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STAFF REPORT: MATERIAL PERMIT AMENDMENT

Amendment Number: 6-04-088-A16

Applicants: Southern California Edison and San Dieguito River Park Joint Powers Authority

Project Location: San Dieguito Lagoon, Cities of Del Mar and San Diego, San Diego County

Description of Previously Approved Project: Application from Southern California Edison and San Dieguito River Park Joint Powers Authority for implementation of the San Dieguito Wetland Restoration Plan and construction of a portion of the Coast to Crest Trail.

Description of Amendment: Incorporate 13.5 acres of wetland, upland, and transitional habitat restoration within the W-6 restoration site and 0.98 acres of wetland restoration within the Grand Avenue restoration site into the San Dieguito Wetland Restoration Plan (Plan); revise the Plan to account for assessed tidal muting impacts at W-4 and W-16; revise the approved inlet maintenance plan to reflect deepening of the existing sand trap approved in Coastal Development Permit No. 6-20-0160; and require final Memorandum of Understanding for monitoring and long-term management of the W-6 site.

Staff Recommendation: Approval with Conditions.

SUMMARY OF STAFF RECOMMENDATION

The proposed Coastal Development Permit (CDP) amendment is related to the W-19 San Dieguito Lagoon Restoration Project, an adjacent restoration project for which the California Department of Transportation (Caltrans) and the San Diego Association of Governments (SANDAG) have applied for a CDP (No. 6-20-0160). CDP 6-20-0160 for the restoration of W-19 is also scheduled for the Commission's review at the November 5, 2020 meeting. Although the proposed restoration at the W-19 site will have many ecological benefits, it is also projected to have some negative ecological impacts on sites that Southern California Edison (SCE) is currently responsible for restoring pursuant to CDP 6-04-088. Specifically, hydrological modeling projected that the restoration of W-19 would result in tidal muting¹ that would negatively impact between 1.74 and 2.66 acres of vegetated marsh habitat within the W-4 and W-16 sites. These impacts would reduce the ecological success of the restoration at those sites, and thus would decrease the amount of restoration credit that these sites would contribute toward the mitigation requirements of the CDP.

To compensate for the impacts of the W-19 restoration on SCE's restoration sites, Caltrans and SANDAG are proposing, as part of CDP 6-20-0160, to restore 13.5 acres of wetlands and transitional/upland habitat at another lagoon site, W-6, on SCE's behalf. The restoration of W-6 will establish a total of 13.5 acres of habitat, including 7.7 acres of vegetated wetlands, 1.7 acres of mudflat and subtidal habitat, and 4.1 acres of transitional upland habitat. Of the 7.7 acres of vegetated wetlands, 3.9 to 4.9 acres will be credited toward the mitigation requirements of CDP 6-04-088 as compensation for the tidal muting effects within W-4 and W-16, depending on the actual extent of muting impacts assessed as a result of the proposed restoration. The remaining restoration acreage, including 4.5 to 5.5 acres of various wetland habitat types and 4.1 acres of transitional/upland habitat, will be accepted by SCE as compensation for any future restoration rights it may have within the W-19 site based on previous land agreements with Caltrans and SANDAG. The proposed habitats are shown in **Exhibit 3**.

Although the restoration of the W-6 site will be performed by Caltrans and SANDAG under CDP 6-20-0160, after completion of the restoration of W-6 and a subsequent two-year monitoring period to assure proper wetland function and vegetation survival, responsibility for the site would be transferred to SCE so that the restoration may be credited toward SCE's mitigation requirements. The proposed permit amendment is necessary to reflect the subsequent transfer of responsibility for W-6 from Caltrans/SANDAG to SCE. As such, **Special Condition 28** requires that Caltrans and

¹ In this context, tidal muting refers to the reduction in tidal elevation that is expected to occur as a result of the additional W-19 and W-6 wetlands to be created. The result of lower tidal elevations is a reduction in tidal inundation frequency for areas of marsh that are dependent on tidal inputs as the environmental conditions that support this habitat. Therefore, the tidal muting is expected to result in a loss of marsh habitat.

SANDAG receive Commission approval for CDP 6-20-0160 prior to issuance of this permit amendment. After SCE satisfies the mitigation requirements for the site, responsibility will be transferred to the San Dieguito River Park Joint Powers Authority (JPA) for long-term management. The details associated with these transfers will be delineated in a Memorandum of Understanding (MOU) between the parties, which is currently in development **Exhibit 4. Special Condition 30** requires the applicants to submit the final MOU for Executive Director review and approval prior to issuance of this permit amendment.

The proposed amendment would modify and add several special conditions to the CDP in order to incorporate the restoration of the W-6 site into SCE's mitigation portfolio for San Onofre Nuclear Generating Station (SONGS) Units 2 and 3. **Special Condition 1**, which requires the Final Restoration Plan (FRP) for SCE's mitigation within San Dieguito Lagoon, would be amended to require submittal of an updated FRP reflecting the restoration of W-6 as well as an unrelated, completed restoration project at the Grand Avenue site performed pursuant to amendment 6-04-088-A2. **Special Condition 29** would be added, requiring the applicants to submit final restoration plans for both of these sites. Furthermore, the proposed amendment to **Special Condition 1** requires SCE to submit an updated mitigation table at the completion of a five-year tidal monitoring period so that tidal muting impacts resulting from the restoration of the W-19 site may be incorporated into SCE's mitigation requirements.

Lastly, the W-19 restoration project also includes the deepening of an existing sand trap to increase its capacity to capture sand in order to compensate for the tidal prism effects and disruption of sand supply to local beaches as a result of the restoration. Under this permit, SCE periodically dredges the sand trap and places the sand on adjacent beaches. This amendment would modify **Special Condition 23** to require submittal of a revised Inlet Dredging Plan to reflect the deepened sand trap.

Overall, the proposed amendment does not decrease the amount of wetland habitat mitigation required from SCE under the permit; it merely redistributes the locations from which that mitigation will come and recognizes wetlands created as a result of the restoration of Grand Avenue pursuant to amendment 6-04-088-A2. These modifications are necessary to harmonize the requirements of SCE's existing permit with the proposed restoration of W-19. The ultimate result of the W-19 project and the SCE restoration project will be a cohesive, 300-acre wetland system, which will mark a milestone in the longstanding effort to restore San Dieguito Lagoon. For these reasons, Commission staff recommends that the Commission **APPROVE** Coastal Development Permit Amendment 6-04-088-A16, as conditioned. The motion and resolution can be found on page 5 of this report. The standard of review is Chapter 3 of the Coastal Act.

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APPENDICES

Appendix A – Substantive File Documents

EXHIBITS

Exhibit 1 – Project Location Map
Exhibit 2 – Project Site Map
Exhibit 3 – W-6 Proposed Habitat Distribution
Exhibit 4 – Draft MOU

I. MOTION AND RESOLUTION

Motion:

I move that the Commission **approve** the proposed amendment to Coastal Development Permit Number 6-04-088 pursuant to the staff recommendation.

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

Resolution:

The Commission hereby approves the Coastal Development Permit amendment on the ground that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit amendment 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

This permit 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 Permittees 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 an extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittees to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

NOTE: All of the Commission's adopted special conditions and any changes in the project description proposed by the applicant and approved by the Commission in previous actions continue to apply in their most recently approved form unless explicitly changed in this action. New conditions and modifications to existing conditions imposed in this action on amendment 6-04-088-A16 are shown in the following section. New language to be added appears in underlined font. Language to be deleted appears as strikethrough. This will result in one set of adopted special conditions.

This permit is granted subject to the following special conditions:

1. **Final Wetland Restoration Plan.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicants shall submit for review and written approval of the Executive Director a revised San Dieguito Wetlands Restoration Project Final Restoration Plan (FRP) that incorporates the restoration of W-6 and the Grand Avenue site. The changes included in revised strike-out/underline version of the FRP (Appendix B), dated July 2005 and received September 6, 2005 (including text and exhibit changes), and the changes and additions shown in Appendix C, "San Dieguito Wetlands Restoration Project Final Restoration Plan Changes and Additions," shall be fully incorporated into the revised FRP and revised as necessary to incorporate the restoration of W-6 and the Grand Avenue site.

The revised FRP shall clearly identify the size and location of all areas of impact to existing wetland and coastal sage scrub habitat and the size and location of all proposed mitigation areas. In computing the mitigation required for project impacts, the following ratios and requirements shall apply to both the FRP and the "as built" restoration project:

- a. Temporary impacts on modules W1, W2a, W2b, W3, W4, W5, W16, W17, W45, and Trail shall be mitigated at a ratio of 1 to 1.
- b. Temporary impacts from construction of Ponds 1 and 2 on module TP41 shall be mitigated at a ratio of 1.5 to 1 and temporary impacts from construction of Ponds 3 and 4 on module TP41 shall be mitigated at a ratio of 1 to 1. 3 and 4 on module TP41 shall be mitigated at a ratio of 1 to 1.
- c. Permanent impacts on modules B7, B8, DS32, and Road shall be mitigated at a ratio of 4 to 1.

- d. Permanent impacts on module TP41 for the construction of treatment pond berms shall be mitigated at a ratio of 1 to 1.
- e. Permanent impacts on the Trail module that are not in the existing roadbed shall be mitigated at a ratio of 4 to 1, and permanent impacts that are in the existing roadbed shall be mitigated at a ratio of 1 to 1.
- f. Permanent tidal muting impacts on SCE's restoration project as a result of the W-19 restoration project shall be mitigated consistent with the requirements of the final Memorandum of Understanding (MOU) between the San Diego Association of Governments (SANDAG) and Southern California Edison (SCE) pursuant to Special Condition 30 of this CDP and Special Condition Four (4) of Coastal Development Permit (CDP) No. 6-20-0160 regarding the restoration and transfer of responsibility for the W-6 site.

Revisions to the creation and impact acreages shown in the FRP shall be based on the *Wetland Delineation for the Proposed San Dieguito River Park Coast to Crest Trail, San Diego, California* prepared by Tierra Environmental Services, Inc. and revised July 14, 2005, the *CCC Wetland Study in the Villages Mitigation Bank* prepared by WRA Environmental Consultants dated August 30, 2005, the letter dated September 6, 2005 from Project Design Consultants, and the mitigation ratios specified above. Any revisions or updates to these documents that the applicants may provide shall include the basis for such changes, and shall be submitted to the Executive Director for review and approval. If the revised FRP identifies greater impacts than are identified in the July 2005 FRP (received September 6, 2005), then the applicants shall increase the mitigation area in accordance with the above ratios.

Prior to the commencement of construction and again at the completion of construction, the applicants shall submit to the Executive Director finalized plans and digital files (e.g., ArcView, ArcMap and Autocad) of project components (i.e., aerial maps, topographical maps, restoration modules, existing wetland areas, river berms, nesting sites, disposal sites, staging areas, access and haul roads, trails and associated components, and treatment ponds) that will allow for independent assessment of the accuracy of the "as built" plans to determine compliance with the requirements of CDP #6-81-330-A. The applicants shall document the physical and biological "as built" condition, including measurements of actual impacts to wetland habitat, within 30 days of completion of each construction area.

The applicants shall take maximum care to ensure that the project is built as described in the revised and approved FRP. However, if the "as built" plan for any construction area shows any greater impacts than are identified in the revised approved FRP, then within 90 days the applicants shall submit a plan for supplemental mitigation to the Executive Director for review and written approval. If the "as built" plans demonstrate that there are less actual impacts, then the applicants may request a permit amendment to reduce the mitigation acreage requirements.

The applicants shall undertake development in accordance with the approved Final Restoration Plan. Any proposed changes to the approved Plan shall be reported to the Executive Director. No changes to the approved Plan shall occur without a Coastal Commission-approved amendment to this coastal development permit pursuant to the Commission's regulations unless the Executive Director determines that the changes are minor and within the scope of the Commission's permit approval and no amendment is required. The applicants shall be required to provide additional appropriate mitigation, as determined by the Commission, if actual impacts to wetland habitat exceed those identified in the approved Plan.

At the completion of restoration of the W-6 site and tidal muting monitoring in accordance with the requirements of the final MOU required by Special Condition 30, the applicants shall submit for review and written approval of the Executive Director a revised "Summary of Wetland Habitat Impacted by Module – SCE Components to Fulfill SONGS Permit Requirements" table. The table shall clearly specify the final tidal muting impacts to the SCE restoration project as a result of the restoration of W-19, and new wetland habitat acreage from Grand Ave. and W-6 available to satisfy SONGS mitigation requirements.

[Special Conditions #2 through #22 of CDP 6-04-088 remain unchanged and in effect.]

23. Revised Inlet Dredging Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicants shall submit to the Executive Director for review and written approval, a revised dredging construction phase impact and mitigation plan incorporating new dredging elements included in CDP No. 6-20-160, that has been approved by the City of Del Mar... [rest of condition remains unchanged and in effect]

[Special Conditions #24 through #27 of CDP 6-04-088 remain unchanged and in effect.]

28. CDP 6-20-0160 for Restoration of W-19 and W-6 Sites. PRIOR TO ISSUANCE OF THIS PERMIT AMENDMENT, the Applicants California Department of Transportation (Caltrans) and San Diego Association of Governments (SANDAG) shall receive approval for Coastal Development Permit #6-20-0160 for restoration within the W-19 and W-6 sites.

29. Final W-6 and Grand Avenue Project Plans. WITHIN 90 DAYS OF COMPLETION OF CONSTRUCTION, the applicants shall submit two full-size sets of the final project plans for the W-6 Restoration Site and the Restoration of Grand Avenue to the Executive Director for review and written approval. The applicants shall undertake development in accordance with the approved final project plans. Any proposed changes to the approved final project plans shall be reported to the Executive Director. No changes to the final project plans shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is legally required for any proposed minor deviations.

30. Final Memorandum of Understanding. PRIOR TO ISSUANCE OF THE PERMIT AMENDMENT, the applicants shall submit to the Executive Director for review and written approval a Final Memorandum of Understanding (MOU) between the San Diego Association of Governments (SANDAG), the San Dieguito River Park Joint Powers Authority (JPA), and Southern California Edison (SCE). The Final MOU shall be substantially similar in form and content to the draft submitted on September 29, 2020 and shown in Exhibit 4. All development shall be undertaken in accordance with the approved final MOU. Any proposed changes to the approved final MOU shall be reported to the Executive Director. No changes to the final MOU shall occur without a Commission approved amendment to the permit unless the Executive Director determines that no such amendment is legally required for any proposed minor deviations.

FINDINGS AND DECLARATIONS

A. Project History and Amendment Description

Coastal Development Permit (CDP) 6-04-88, approved by the Commission in 2005, authorized restoration of wetlands in the San Dieguito River Estuary to meet mitigation requirements associated with the operation of the San Onofre Nuclear Generating Station (SONGS) Units 2 and 3 pursuant to CDP No. 6-81-330. CDP No. 6-81-330 required in part that Southern California Edison (SCE), the principal owner of SONGS, provide approximately 150 acres of new, or significantly restored, wetland habitat. Maintenance of the lagoon tidal inlet was considered a key component of the restoration project, and SCE was therefore granted 35 acres of wetland mitigation credit for committing to maintain the inlet in an open condition in perpetuity. Additional components of the restoration project included the construction of three berms adjacent to the San Dieguito River to confine existing flows and maintain sediment transport to the ocean, bank protection for portions of the berms, culverts in the berms to help balance water levels and a weir to eliminate any backwater effect on the upstream river channel. Biological improvements included the creation of four new nesting sites and rehabilitation of an existing site for the California Least Tern and Western Snowy Plover. To address water quality concerns treatment ponds were created to filter freshwater runoff and reduce freshwater flows into the restored tidal wetlands. Public access improvements included the construction of a public access trail, including interpretive signage and improvements to beach access. Provisions were also established for the upland and beach disposal of excavated material and maintenance and monitoring programs.

The San Dieguito Wetland Restoration Project encompasses almost the entire San Dieguito River Valley west of El Camino Real, although SCE is only responsible for restoring a portion of that area. The permit was originally approved by the Commission on October 12, 2005. Since that time, there have been several amendments as follows:

- 6-04-088-A1: Immaterial amendment to modify the language of Special Condition No. 4 related to the timing of berm construction. Approved August 10, 2006.
- 6-04-088-A2: Material amendment to remove approximately 4,000-5,000 cubic yards of material along an 800' long, 60' wide road (formerly Grand Avenue) and berm. Approved July 7, 2007.
- 6-04-088-A3: Withdrawn August 7, 2007.
- 6-04-088-A4: Material amendment for the replacement of restoration module W45 with restoration module W16, modification of the timing for the construction of public beach accessways, and modifications to the special condition regarding a riverbank revetment. Approved June 9, 2010.

- 6-04-088-A5: Immaterial amendment to modify the language of Special Condition #8 regarding coastal sage scrub mitigation for the trail and treatment ponds. Approved October 11, 2007.
- 6-04-088-A6: Immaterial amendment to allow the use of 40-foot long, 20-foot wide bridges to cross the drainage channels on both sides of I-5 for the continuation of the Coast-to-Crest Trail instead of the use of open bottom concrete culverts, resulting in a reduction of permanent wetland and upland impacts. Approved February 5, 2008.
- 6-04-088-A7: Immaterial amendment to establish a pedestrian-only trail along an existing slope stability bench on the engineered slope of Disposal Site 32 (DS32) located directly south of Via De La Valle. Approved October 9, 2009.
- 6-04-088-A8: Immaterial amendment to modify the location of coastal sage scrub mitigation sites required in Special Condition #8 as mitigation for impacts associated with the Coast to Crest Trail and Freshwater Treatment Ponds. Approved November 17, 2010.
- 6-04-088-A9: Immaterial amendment to modify the timing restriction placed upon the staging or storage of construction equipment on North Beach in association with dredging activities associated with the San Dieguito Wetland Restoration Project. Approved July 14, 2010.
- 6-04-088-A10: Material amendment to modify the location of wetland mitigation required in Special Condition No. 8 as mitigation for impacts associated with the Coast to Crest Trail and Freshwater Treatment Ponds, while adding the Mesa Loop Trail to the final plans. Approved September 2011.
- 6-04-088-A11: Immaterial amendment to modify the approved location of permanent access roads within the San Dieguito Wetland Restoration Project used for maintenance and monitoring responsibilities. Approved September 2012.
- 6-04-088-A12: Material amendment to delete Special Condition No. 6(d) to allow the wooden boardwalk located in the South Overview Lot to remain in its current alignment within the wetland restoration area. Approved January 2014.
- 6-04-088-A13: Immaterial amendment to relocate the required 1.72-acre Coastal Sage Scrub mitigation site 300 feet to the north of the originally designated site. Total mitigation acreage to remain the same. Approved August 2014.
- 6-04-088-A14: Material amendment application for construction of a new maintenance facility “ranger station”. After submittal of the application and discussions with Commission staff it was determined that it would be more appropriate to submit a new CDP application for this project. That project, 6-15-0580, was approved June 2015.

- 6-04-088-A15: Material amendment application for implementation of two additional wetland areas and incorporation of the acreage of habitat created as a result of the restoration of Grand Avenue. Additionally, the application requested updates to the wetland acreage calculation methodology. The application was never filed complete and was subsequently returned for inactivity in January 2017.

The proposed CDP amendment is related to the W-19 San Dieguito Lagoon Restoration Project, an adjacent restoration project for which Caltrans and SANDAG have applied for a CDP (No. 6-20-0160). CDP 6-20-0160 for the restoration of W-19 is also scheduled for the Commission's review at the November 5, 2020 meeting. That project would restore approximately 140 acres of habitat within the W-19 site of San Dieguito Lagoon to provide mitigation for future transportation infrastructure projects along the North Coast Corridor extending from La Jolla to Oceanside in North San Diego County, as described in the staff report for the CDP. However, modeling for the restoration of W-19 determined that such restoration will have tidal muting effects within the larger lagoon area. Specifically, modeling for the W-19 project predicted that tidal muting would result in a decrease in the upper limit of tidal influence in downstream areas within the Estuary, leading to a loss of between 1.74 and 2.66 acres of vegetated marsh habitat within SCE's mitigation areas (specifically the W-4 and W-16 sites). This muting would reduce the area of tidal influence at these sites, and thus would decrease the amount of restoration credit that these sites would contribute toward the mitigation requirements of SCE's permit. **Exhibit 2** shows those restoration sites in relation to the sites restored by SCE pursuant to the subject CDP.

To compensate for the impacts of the W-19 restoration to SCE's restoration sites, Caltrans and SANDAG revised their project to also include the restoration of 13.5 acres of wetlands and transitional/upland habitat at another lagoon site, W-6, on SCE's behalf. The W-6 site is located just to the southwest between W-19 and Interstate 5 (I-5), and is currently dominated by disturbed and non-native vegetation, **Exhibit 2**. The majority of the site is dominated by mustard, five-hook, or ice plant, with some non-native grasses. The remainder of the site is either bare ground where there is an access road or non-native grassland dominated by ripgut, red brome, and wild oat with some mustard, five hook, ice plant, and wooly sea blite. Nominal areas of salt marsh and open water are present at the northern edge of the W-6 site where the inlet and river connect.

The proposed restoration of W-6 will establish 7.7 acres of vegetated wetlands, 1.7 acres of mudflat and subtidal habitat, and 4.1 acres of transitional upland habitat. Of the 7.7 acres of vegetated wetlands, 3.9 to 4.9 acres will be devoted to compensating for potential tidal muting effects within W-4 and W-16, depending on the actual extent of muting impacts as assessed through a five-year monitoring period. The remaining restoration acreage, including 4.5 to 5.5 acres of various wetland habitat types and 4.1 acres of transitional/upland habitat, will be accepted by SCE as compensation for future restoration rights it may have within the W-19 site based on previous land agreements with Caltrans, SANDAG, and the JPA. Table 1, below, provides the proposed restoration acreages and compensation distribution for the W-6 site. The proposed

habitats are shown in **Exhibit 3. Special Condition 29** requires the applicants to submit final project plans to the Executive Director for review and approval prior to issuance of the permit amendment. Moreover, given that the Caltrans and SANDAG W-19 restoration project and its associated impacts are the driving force that necessitated the restoration of W-6 and this amendment, **Special Condition 28** requires that Caltrans and SANDAG receive Commission approval of CDP 6-20-0160 for the restoration of the W-19 and W-6 prior to issuance of this permit amendment.

Table 1 – W-6 Habitat Types and SCE Compensation Types

W-6 Habitat Type	Restoration Acreage	SCE Compensation Type	Acreage for SCE Compensation	
Vegetated Wetlands	7.7	Potential Tidal Muting Impacts	3.9-4.9	
		Available to Compensate for Future Restoration Rights	2.8-3.8	4.5-5.5
Remaining Wetlands (mudflat/subtidal)	1.7		1.7	
Transitional/Upland	4.1	Transitional/Upland	4.1	
Total	13.5	Total	13.5	

The restoration of W-6 would also have its own ecological impacts on the lagoon system, and those must be mitigated as well. Approximately 0.07 acres of subtidal habitat and 0.03 acres of mid-marsh habitat would be temporarily impacted to establish the hydraulic connection between the W-6 site and the San Dieguito River. This 0.1 acres of wetland impacts will be mitigated at a 1:1 ratio by the restoration of W-6, and thus would be subtracted from the overall mitigation credit that will be made available through the restoration of W-6.

The collective activities of SCE, SANDAG, and the JPA in San Dieguito Lagoon have been the subject of past Memoranda of Understanding (MOUs) and other agreements. The proposed restoration and transfer of responsibility for W-6 will follow this approach by being memorialized through an MOU between the parties, which is developed but not yet finalized (see **Exhibit 4**). The MOU describes the restoration of W-6, the method for assessing tidal muting impacts, and the calculation of the restoration acreage that will serve as compensation to SCE.² Under the MOU, after completion of the restoration

² The MOU will also govern SANDAG’s coordination with SCE for other aspects of the W-19 restoration project covered under CDP 6-20-0160 and fully described in the staff report for that permit, including cost sharing for maintenance dredging of the lagoon inlet, and material disposal at the existing upland disposal site southeast of the lagoon.

of W-6 and a two-year monitoring period to assure proper wetland function and vegetation survival, SANDAG would transfer responsibility for the site to SCE. After the transfer, W-6 will be folded into the existing independent monitoring program required under CDP 6-81-330 and will be available for credit toward SCE's mitigation requirements. If after two years the W-6 site does not meet the interim standards as outlined in the MOU methodology, SANDAG will coordinate with SCE on identifying remedial actions needed to reach those standards. SANDAG would be responsible for maintenance and monitoring until the W-6 site meets those interim standards. After the transfer, SCE would be responsible for maintenance and management of W-6 as part of its San Dieguito Wetlands Restoration Project for a minimum of 32 years³. Once SCE has satisfied its mitigation requirements, long-term management of W-6 will be performed by the JPA, with SCE providing funding in the form of a non-wasting endowment in an amount to be determined in a manner that is consistent with the remainder of the SCE San Dieguito Restoration Project. Furthermore, while the JPA already holds an open space conservation easement over the majority of the W-6 site, the 22nd District Agricultural Association intends to record a new open space conservation easement to the JPA over the entire W-6 site prior to the JPA taking long-term management responsibility of the site, to ensure that the restored site is protected in the long term⁴. To ensure successful implementation of this proposed mitigation, monitoring, and long-term management, **Special Condition 30** requires the applicants to submit the final MOU for Executive Director review and written approval prior to issuance of this permit amendment.

The existing SCE restoration project is governed by a Final Restoration Plan (FRP) pursuant to **Special Condition 1** of CDP 6-04-88. The purposes of the FRP are to identify the size and location of all wetland mitigation areas for the SONGS project, and to calculate available mitigation credits based on temporary impacts, permanent impacts, and final wetland acreages created as a result of restoration. The proposed amendment would modify **Special Condition 1** to require the applicants to submit to the Executive Director, for review and written approval, a revised FRP that incorporates the restoration acreages for the W-6 site so that they may be credited toward SCE's mitigation requirements. Additionally, and unrelatedly, the revised FRP must also include the acreages from the completed restoration at the Grand Avenue site. CDP Amendment No. 6-04-088-A2 allowed for the removal of an 800-foot-long by 50-foot-wide road (formerly Grand Avenue) and berm located within the larger San Dieguito Lagoon area in order to create additional wetlands acreage. This restoration component was approved by the Commission in 2007 and subsequently constructed, but was never incorporated into the FRP to allow SCE to receive mitigation for this

³ SCE is required to provide mitigation for impacts associated with the operation of SONGS for its full operating life. CDP 9-19-0025 established the operating life of SONGS as 32 years.

⁴ The open space conservation easement currently recorded over the portion of the W-6 site known as "W-6b" was recorded in 2007 in fulfillment of Special Condition 3 of CDP No. 6-84-525 and subsequent amendments.

acreage. This amendment would allow SCE to receive credit for the restored acreage at the Grand Ave. site as long as it meets performance criteria.

As described above, although adding a significant area of restored wetlands to the watershed, the proposed restoration of the W-19 site will have a negative impact on the ecological success of the W-4 and W-16 sites due to anticipated tidal muting. These impacts will be assessed through a five-year monitoring period. To ensure that this reduced ecological function is reflected in the SONGS mitigation program, the proposed amendment includes an additional revision to **Special Condition 1**, which requires that at the completion of tidal muting monitoring, the applicants shall submit, for review and written approval of the Executive Director, a revised "Summary of Wetland Habitat Impacted by Module – SCE Components to Fulfill SONGS Permit Requirements" table. The revised table must clearly specify the final tidal muting impacts to the SCE restoration project as a result of the restoration of W-19.

Lastly, the Environmental Impact Report (EIR) prepared for the W-19 restoration project identified that that project will result in tidal prism effects and disruption of sand supply to local beaches. In response, the W-19 project proposed several actions to mitigate for these impacts, including deepening of the existing sand trap within the inlet to the San Dieguito Lagoon that is periodically dredged by SCE pursuant to this permit. The deepening will provide an additional 4,200 cubic yards of beach-compatible material for deposition along adjacent beaches, and the staff report for the W-19 project, CDP 6-20-010, includes an analysis of the anticipated impacts of the deepening. However, because the original sand trap is authorized under this CDP and is maintained by SCE pursuant to an Inlet Dredging Plan required by **Special Condition 23**, the Commission recommends updating the Inlet Dredging Plan to reflect the deepened sand trap described in the MOU and staff report for CDP 6-20-010. This will ensure that the deepened sand trap will not result in any unforeseen impacts to SCE's inlet maintenance program.

B. Wetlands and ESHA

Section 30230 of the Coastal Act states:

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

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where

feasible, restored through, among other means, minimizing adverse effect of waste water discharges and entrainments, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30233 of the Coastal Act states, in relevant part:

(a) 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:

...

6) Restoration purposes;...

Section 30240 of the Coastal Act 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 recreation areas.

The restoration of the W-6 site will be performed by Caltrans and SANDAG as part of the W-19 San Dieguito Lagoon Restoration Project and is analyzed in the staff report for that project, CDP No. 6-20-0160. As such, the analysis of this proposed permit amendment is limited to SCE's acceptance of restored wetland habitat within W-6 as compensation for mitigation value lost at W-4 and W-16 due to tidal muting. Given that this transfer alters the sources and distribution of mitigation counted toward the requirements of CDP 6-04-088, an analysis of the relevant wetland and habitat policies of the Coastal Act is required to ensure that the mitigation, as amended, still satisfies those policies.

Section 30231 of the Coastal Act requires that the biological productivity and quality of coastal waters be maintained. Section 30230 requires that uses of the marine environment be carried out in a manner that will sustain the biological productivity of coastal waters for long-term commercial, recreational, scientific, and educational purposes. Section 30233 allows for the diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes only if feasible mitigation measures have been

provided to minimize adverse environmental effects, among other requirements.⁵ Section 30240 of the Coastal Act states that environmentally sensitive habitat areas (ESHA) shall be protected, and that development within or adjacent to such areas must be designed to prevent impacts which could degrade those resources.

The proposed amendment would adjust the mitigation requirements of CDP 6-04-088 to recognize the reduced mitigation provided by the W-4 and W-16 sites due to impacts associated with the restoration of W-19. To make up for this loss, the amendment would incorporate mitigation credit provided by the restoration of W-6 toward the requirements of the permit. The amendment would also recognize the mitigation provided by the successful restoration of the Grand Avenue site previously approved under CDP 6-04-088-A2. The proposed amendment does not decrease the amount of wetland habitat mitigation SCE is required to provide under the permit; rather, it redistributes the locations from which that mitigation will come, and also recognizes additional wetlands created via the restoration at Grand Avenue. Under this amendment, all restoration that is credited toward the mitigation requirements of CDP 6-04-088 will still be located within the lagoon, preserving the overall intent of the permit that the impacts of operating SONGS Units 2 and 3 be mitigated through restoration of San Dieguito Lagoon. Thus, the proposed amendment does not lessen the project's consistency with the wetland and habitat protection policies of the Coastal Act found in Sections 30230, 30231, 30233, and 30240.

More broadly, this amendment also furthers those policies by facilitating the larger restoration of San Dieguito Lagoon. While the restoration of the W-19 site under CDP 6-20-0160 would provide significant new restoration within the lagoon, this prospect is complicated by the fact that the project would interfere with SCE's existing restoration and, thus, SCE's ability to fulfill its permit requirements. However, rather than allow one restoration project to get in the way of another, SCE, SANDAG, Caltrans, and the JPA have coordinated to identify a solution that will meet the needs of all parties while also allowing for both restoration projects to move forward and fulfill the policies of the Coastal Act. The ultimate result of the W-19 project and the SCE restoration project will be a cohesive, 300-acre wetland system, which will mark a milestone in the longstanding effort to restore San Dieguito Lagoon. By anticipating impacts to W-4 and W-16 and providing compensatory mitigation from W-6 in return, the proposed amendment makes the adjustments necessary to bring about this significant restoration outcome.

In conclusion, the proposed amendment maintains the mitigation acreages required of SCE as compensation for the operation of SONGS Units 2 and 3, but makes critical adjustments to the portfolio of mitigation sites that will facilitate the adjacent restoration

⁵ The diking, filling, and dredging associated with SCE's prior restoration work was concluded to be permissible in CDP 6-04-088 and subsequent amendments. However, given that Section 30233 requires mitigation measures to be provided, and this amendment would make revisions to the portfolio of mitigation compensating for the impacts permitted by CDP 6-81-330, this amendment must re-visit this clause of Section 30233 to ensure that the mitigation, as amended, remains sufficient.

of the W-19 site by Caltrans and SANDAG. Additionally, with the recommended conditions the project will ensure that the mitigation sites are successfully implemented and incorporated into the San Dieguito Wetlands Restoration Plan (Plan) while not resulting in adverse impacts on the various components of CDP 6-04-088. Therefore, the proposed amendment, as conditioned, is consistent with Sections 30230, 30231, 30233, and 30240 of the Coastal Act.

C. California Environmental Quality Act (CEQA)

Section 13096 of Title 14 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Public Resources Code, Section 21080.5(d)(2)(A) 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 that the activity may have on the environment.

The San Dieguito River Park Joint Powers Authority, acting as the lead agency under CEQA, certified the Final Environmental Impact Report (FEIR) for the restoration of W-19 in November 2018, and adopted an Addendum to the FEIR in May 2020 for the restoration of W-6. The transfer of the W-6 site to SCE does not trigger CEQA review. The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of the Natural Resources Agency as being the functional equivalent of environmental review under CEQA (Section 15251(c)). The Commission has reviewed the relevant coastal resource issues with the proposed project and has identified appropriate and necessary modifications to address adverse impacts to such coastal resources. All above findings are incorporated herein in their entirety by reference.

As such, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the proposed project, as conditioned, would have on the environment within the meaning of CEQA. Thus, if so conditioned, the proposed project will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).

APPENDIX A – Substantive File Documents⁶

- CDP File 6-20-0160
- CDP No. 6-04-088-A16
- CDP No. 6-04-088-A2

⁶ These documents are available for review in the Commission's San Diego Coast District office in San Diego.