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# F11a

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## STAFF REPORT: REGULAR CALENDAR

**Application No.:** 6-20-0564

**Applicant:** San Diego Gas and Electric (SDG&E)

**Location:** Famosa Slough, San Diego Co.

**Project Description:** Single pole replacement and conductor transfer in coastal salt marsh habitat.

**Commission Action:** Approval with Conditions

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## SUMMARY OF STAFF RECOMMENDATION

The proposed project would consist of installing a new 80-foot wood pole (10 foot subterranean) by digging a hole two feet north of an existing, degraded pole as part of SDG&E's ongoing maintenance program. Materials would be salvaged from the new hole, wires would be moved to the new pole, and the old pole and supporting anchors will be removed, and the disturbed areas replanted with salvaged topsoil and vegetation.

The primary Coastal Act issue raised by this project is potential adverse impacts to wetlands. The existing pole and the new pole are located in wetland habitat within Famosa Slough. The new pole will not take up any more space in the wetland than the existing pole that it is replacing. While no new permanent impacts are therefore anticipated, access

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to the pole and performing removal activities will result in temporary impacts to approximately 300 square feet of coastal salt marsh vegetation.

This project has been designed to minimize impacts by accessing the poles through existing footpaths and nearby developed areas, which makes it the least environmentally damaging alternative. [Special Condition 1](#) requires that temporary impacts to 300 square feet be revegetated and monitored for 1 year after completion of the project. If recovery is not achieved, [Special Condition 1](#) provides for the use of mitigation credits from nearby San Luis Rey and/or Rancho Jamul. As conditioned, no permanent impacts to coastal resources are anticipated. Finally, this project incorporates monitoring requirements ([Special Condition 4](#)) for potential impacts to cultural resources.

The proposed project qualifies as a repair and maintenance project that would generally be exempt from permitting under the Coastal Act; however, because the project involves the removal of vegetation within an ESHA, it requires a permit. In considering a permit application for a repair or maintenance project such as this, the Commission evaluates whether the proposed method of repair and maintenance conforms with the Coastal Act and does not evaluate the underlying development's conformity with the Coastal Act. As conditioned, the method of repair in this case is consistent with the ESHA and wetlands policies (Sections 30233 and 30240) of the Coastal Act. Because the proposed development will occur in tidal wetlands, the Commission has jurisdiction over the project, and the standard of review is the Chapter 3 policies of the Coastal Act.

Commission staff recommends **approval** of coastal development permit application 6-20-0564 as conditioned.

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## APPENDICES

Appendix A – Substantive File Documents

## EXHIBITS

Exhibit 1 – Map of Project Area

Exhibit 2 – Vegetation Map

Exhibit 3 – Photos of Project Site

Exhibit 4 – Mitigation Bank Locations

## I. MOTION AND RESOLUTION

### Motion:

*I move that the Commission **approve** Coastal Development Permit Application No. 6-20-0564 pursuant to the staff recommendation.*

Staff recommends a **YES**. 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 6-20-0564 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 and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. 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

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 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

This permit is granted subject to the following special conditions:

1. **Impacts to Wetlands.** A post construction survey shall be completed and submitted to the Executive Director one year after revegetation that identifies any impacts to wetlands that have not been fully restored, pursuant to the criteria in this condition. Any such impacts that remain a year after project completion shall be considered permanent impacts, and such impacts shall be deducted at a 4:1 ratio from mitigation banks at Rancho Jamul or San Luis Rey. The following standards of success for temporary impacts and restoration shall apply:
  - a. Revegetation must take place within 90 days of project completion.
  - b. Full restoration of all vegetation impacts that are identified as temporary, which shall include, at a minimum, restoration to before-impact hydrology, removal of all non-native plant species, and replanting with locally collected native coastal sage scrub or wetland species as applicable.
  - c. Final performance monitoring shall confirm at least 90% vegetative coverage of areas disturbed by construction activities within one year of completion of revegetation activities.
  - d. All surveys, reports, and other documentation of the post-construction impacts shall be submitted to the Executive Director within 30 days of completion.
2. **Timing of Development.** To avoid potential impacts to avian species, development activities may not occur from February 15 to August 31 of any year unless written permission is obtained from CDFW and USFWS and provided to the Executive Director for review and approval. A qualified biological monitor shall be present during project activities.
3. **Liability for Costs and Attorneys' Fees.** By acceptance of this coastal development permit (CDP), the Applicant/Permittee agrees to reimburse the California Coastal Commission in full for all Coastal Commission costs and attorneys' fees (including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorneys' fees that the Coastal Commission may be required by a court to pay) that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the Applicant/Permittee against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this CDP. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.

4. **Cultural Resource Monitoring.** SDG&E shall comply with the following monitoring conditions during construction.
  - a. Archaeological monitor(s) qualified by the California Office of Historic Preservation (OHP) standards, and a minimum of 1 Native American monitor from a tribal entity with documented ancestral ties to the Kumeyaay Band of Viejas Indians area appointed consistent with the standards of the Native American Heritage Commission (NAHC), and the Native American most likely descendent (MLD) when State Law mandates identification of a MLD, shall monitor all project excavation work associated with the approved development;
  - b. SDG&E shall provide sufficient archeological or Native American monitors to assure that all project grading and any other subsurface activity that has any potential to uncover or otherwise disturb cultural deposits is monitored at all times;

If an area of cultural deposits is discovered during the course of the project, all construction and subsurface activity that have the potential to uncover or otherwise disturb cultural deposits in the area of the discovery or may foreclose mitigation options (not less than 15-foot wide buffer around the discovery) shall cease immediately and shall not recommence except as provided below; and a project archaeologist shall prepare and submit a Significance Testing Plan, for review and approval of the Executive Director, identifying measures to be undertaken to determine the significance of the find. The Plan shall be prepared in consultation with the Native American monitors, and the MLD when State Law mandates the identification of a MLD. The Executive Director shall determine the adequacy of the Plan and if it is found to be de minimis, it can be implemented without further Commission action. The Significance Testing Plan results, along with the project archaeologist's recommendation as to whether the discovery should be considered significant, and the comments of the Native American monitors and MLD when State Law mandates the identification of a MLD, shall be submitted to the Executive Director for a determination of the significance of the discovery. If the Executive Director determines that the discovery is significant, development shall not recommence and the permittee shall submit to the Executive Director an Archaeological Plan in accordance with the provisions, below.

A permittee seeking to recommence construction following discovery of cultural deposits determined to be significant pursuant to the process established in the Significance Testing Plan shall submit an Archaeological Plan for the review and written approval of the Executive Director, prepared by a project archaeologist in consultation with the Native American monitor(s) of the Kumeyaay Band of Viejas Indians and the Native American most likely descendent (MLD) when State Law mandates identification of a MLD. The Archaeology Plan shall identify proposed investigation and mitigation measures, which can range from in-situ preservation to recovery and/or relocation/reburial. A good faith effort shall be made to avoid impacts to cultural resources through methods such as, but not limited to, project redesign, capping, and placing cultural resource areas in open space. In order to

protect archaeological resources, any further development may only be undertaken consistent with the provisions of the approved Archaeological Plan.

- i. If the Executive Director approves the Archaeological Plan and determines that the Archaeological Plan's recommended changes to the proposed development or mitigation measures are de minimis in nature and scope, construction may recommence after this determination is made by the Executive Director.
- ii. If the Executive Director approves the Archaeological Plan but determines that the changes therein are not de minimis, construction may not recommence until after an amendment to this permit is approved by the Commission to authorize a new archaeological approach.
- iii. A report verifying compliance with this condition shall be submitted to the Executive Director for review and written approval, upon completion of the mitigation measures detailed in the approved Archaeological Plan required to protect significant archaeological finds.

## **IV. FINDINGS AND DECLARATIONS**

### **A. PROJECT DESCRIPTION**

A part of its corrective maintenance program, SDG&E proposes to replace a wood pole due to its deteriorated condition and to stay in compliance with conditions mandated by the California Public Utilities Commission. The project will install a new pole approximately two feet north of the existing deteriorated pole using hand tools in wetlands areas and mechanical equipment in adjacent developed areas. Approximately .81 cubic yards of material and vegetation will be excavated and salvaged. The new 80-foot pole (10 foot subterranean) will be installed using a crane that will be located in a condominium parking lot on Loma Riviera Court. Approximately 15 yards of decomposed granite fill and native soil will be used to install the new pole into this hole. Next, the overhead wires will be transferred from the old pole to the new pole by an aerial manlift and three new anchors will be installed on new wood pole. Anchors will then be removed from the old pole, and the pole will be dug out and removed. Overhead work will take place at the two adjoining poles outside of wetlands habitat by aerial manlift to adjust sag/tension of the power line. Following replacement of the old pole, topsoil and vegetation will be used to facilitation revegetation of the old hole location once it the pole is removed. SDG&E will monitor the site for a period of one year to ensure revegetation is successful.

### **B. OTHER AGENCY APPROVALS AND TRIBAL CONSULTATION**

#### **State Water Resources Control Board (SWRCB)**

Notice of Applicability for Nationwide Permit 12: Utility Line Activities was approved on March 25, 2020. The State Water Board determined that this project was exempt from review under CEQA pursuant to California Code of Regulations, title 14, section 15301.

### **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: Agua Caliente Band of Cahuilla, Cahuilla Band of Indians, Campo Band of Diegueno Mission Indians, Augustine Band of Cahuilla Mission Indians, Ewiiapaayp Band of Kumeyaay Indians, Barona Group of Capitan Grande, Cabazon Band of Mission Indians, Iipay Nation of Santa Ysabel, Inaja-Cosmit Band of Indians, Kwaaymii Laguna Band of Mission Indians, Jamul Indian Village, La Jolla Band of Luiseno Indians, Jauneno Band of Mission Indians, La Posta Band of Diegueno Mission Indians, Juaneno Band of Mission Indians Acjachemen Nation-Belardes, Los Coyotes Band of Cahuilla and Cupeno Indians, Juaneno Band of Mission Indians Acjachemen Nation-Romero, Manzanita Band of Kumeyaay Nation, Pauma Band of Luiseno Indians, Mesa Grande Band of Diegueno Mission Indians, Pechanga Band of Luiseno Indians, Morongo Band of Mission Indians, Quechan Tribe of the Fort Yuma Reservation, Pala Band of Mission Indians, Ramona Band of Cahuilla, San Pasqual Band of Diegueno Mission Indians, Rincon Band of Luiseno Indians, Santa Rosa Band of Cahuilla Indians, San Luis Rey Band of Mission Indians, Soboba Band of Luiseno Indians, Viejas Band of Kumeyaay Indians, Sycuan Band of Kumeyaay Nation, Torres-Martinez Desert Cahuilla Indians, Viejas Band of Kumeyaay Indians.

Contact information for these Tribal Representatives was provided by the Native American Heritage Commission. No known cultural resources were identified within the project area. Two tribes responded to staff's outreach with a request to include protocols for inadvertent discoveries and Native American monitors during construction work. One tribe responded with a request to include tribal resource monitors as this area was potentially culturally significant. 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 and structures. The footprint of the proposed project will not be altered. Furthermore, while the reliability of the line will improve, the service provided will not be expanded. 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:

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

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

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

*(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....*

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. BIOLOGICAL RESOURCES**

Section 30233 of the Coastal Act states, in 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:*

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

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

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

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

*(5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*

*(6) Restoration purposes.*

*(7) Nature study, aquaculture, or similar resource dependent activities.*

*(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for these purposes to appropriate beaches or into suitable longshore current systems.*

*(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary ...*

The proposed project area is located in southern coastal salt marsh that is associated with Famosa Slough in San Diego County. The salt marsh is surrounded by coastal sage scrub consistent with other areas of the Famosa Slough Wetlands Preserve, which also includes recreational walking trails and interpretive signs. The salt marsh is bordered to the east by landscaped ornamental vegetation that has been planted and maintained around several high-density condominium complexes and townhouses ([Exhibit 2](#)). The existing anchors for the pole are within the ornamental landscaping, which are not considered rare or valuable nor easily disturbed by human activities or development.

The existing pole is surrounded by coastal salt marsh habitat in all directions within an approximately 15-foot radius. The marsh is dominated by pickleweed (*Salicornia pacifica*), shore grass (*Distichlis littoralis*), marsh jaumea (*Jaumea carnosa*), arrow grass (*Triglochin concinna*), and sea lavender (*Limonium californicum*). The coastal salt marsh habitat in this location has the potential to support several special status species listed below.

- Wandering skipper (*Panoquina errans*): An NCCP<sup>1</sup> covered species of butterfly that inhabits coastal salt marsh habitats. Larva forage on shore grass. Although not observed during field surveys, it has a moderate potential to occur within the project area.
- Ridgway's rail (*Rallus obsoletus*): A federal and state endangered species with nesting and foraging habitat in the project area. No species were observed during field surveys, and it therefore has a moderate potential to occur.
- Burrowing owl (*Athene cunicularia*): A state species of concern and NCCP covered. No species were observed during surveys. The project area does not support nesting or foraging habitat, therefore it has low potential to occur.
- Belding's savannah sparrow (*Passerculus sandwichensis beldingi*): State endangered and NCCP covered. Foraging and nesting habitat occur in the project area but none were observed during surveys. Moderate potential to occur.
- American peregrine falcon (*Falco peregrinus anatum*): Federally protected and NCCP covered. Suitable habitat in the project area but not observed during field surveys. Moderate potential to occur.

The proposed project will result in impacts to approximately 300 square feet of coastal wetlands. Thus, the proposed project is subject to the requirements of Coastal Act Section 30233(a). The first requirement is that the proposed activity must fit into one of the seven listed categories (i.e., in the "allowable use" test). However, because the project is considered repair and maintenance, as described previously, only the methods of proposed construction activity are being reviewed; therefore, this "allowable use" test of Section 30233(a) is not applicable.

The second test of Section 30233(a) requires that there be no feasible less environmentally damaging alternative, and the third test requires that feasible mitigation

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<sup>1</sup> Natural Community Conservation Plan: SDGE Habitat Conservation Plan

measures be provided to minimize the project's adverse environmental effects. These two tests are applicable to the proposed project and are assessed in the sections below.

#### *Alternatives*

When considering alternative replacement of the pole outside of the wetland ESHA, SDG&E explored with State Lands Commission (the landowner) alternatives that would require a new easement for utility poles; however, it was determined to be infeasible, and thus SDG&E does not have the authority to place the pole outside of the wetland ESHA. Simply, alternative locations are limited to an area covered by the existing SDG&E easement. As such, two alternative projects were evaluated: 1) offsetting the proposed pole slightly from the existing one and removing the existing pole and restoring the wetland area impacted by the temporary workspace (the proposed project); or 2) using a "same hole set" for the new pole. A same hole set would involve a temporary pole offset from the pole location to hold up the power lines while the old pole is removed, and a new pole would be set in the same hole after the old pole is removed from the pole hole. Then the power lines would be transferred to the new pole. SDG&E determined that the same hole set alternative resulted in more significant impacts than the proposed project because it 1) requires the installation and removal of a temporary pole in the wetland area in addition to the removal and installation of the pole replacement in the wetland area, and 2) requires an extended power line outage that would impact customers in the coastal zone fed by the power line. Thus, the proposed pole location minimizes impacts to wetland habitat.

SDG&E also evaluated alternative materials for the pole replacement. Potential alternatives for replacing a failing wood pole include installing a steel pole or fiberglass pole. However, both steel poles and fiberglass poles have larger diameters than wood poles and also require concrete backfill around the pole, making the ultimate footprint of the pole significantly larger than existing, thus resulting in a larger wetland impact footprint. Therefore, the least environmentally-damaging alternative is a like-for-like wood pole replacement.

Therefore, as proposed, the Commission finds that there are no other feasible alternative construction methods that would result in less adverse impacts than the proposed project. Thus, the proposed project meets the second test of Section 30233(a).

#### *Mitigation*

As previously mentioned, SDG&E will be accessing the pole through existing paths and using overhead equipment stationed on existing pavement/lots. All staging materials will also be placed on existing lots ([Exhibit 1](#)). Therefore, the impacts from the pole replacement are limited to the excavation of a new pole hole and fill of the existing pole hole (300 sq. ft. of impacted area), which is anticipated to revegetate. Temporary monitoring protocols are included in [Special Condition 1](#). In the event that the area does not revegetate, SDG&E proposes to use mitigation credits from either San Luis Rey Mitigation Bank (1.17 acres remaining) or at Rancho Jamul Mitigation Bank (0.6036 acre remaining). Applying a 4:1 ratio in this scenario would result in a

deduction of 1,200 square feet (.0275 acres) at either of these sites ([Exhibit 4](#)). Additionally, SDG&E will provide a monitoring report which details the successful revegetation of temporary impacts to wetlands at the site.

To mitigate for potential impacts to avian species associated with this site, SDG&E will adhere to the NCCP Operational Protocols which recommend that construction takes place outside of the bird breeding season (February 15 through August 31), and to have a qualified biological monitor present during project activities ([Special Condition 2](#)).

With the implementation of the measures described above, the proposed project meets the third test of Section 30233(a).

#### *Conclusion*

Thus, for the reasons described above, and with the inclusion of Special Conditions 1 and 2, the proposed repair and maintenance project will minimize adverse environmental impacts to wetlands and is thus consistent with the requirements of Section 30233(a) of the Coastal Act.

## **E. CULTURAL AND TRIBAL 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.*

A cultural resource record search for the project area was returned that showed that potential cultural resources may be present that may be of significance to the Viejas Band of Kumeyaay Indians. Commission staff engaged Native American Tribes pursuant to the Commission's Tribal Consultation Policy and received feedback from two tribes requesting incorporation of inadvertent discovery protocol, and from the Viejas Band of Kumeyaay Indians requesting presence of a tribal monitor during ground disturbing activities as this area was potentially culturally significant. SDG&E has committed to incorporating both measures and will also have an archaeological monitor onsite during ground disturbing activities. This commitment is memorialized in [Special Condition 4](#). The Commission therefore finds that the proposed Project's anticipated lack of effects to cultural, archeological, and paleontological resources, as well as the measures incorporated to mitigate any potential impacts, make the project consistent with Section 30244 of the Coastal Act as well as environmental justice principles as articulated in the Commission's Tribal Consultation Policy.

## **F. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

On March 27, 2020, the State Water Resources Control Board, as lead agency, filed a notice of exemption from CEQA for this project. 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, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures including conditions addressing restoration of temporary impacts to sensitive habitat will minimize all potentially significant 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 the project will not have any significant environmental impacts within the meaning of CEQA. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and is consistent with CEQA.

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## **APPENDIX A – SUBSTANTIVE FILE DOCUMENTS**

Application for Coastal Development Permit 6-20-0564, dated October 13, 2020.

First Notice of Incomplete Application, dated November 18, 2020 and response dated March 2, 2021.

Second Notice of Incomplete Application, dated March 30, 2021 and response dated July 15, 2021.

Coastal Development Permit # 6-15-2087 (SDG&E), approved April 2016.

Coastal Development Permit # 6-12-058 (SDG&E), approved October 2012.

Coastal Development Permit # 6-11-088 (SDG&E), approved April 2012