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Staff:	J. Weber-SF
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STAFF REPORT: REGULAR CALENDAR

Application No.:	**9-20-0008**
Applicant:	**San Diego Gas and Electric Co.**
Location:	On unincorporated land in northwest San Diego County south of the City of San Clemente, within Marine Corps Base Camp Pendleton, landward of Interstate-5.
Project Description:	Replace wood poles with steel poles, reconductor lines, and perform substation modifications and pole top construction along a 4.2 mile section of an existing power line extending from the Japanese Mesa substation to the Las Pulgas substation (**Exhibits 1 and 2**).
Staff Recommendation:	Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

San Diego Gas and Electric Co. (SDGE) proposes to perform work on an existing utility line between two substations, including substation modifications, converting 44 existing wood poles to steel poles, and related line work. The project is proposed for approximately 4.2 miles of an existing power line within the coastal zone, referred to as TL 692, in an unincorporated portion of San Diego County, south of the City of San

Clemente on land that is part of Marine Corps Base Camp Pendleton (**Exhibit 1**). The proposed project extends beyond the coastal zone.

The proposed project is described by SDGE as part of their system-wide effort to enhance utility line safety and reliability particularly related to wildfires and weather (high wind) events. The proposed project is in a portion of Camp Pendleton that the CA Public Utilities Commission (CPUC) identifies as having an elevated risk of utility-related wildfires. Hardening infrastructure through efforts such as replacing wood poles with steel poles is a primary component of a Wildfire Mitigation Plan SDGE submitted to the CPUC in early 2020. For this project, SDGE proposes to replace existing wood poles with steel poles, install steel conductor lines at a spacing on the new poles that would decrease the likelihood of conductor contact, and perform overhead pole work.

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 permanent removal of vegetation within an ESHA. In considering a permit application for a repair or maintenance project, the Commission's evaluation of such projects 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.

A primary Coastal Act issue raised by the proposed project is the approximately 587 square feet of permanent impacts to ESHA, including valley needlegrass grassland and coastal sage-scrub habitat used by California gnatcatcher. As mitigation for permanent impacts to these habitats, **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 coastal sage scrub and valley needlegrass grassland that that are temporarily affected by the proposed project and 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. To address this potential effect, **Special Condition 1** contains a measure to prohibit grading within the boundaries of any known cultural resource site, and **Special Condition 6** requires tribal monitors to be present during all ground disturbing activities.

Staff recommends the Commission find the proposed project, as conditioned, consistent with the ESHA, cultural resources, and other resource protection policies of the Coastal Act. Staff recommends that the Commission **approve** coastal development permit application 9-20-0008, as conditioned. The motion is on page 4.

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APPENDICES

EXHIBITS

I. MOTION AND RESOLUTION

1. Coastal Development Permit

Motion:

*I move that the Commission **approve** Coastal Development Permit No. 9-20-0008 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 9-20-0008 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. 9-20-0008 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. 9-20-0008 is subject to the following special conditions:

1. **CEQA Initial Study Checklist Mitigation Measures.** This permit incorporates those mitigation measures identified in the December 2019 Initial Study Checklist TL 692 Wood to Steel Pole Replacement Project concerning biological resources, cultural resources, and paleontological resources 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. **Marine Corps Base Camp Pendleton**. Final authorization to conduct the proposed project, following completion of the Section 106 National Historic Preservation Act process.

3. **Mitigation for Permanent Impacts to ESHA.** WITHIN 30 DAYS OF THE COMPLETION OF THE PROPOSED PROJECT, the Permittee shall provide to the Executive Director for review and approval a detailed report describing permanent impacts that occur to coastal sage scrub and valley needlegrass grassland as a result of the proposed 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 coastal sage

scrub and valley needlegrass grassland. Following Executive Director 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 coastal sage scrub and Valley needlegrass grassland habitat. The recovery and monitoring plan shall incorporate the pertinent activities outlined in the SDG&E 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 recovery success criteria for each habitat type and monitoring protocols and timelines for evaluation of restored habitat. 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 coastal sage scrub and Valley needlegrass grassland habitat that have not met recovery success criteria.
   c. Areas of coastal sage scrub and Valley needlegrass grassland 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. Following Executive Director 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. Contracts

with off-site spill response companies shall be in-place and shall provide additional containment and clean-up resources as needed.

6. **Tribal monitoring of ground disturbance activities.** The Permittee shall provide for the Rincon Band of Luiseno Indians monitoring of all ground disturbance activities associated with the proposed project. This monitoring shall occur in accordance with project measures stemming from Camp Pendleton Marine Corps Base Section 106 review and requirements. Following project completion, a final report for all monitoring activities shall be provided to the Executive Director at the same time as it is submitted to the State Historic Preservation Office.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION

San Diego Gas and Electric Co. (SDGE) proposes to fire-harden an existing utility line by converting existing wood poles to steel poles, reconductoring lines, and completing improvements at existing substations on an existing power line, referred to as TL 692, in an unincorporated portion of San Diego County, south of the City of San Clemente within land that is part of Marine Corps Base Camp Pendleton (**Exhibit 1**). Approximately 4.2 miles of the overall 7 mile project is within the coastal zone and is the subject of SDGE's CDP application[1]. The existing line connects the Japanese Mesa Substation landward of Interstate-5 south to the Las Pulgas Substation. **Exhibit 2** identifies the entire extent of the project and depicts the portion that is within the coastal zone.

According to SDGE, the proposed project will not increase capacity of the transmission line but is part of their system-wide effort to enhance utility line safety and reliability particularly related to wildfires and weather (high wind) events, which has been underway since 2008. The proposed project is in a portion of Camp Pendleton that the CA Public Utilities Commission (CPUC) identifies as having an elevated risk of utility-related wildfires, according to CPUC fire threat mapping completed in 2019. In early 2020, SDGE submitted a Wildfire Mitigation Plan to the CPUC describing its intended measures to reduce utility infrastructure fires, the risk of wildfires, and the potential effect of Public Safety Power Shutoffs on rate-payers. Hardening infrastructure, through efforts such as replacing wood poles with steel poles, is a primary component of this plan.

[1] The proposed project lies entirely on federal land, operated as Marine Corps Base Camp Pendleton, and SDGE has an easement from the Marine Corps to maintain and operate the utility line. Per the U.S. Supreme Court in the "Granite Rock" case, private activities on federal land within the coastal zone require a coastal development permit (CCC v. Granite Rock Co.)(1986)(480 U.S. 572).

To achieve the project goals of reducing fire hazards and improving system performance in this high wind area, SDGE proposes to make improvements to the existing substation, replace existing wood poles with steel poles along the utility line, install more robust steel conductor lines at a spacing on the new poles that would decrease the likelihood of conductor contact, and perform overhead pole work. The substation improvements would consist of replacing control panels and reconnecting existing fiber optic cables. Six existing poles would have pole top work performed on them and remain. Five two-pole structures would be replaced with single steel poles. A total of 44 single wooden poles would be replaced with steel poles, one new steel pole would be installed, and six poles removed from service. Thus, the project would result in a net reduction of five poles along the existing line.

Twelve of the new poles would include the installation of concrete foundations, two feet above grade with a diameter of approximately seven feet in diameter. The other 33 poles would be direct-buried and would have a ground level diameter ranging from 20 to 30 inches. On average, the steel poles would be 27% taller than the existing poles: existing poles range from approximately 20 to 75 feet in height, and the steel poles would be up to 105 feet tall. The new poles would have a dull, non-reflective galvanized surface. Approximately 4.2 miles of transmission line and 3.2 miles of distribution line would be reconductored, and new fiber optic cable would be installed on the steel poles.

Construction activities are anticipated to occur six days per week, occasionally at night. For installing new poles, construction access would use existing access roads in the transmission line corridor where possible; eleven poles would require new footpaths from existing access roads. Vehicles would remain on existing access roads to the extent practicable and also would use temporarily established work areas. Five utility line stringing sites approximately 9000 feet apart along the corridor would be employed, along with a construction staging area on already disturbed and developed land at SONGS Mesa.

A truck-mounted excavator with an auger would install poles poles that are direct-buried, with an estimated 9 cubic yards of soil excavated for each pole. Poles with a concrete foundation would include excavation of an estimated 24 cubic yards of soil at each foundation hole. For one pole and for stringing of overhead conductor, construction activities could include daylight use of a helicopter, anticipated to last two days and staged from the SONGS Mesa staging yard, subject to review from Camp Pendleton staff. It is not anticipated that rock blasting would be required. If rock is encountered that requires blasting, the blasting contractor would be required to comply with applicable local, state, and federal regulations. It is not anticipated that foundation excavation would require dewatering.

SDGE would use line trucks, bucket trucks, and other equipment to remove poles and related structures such as 29 existing pole anchors. Resulting holes would be backfilled with native soil or imported materials similar to the surrounding area, and the site would be restored to pre-existing conditions. SDGE would dispose of debris, including poles, at an approved facility or recycled.

Work areas disturbed around each pole structure, stringing sites, and staging areas would be restored to pre-construction conditions. This would occur through removal of all construction materials and debris, returning areas to their original contours, restoring landscaping, and repairing damaged paved surfaces as necessary.

B. Other Agency Approvals and Tribal Consultations

U.S. Marine Corps Base Camp Pendleton.
Per their responsibilities under Section 106 of the National Historic Preservation Act, the Marine Corps is conducting tribal consultation with federally recognized tribes regarding the proposed project. This consultation is anticipated to be completed in the fall of 2020 (Kelli Brasket, personal communication 2020).

California Public Utilities Commission (CPUC)
A CEQA Initial Study checklist completed for San Diego Gas and Electric Co. by Haley and Aldrich and Pangea Environmental (2019) concluded that the project does not require a Permit to Construct from the CPUC under CPUC General Order 131-D Section IIIB.1.h, because of its exemption from further CEQA review pursuant to CEQA Guidelines §15302(c).

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).

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, Ewiiaapaayp Band of Kumeyaay Indians, Iipay Nation of Santa Ysabel, Inaja-Cosmit Band of Indians, Jamul Indian Village, Kwaaymii Laguna Band of Mission Indians, LaJolla Band of Luiseno Indians, LaPosta Band of Diegueno Mission Indians, La Posta Band of Diegueno Mission Indians, Manzanita Band of Kumeyaay Nation, Mesa Grande Band of Diegueno Mission Indians, Pala Band of Mission Indians, Pauma Band of Luiseno Indians, Pechanga Band of Luiseno Indians, Rincon Band of Luiseno Indians, San Luis Rey Band of Mission Indians, San Pasqual Band of Diegueno Mission Indians, Soboba Band of Luiseno Indians, Sycuan Band of the Kumeyaay Nation, and the Viejas Band of Kumeyaay Indians. Contact information for these Tribal Representatives was provided by the Native American Heritage Commission.

Commission staff received one response to these contacts, from the Rincon Band of Luiseno Indians on August 5, and their letter is provided in **Exhibit 4**. This letter contains the following requests: monitoring of all ground disturbance activities by a

Tribal representative; no road grading within historic properties; minimization of pole removal-related ground disturbance associated with project activities at two poles (located in a portion of the project outside of the coastal zone); development and implementation of a discovery plan and monitoring program; and receipt of a copy of the final monitoring report submitted to the State Historic Preservation Office. As described further in Section IV.F, **Special Conditions 1 and 6** incorporate these requests for the portion of the project that is subject to this permit.

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 an existing utility line through replacement of less than 50% of the existing utility line, defined as all of its components (substations, existing access roads, poles and anchors, and wires). 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; <u>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.</u>

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…

The proposed project presents a risk of substantial adverse environmental impact pursuant to Section 30610 of the Coastal Act and Section II-B-1-e of the 1978 Utility Exclusions because construction activities would involve vegetation clearing of more than 500 square feet (0.01-acre) of vegetation, and would involve the permanent

removal of vegetation within an ESHA (see Section IV.D, below). The proposed pole replacement 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. ENVIRONMENTALLY SENSITIVE HABITAT AND BIOLOGICAL RESOURCES

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.

Much of the project area is located within areas that were affected by the 2007 Horno Fire which covered approximately 21,000 acres on Camp Pendleton. Vegetation affected by this fire has recovered in a majority of the area, but some areas are dominated by non-native species. The proposed project includes construction activity along an existing utility line that for much of its length is accessed via existing dirt access routes. Biological surveys in the project corridor resulted in maps of vegetation communities and habitats, including identification of areas occupied by special status species. These maps and information were used to delineate specific work areas for individual poles to minimize impacts to vegetation. For each pole site, this effort resulted in the identification of areas that would be temporarily impacted during construction and areas that would be permanently impacted as a result of pole replacement activities.

The proposed project will not directly affect wetland or riparian habitat areas, including several un-named drainages which could include habitat for least Bell's vireo (*Vireo bellii pusillus*), a species listed as a state and federally endangered species. Project construction activities and work sites will occur outside of riparian habitat.

Vegetation surveys conducted for the proposed project identified four communities along the project corridor that would be potentially affected by the proposed project. These four communities include Diegan coastal sage scrub, Valley needlegrass grassland, non-native annual grassland, disturbed habitat, and developed land.

Diegan coastal sage scrub includes dominant species such as 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*). Diegan coastal sage scrub is found at numerous work sites in the project area and is widespread across this portion of Camp Pendleton, according to mapping provided in the Camp Pendleton Integrated Natural Resource Management Plan (**Exhibit 5**). During biological surveys conducted for the proposed project, coastal California gnatcatcher (*Polioptila californica californica*) was observed within 100 feet of two pole work sites, and in previous surveys this species has been found generally within the project area (Department of the Navy, Naval Facilities Engineering Command Southwest Division, 2018). Coastal California gnatcatcher is listed as threatened under the federal Endangered Species Act and is a California-designated Species of Special Concern. Additionally, within ten feet of two pole work sites within coastal sage scrub habitat, biological surveys identified middens associated with the San Diego desert woodrat (*Neotoma lepida intermedia*), a California Species of Special Concern.

The valley needlegrass grassland community was delineated at two work site locations within the project area. This community is composed of mid-height (up to approximately 2 feet high) bunch grasses dominated by perennial, tussock-forming purple needlegrass (*Nassela pulchra*). Other species observed in this community include wild oat (*Avena fatua*), and coast prickly-pear (*Opuntia littoralis*).

Non-native annual grassland communities surveyed in the project area include vegetation species such as wild oat, fascicled tarweed (*Deinandra fasciculatum*), filaree, coast prickly-pear, short-pod mustard (*Hirschfeldia incana*), tumbleweed (*Salsola tragus*), castor bean (*Ricinus communis*), black mustard (*Brassica nigra*), and ripgut brome (*Bromus diandrus*).

Disturbed habitats are periodically affected by activities such as clearing for fire breaks, grading and clearing to maintain existing roadways or construction staging areas, and military training exercises. Species found in this community include tocalote (*Centaurea melitensis*), Italian thistle (*Carduus pycnocephalus*), artichoke thistle (*Cynara cardunculus*), sow-thistle (*Sonchus* spp.), telegraph weed (*Heterotheca grandiflora*), horehound (*Marrubium vulgare*), mustard (*Sisymbrium* spp.), wild radish (*Raphanus sativus*), and sweet fennel (*Foeniculum vulgare*).

The proposed project would occur within and adjacent to coastal sage scrub and valley needlegrass grassland communities which, as described above, contain suitable habitat for rare and sensitive species that could be harmed by the proposed project. Therefore, the Commission finds that these two vegetation communities constitute environmentally sensitive habitat areas (ESHA) under the Coastal Act. As discussed above, however, because 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 ESHA policies, and not the consistency of the underlying existing development.

Habitat and Species Impacts

In designing the proposed project, SDGE employed several measures to avoid and minimize impacts to coastal sage scrub and valley needlegrass grassland, as well as the other vegetation communities described above that are present in the project area. For example, where possible poles (and their individual work sites) are proposed to be located outside of sensitive habitats and drainages and riparian areas that the existing utility line crosses. Additionally, SDGE will use existing roads to provide construction access to work sites where possible. Finally, according to SDGE, the steel poles would require less frequent maintenance activities than wood poles, so species disturbance in the vicinity of the poles would be less frequent.

Approximately 43.325 acres of land would be temporarily affected by the proposed project. This total includes 42.87 acres of disturbed habitat, non-native annual grassland, and developed land at three proposed staging areas for the project (one at the SONGS Mesa site and two others outside of the coastal zone south of the proposed project). The remaining 0.45 acres of temporary impacts to coastal sage scrub and Valley needlegrass grassland would occur at pole sites throughout the project area and would result from vegetation clearing for temporary construction access and work sites.

In addition to these temporary habitat effects, the proposed project would permanently affect 587 square feet (0.013 acres) of coastal sage scrub and Valley needlegrass grassland. These permanent impacts result from pole and anchor placement at 33 work sites.

Mitigation measures

To address potential effects to biological resources found in project area habitats, the Initial Study Checklist for the proposed project includes design measures and construction restrictions. Through **Special Condition 1**, these measures are incorporated into this permit and include:

- A qualified biological monitor shall conduct a worker training prior to the beginning of the project for all construction workers, and any new crew

members joining after the start of construction must also attend such a training.

- A preconstruction survey will be conducted in and around work areas to identify and fence or flag sensitive plant species.
- A qualified biological monitor will be present during construction to provide further protection and to assist crews in minimizing potential impacts to biological resources.
- During the bird breeding season (generally, February 15 through August 31 or January 1 through August 31 for raptors), a qualified biologist shall conduct a preconstruction survey to ensure that no active nests are present within or adjacent to project areas. If an active nest is observed that may be affected by project-related activities, avoidance measures shall be implemented to avoid impacting the nest. Avoidance measures include delaying construction within the immediate vicinity of the active nest until the young have fledged or naturally failed, or instituting a buffer around the nest that prohibits construction activities. The buffer is to be determined by the qualified biologist based on vegetative cover, topography, stage of nest or young development, and species type.
- If feasible, all project-related activities that will occur within 300 feet of riparian habitat shall be scheduled outside the least Bell's vireo nesting season (generally September 16 through March 14). When not feasible, and project-related activities must be conducted during the breeding season (generally March 15 through September 15), a qualified biologist shall conduct a preconstruction nesting survey within suitable least Bell's vireo nesting habitat to ensure that no active least Bell's vireo nests are present within 300 feet of the work area. If an active least Bell's vireo nest is observed, a 300-foot no-construction buffer shall be established around the nest site. However, the nest buffer may be reduced by a qualified biologist, depending on site-specific conditions or existing ambient level of activity.
- Crews shall avoid impacts to woodrat middens located near the project. If impacts to the middens cannot be avoided, a qualified biologist shall survey the sites to locate all active nests and dismantle all nests by hand prior to construction, removing the materials layer by layer to allow for adult woodrats to escape. If young are present and found during the disassembling process, the biologist shall leave the site for at least 24 hours to allow the woodrats to relocate their young on their own, if feasible. Once the nest is vacant, the disassembly process shall be completed, and the nest sticks shall be collected and moved to another suitable nearby location to allow for nest reconstruction. Piles of cut

vegetation/slash shall be retained near the work site prior to nest dismantling to provide refuge for woodrats that may become displaced.

- Vegetation trimming at all project sites will be minimized to the greatest extent possible and monitored by a biologist.
- Any other wildlife located within any pole holes, trenches, stringing sites, and staging yards will be removed from the site by a qualified biological monitor.
- To prevent the trapping of wildlife, plywood boards sealed and held in place with gravel bags will cover the trench and excavated holes if the excavations are not backfilled by the end of the day.
- No vehicles are permitted to drive off improved roads aboard MCB Camp Pendleton while the ground is wet, including cross country and dirt roads. Proposed Project-related vehicles shall not drive through pooled water or create ruts. If work is scheduled to occur during the wet season, crews have the option of parking in paved/gravel areas and walking into Proposed Project sites.
- All vehicles will remain on approved existing access roads or proposed overland access routes with crews walking to the project sites as needed if no access routes are present.
- All pole butts and anchor rods will be removed (except in sensitive cultural areas) and the holes will be backfilled with spoils from the replacement spoil (except in sensitive cultural areas). Soil must not be taken from the surrounding area to fill the hole. If additional backfill material is required, clean fill or decomposed granite will be used to backfill the pole hole. The top 1-foot of the hole will be filled using the topsoil from the replacement spoil.
- Topsoil will be segregated from the spoil pile, covered, and labeled. The holes will be backfilled with spoils from the replacement spoil and soil must not be taken from the surrounding area to fill the hole. If additional backfill material is required, clean fill or decomposed granite will be used to backfill the pole hole. The top 1-foot of the hole will be filled using the topsoil from the replacement spoil.

Project construction activities could result in potential adverse effects to habitats and riparian areas through increased stormwater runoff and erosion from areas cleared of vegetation. However, because the project footprint is greater than one acre, SDG&E is required to prepare and implement a Stormwater Pollution Prevention Plan and best management practices through the Non-point Discharge Elimination System (NPDES) permitting process administered by the Regional Water Quality Control Board. **Special Condition 2** requires SDGE to provide proof of project NPDES authorization to the Executive Director.

As indicated previously, the proposed project would result in permanent impacts to 587 square feet of coastal sage-scrub and valley needlegrass grassland. 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 SDG&E 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.

As part of this 1995 agreement, SDG&E 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 NCCP/HCP up to a total footprint of 400 acres.[2] 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 (**Exhibit 6**). The history and geography of these four parcels are described by SDG&E as follows:

> SDG&E 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

[2] The 1995 agreement was updated in 2016 through USFWS approval of a Low-Effects Habitat Conservation Plan prepared by SDG&E which provided for an additional 60 acres of banking "credit" through SDG&E 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.

> 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 SDG&E 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 mitigation proposals, the Commission prefers to address 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 habitats (coastal sage scrub and valley needlegrass grassland) 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, SDG&E'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 proposed utility line is already established; no expansion or relocation of the utility line is proposed.

- The relatively small footprint of ESHA impact has been minimized through pole-specific work site design. The total impact footprint is the cumulative total of proposed work at 33 pole sites within the overall project, so that the impacts to ESHA are in small, dispersed, locations.

- The purpose of the proposed project is fire safety and prevention. No expansion of transmission capacity would occur as a result of the proposed project. In addition to the public safety elements of this proposal, the proposed project would also reduce the potential for wildfires to impact existing habitats in the utility line corridor through utility line-caused wildfires.

- 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.

- There are no preferable feasible mitigation sites in the immediate vicinity of the impacts. The land surrounding the project utility line is operated as training grounds for Marines at Camp Pendleton. Training activities include live fire exercises and movement of personnel and vehicles. The presence of these activities limits opportunities for habitat restoration and enhancement on Camp Pendleton in the immediate vicinity of the proposed project. Even if a site could be identified, the success of a habitat restoration project would likely be limited due to periodic disturbances to species and habitats resulting from training activities. There are no coastal sage scrub or Valley needlegrass grassland restoration projects either underway or proposed at Camp Pendleton, according to the 2018 Integrated Natural Resources Management Plan for the base.

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. Based on the habitat impact calculations associated with the project design, this would result in approximately 3,522 square feet (0.08 acres) 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 coastal sage scrub and valley needlegrass grassland. **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; lack of mitigation sites nearby; 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.

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 30240.

E. VISUAL RESOURCES

Coastal Act Section 30251 states:

> *The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.*

The proposed project is located inland of Interstate-5 on an existing line parallel to the highway in the western portion of Camp Pendleton (**Exhibit 2**). The visual character of the area is dominated by predominantly undeveloped hillsides, and there are other utility lines within the project corridor, including some that are greater in height than the existing or proposed poles (particularly connecting to the San Onofre Nuclear Generating Station). Existing access roads and roads used for military training exercises on Camp Pendleton are also visible. The existing utility line is visible from Interstate 5, as it parallels the freeway on its landward site, and is visible from San Onofre State Beach campground. Interstate 5 is an Eligible State Scenic Highway in the Project Area, but there are no designated vista points or overlooks within this portion of Camp Pendleton.

The proposed project involves replacing existing wood poles with dull, galvanized steel. The poles would thus change color, but the use of dull steel would reduce any potential effect of glare or light reflection. On average, the steel poles would be 27% higher than existing poles, but the increase in their overall height is mitigated to an extent by the reduction in the number of poles since a net loss of five poles within the coastal zone would occur as a result of the proposed project. The new poles would be placed within the existing utility line corridor in close proximity to existing poles, further reducing the potential effect of introducing a new visual element to this portion of Camp Pendleton. No new permanent lighting is proposed as part of the project.

The proposed project would include the use of construction-related equipment, which would be noticeable to motorists and recreational users. This effect would be temporary and of short duration, as the proposed project is anticipated to take approximately a year with vehicles at individual pole work sites for up to a week at a time. Construction staging areas include the use of property at the SONGS Mesa which is already developed. Thus, the presence of construction-related equipment and staging would not result in a significant or long-term effect to the visual character of the area.

Construction activity may occur at night but would be limited and of a short duration. During such work periods, work lights would be directed away from Interstate-5 and other land uses. Additionally, nighttime lighting would be shielded, pointed down, and not left on when not in use. Military exercises at Camp Pendleton occasionally occur at night, and thus introduction of temporary, construction-related night lighting would not be a significant new visual impact.

For these reasons, the Commission finds that the proposed Project is designed to protect coastal views and is compatible with the character of this portion of Camp Pendleton, and is consistent with Section 30251 of the Coastal Act.

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 record search for the entire corridor of the Project resulted in the identification of 11 known cultural resources sites and five additional isolated finds within the overall Project Area of Potential Effect, generally defined as within 300 feet of the project corridor, near potential staging yards, or existing access roads. Two of these cultural resource sites are eligible for listing on the National Register of Historic Places (National Register) and are located outside of the coastal zone. For the portion of the project that is within the coastal zone and thus the subject of this CDP, two pole work sites are located within approximately 50 feet of one of the two National Register-eligible cultural resources sites. A pedestrian survey conducted for the proposed project resulted in the identification of no other historic resources within the Project vicinity. A paleontological resource investigation identified areas of high potential for paleontological resources, as portions of the project area are underlain by sedimentary rocks.

Commission staff engaged Native American Tribes pursuant to the Commission's Tribal Engagement Policy which, as described in Section IV.B, resulted in a response from the Rincon Band of Luiseno Indians (see **Exhibit 4**). The letter contains the following requests for the proposed project: monitoring of all ground disturbance activities by a Tribal representative; no road grading within historic properties; minimization of pole removal-related ground disturbance associated with project activities at two poles (located in a portion of the project outside of the coastal zone); development and implementation of a discovery plan and monitoring program; and receipt of a copy of the final monitoring report submitted to the State Historic Preservation Office (SHPO).

As described in the Initial Study Checklist for the proposed project, the project has been designed to avoid negative effects to identified cultural resource sites by avoiding and verifying (through subsurface investigations) the boundaries of these cultural resource

sites. Project work locations and specific measures at two poles outside of the coastal zone have been incorporated into the proposed project (see **Exhibit 3**). In addition, no road grading will occur within the boundaries of any known cultural resource, regardless of its National Register of Historic Places status. These measures have been incorporated into this CDP through **Special Condition 1**.

The proposed project also includes monitoring and impact-reduction measures to reduce the potential for affects to paleontological resources, incorporated into this permit through **Special Condition 1**. A qualified paleontological monitor will be present during any ground disturbance activities within areas characterized by high paleontological sensitivity. Unanticipated fossil finds would be appropriately processed, in coordination with the San Diego Natural History Museum.

However, even with the inclusion of these requirements, it is possible that the project could affect previously unidentified cultural resources. Therefore, to further ensure that unanticipated cultural resource impacts are minimized by the proposed project, **Special Condition 6** requires SDGE to provide Rincon Band of Luiseno Indians monitoring for all ground disturbance activities associated with the proposed project, in accordance with requirements resulting from the Marine Corps Base Camp Pendleton Section 106 review. Additionally, **Special Condition 6** also requires that a copy of the final project cultural resources monitoring report submitted to the SHPO be provided to the Executive Director.

For these reasons and the incorporation of **Special Conditions 1 and 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. 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.

San Diego Gas and Electric Company completed an Initial Study Checklist for the proposed project in December 2019. This Initial Study Checklist resulted in a conclusion that the project would not result in significant environmental impacts. This conclusion, combined with the fact that the proposed project involves replacement of existing utility line structures, resulted in a confirmation that the project was exempt from further CEQA review pursuant to CEQA Guidelines 15302(c).

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 ESHA and cultural resources, 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:

Application for Coastal Development Permit 9-20-0008, dated January 3, 2020.

San Diego Gas and Electric Co. responses to first and second Notices of Incompleteness, dated May 1, and May 11, 2020, respectively.

San Diego Gas and Electric Co. 2020. Letter to John Weber, Coastal Commission staff, describing proposed habitat mitigation banking site. August 4, 2020.

Kelly Brasket, Cultural Resources Section Head, Marine Corps Base Camp Pendleton. Personal communication with John Weber, Coastal Commission staff regarding Marine Corps tribal consultation for the proposed project. August 6, 2020.

Other Documents:

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.

California Public Utilities Commission. 2019. *CPUC fire map*, on-line fire risk mapping information accessed July 1, 2020.

Department of the Navy, Naval Facilities Engineering Command Southwest Division. 2018. Final Joint Integrated Natural Resources Management Plan for Marine Corps Base and Marine Corps Air Station Camp Pendleton, California. March 2018.

Haley & Aldrich, Inc. and Pangea Biological. 2019. CEQA Initial Study Checklist. TL 692 Wood to Steel Pole Replacement Project for San Diego Gas and Electric Co.

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.