with Section 30244 of the Coastal Act as well as environmental justice principles as articulated in the Commission's Tribal Consultation Policy.

G. PUBLIC ACCESS AND RECREATION

Coastal Act Section 30210 states:

In carrying out the requirements 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.

The proposed Project involves the conversion of the overhead utility line, C738, to a new underground configuration. Undergrounding of C738 would temporarily restrict public access to a portion of the Sorrento Valley Pedestrian/Multi-Use Path during the installation of two riser poles and conversion of overhead power line. The Sorrento Valley Pedestrian/Multi-Use Path consists of a paved multi-use path, an adjacent soft-surface trail, and a stabilized soil side path along the closed roadway segment. Construction activity is expected to occur over the period of one month. SDGE will post signage at access points at least four weeks before the start of construction activities to notify the public of construction impacts, affected locations, and the estimated duration of access restrictions. SDGE will maintain a public access corridor while construction is occurring and limit work to weekdays only along the Sorrento Valley Pedestrian/Multi-Use Path. Based on site specific conditions and safety considerations, if SDGE determines that there is an overriding safety consideration requiring any full closure of the Sorrento Valley Pedestrian/Multi-Use Path for any portion of the project, SDG&E will shift construction to night time hours and implement other appropriate mitigation measures as needed.

The proposed Project would not have a substantial negative effect on public access, as the restrictions are temporary and affect a limited portion of the Sorrento Valley Pedestrian/Multi-Use Path. Therefore, the Commission finds that the proposed Project is consistent with the public access and recreation policy of Sections 30210 of the Coastal Act.

H. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit amendment, as conditioned, 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 California Public Utilities Commission completed an Mitigated Negative Declaration (MND) for the proposed Project in March 2019. The MND determined that the environmental impacts from the proposed Project would be less than significant or reduced to less-than-significant levels with incorporation of proposed mitigation measures.

The proposed development has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing wetland, ESHA, cultural resources, and public access will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment, and there are no remaining significant impacts on the environment. Therefore, the Commission finds that the proposed Project is the least environmentally-damaging feasible alternative and is consistent with the requirements of CEQA.

APPENDIX A: SUBSTANTIVE FILE DOCUMENTS

Coastal Development Permit Application Materials:

Request for Consolidation of Coastal Development Permits: Cities of San Diego and Del Mar

Application for Coastal Development Permit 9-20-0257.

San Diego Gas and Electric Co. response to Notice of Incompleteness, dated August 14.

Other Documents:

CDP 9-20-0008: SDGE replacement of wood poles in Marine Corps Base Camp Pendleton

California Department of Fish and Game. 1995. California Endangered Species Act and Natural Community Conservation Planning Act Management Authorization For Implementation of San Diego Gas and Electric Company Subregional Natural Community Conservation Plan. Dated December 18, 1995.

San Diego Gas and Electric Company, United States Fish and Wildlife Service, and California Department of Fish and Game. 1995. Subregional Natural Community Conservation Plan Implementing Agreement/CESA Memorandum of Understanding. Entered into agreement on December 18, 1995.

Mitigated Negative Declaration San Diego Gas & Electric Company TL674A Reconfiguration and TL666D Removal Project Application No. 17-06-029