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STAFF REPORT: CONSENT CALENDAR

Application No.: 5-20-0410

Applicant: Southern California Edison

Agents: Hazem Gabr, Senior Manager, SCE
Kim Castuita, Environmental Advisor, SCE

Location: North of Laguna Canyon Road at Woodland Drive
Unincorporated Orange County
APN: 496-061-11

Project Description: Morro Substation Erosion Control and Drainage Improvement Project including 600 cubic yards of grading and drainage improvements immediately surrounding the existing Morro Substation to address erosion issues; construction of two detention basins; and installation of drain pipes and energy dissipaters. Also proposed is a Habitat Mitigation & Monitoring Plan to offset project impacts to 0.16 acres of habitat at the substation site with a habitat restoration project of 0.48 acres also located within Laguna Canyon.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The applicant, Southern California Edison (SCE), is proposing to address drainage and erosion problems at its Morro Substation located in Laguna Canyon, adjacent to and north of Laguna Canyon Road, just west of Woodland Drive (**Exhibit 1**). The subject site is surrounded on three sides by the Laguna Coast Wilderness Park and on the

fourth side by Laguna Canyon Road. It is adjacent to, but not within, the wilderness park. The substation is located just under three quarters of a mile inland of Coast Highway and Main Beach in Laguna Beach. The site is an unincorporated area of Orange County, surrounded on three sides by the Newport Coast LCP and on the fourth side by the City of Laguna Beach LCP. There is no certified LCP for the subject site. The standard of review is Chapter 3 of the Coastal Act. The existing drainage facilities at the site cannot handle flows from 100-year storm events. The applicant states that extreme drainage from the adjacent steep hillsides in the wilderness park threatens continuous provision of electricity to the surrounding SCE customers.

Morro Substation was built in 1969 and provides power to the residents and businesses of the City of Laguna Beach, encompassing approximately 23,000 customers within its service area. The applicant (SCE) is proposing the drainage and erosion control project "to ensure the continued safe and reliable use of Morro Substation." To address severe erosion of soil adjacent to the substation, the project would include some vegetation removal, grading, and the construction of energy dissipator detention basins, placement of drain pipes, and energy dissipator riprap channels (**Exhibit 2**). The drainage improvements are described in greater detail beginning on page 10 of this report.

A Biological Resource Habitat Assessment (Artemis Environmental Services, Inc., 12/10/2019) prepared for the proposed project identifies 0.16 acres of habitat impact: 0.14 acres of California sagebrush, less than 0.01 acres of Laurel sumac scrub, and 0.02 acres of Blue elderberry stands. To address these habitat impacts, the applicant is proposing a Habitat Mitigation and Monitoring Plan (HMMP) to offset the 0.16 acres of impacts to environmentally sensitive habitat area (ESHA). The proposed HMMP restoration project will also be located within Laguna Canyon, in the same Laguna Canyon Creek watershed, approximately 2.5 miles upstream of the substation site (**Exhibit 6**). The HMMP would restore 0.48 acres of habitat, including 0.28 acres of coastal sage scrub, 0.14 acres of lemonade berry scrub, 0.04 acres of coast live oak woodland habitats, and 0.0245 acres of ephemeral streambed. The amount of proposed mitigation results in a mitigation ratio of 3:1, consistent with the Commission's typically required mitigation ratio for the types of terrestrial (coastal sage scrub and chaparral) and aquatic (Blue elderberry) ESHA impacts resulting from the proposed project. The proposed HMMP includes removal of non-native vegetation; container planting and seeding of the mitigation area with native species; standards for monitoring; performance standards; and adaptation measures in the event the performance standards are not met. Monitoring will occur for five years and until performance standards are met.

As proposed, the project is designed to preserve sensitive habitat to the maximum extent possible, but the proposed erosion control and drainage improvements will unavoidably impact 0.16 acres of ESHA. The proposed development constitutes maintenance work necessary to minimize risks and hazards for an existing structure (built prior to the effective date of the Coastal Act) providing an essential public service use at the site. Although the area of impact has been reduced to the minimum size necessary to protect the existing substation, this project is not typically considered

compatible with protection of ESHA. While the project is not a use dependent upon the ESHA resource, the project is necessary to protect the existing public service development. There is not enough room on the property to address flooding without removing the substation from the property.

To mitigate for the impacts to ESHA, disturbed areas on the site will be revegetated with native hydroseeding. Timing of construction will be limited to outside the gnatcatcher breeding season, thereby reducing potential impacts to the gnatcatcher. No work will occur during bird breeding season. The adjacent wilderness area also provides ample habitat for gnatcatchers, such as a pair recently observed, to carry on foraging activities nearby when construction is underway. The work area will be flagged during construction, separating it from the surrounding habitat and reducing the potential for increased impacts.

Staff is recommending approval of the proposed development subject to five special conditions to assure consistency with Coastal Act policies regarding habitat protection and water quality. **Special Condition No. 1** requires the HMMP be implemented as proposed. **Special Condition No. 2** requires that construction not occur during the bird breeding season (February 1 – September 15). **Special Condition No. 3** requires the applicant to conform with the project plans as proposed. **Special Condition No. 4** requires the applicant to conform with the requirements of the resource agencies. And **Special Condition No. 5** requires the applicant to conform with water quality Best Management Practices during construction.

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I. MOTION AND RESOLUTION

Motion:

I move that the Commission approve the Coastal Development Permit applications included on the consent calendar in accordance with the staff recommendations.

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby approves the Coastal Development Permit No. 5-20-0410 for the proposed project 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

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 applicant 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 or interpretation of any condition will be resolved by the Executive Director or the Commission.

4. **Assignment**. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. **Terms and Conditions Run with the Land**. These terms and conditions shall be perpetual, and it is the intention of the Commission and the applicant 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. IMPLEMENT HMMP AS PROPOSED.
A. The permittee shall carry out the approved Habitat Mitigation & Monitoring Plan (HMMP), prepared for Southern California Edison by the Laguna Canyon Foundation, as revised on 7/2/2022, included as Exhibit 3 of this staff report.
B. The permittee shall undertake development in accordance with the approved HMMP. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plans shall occur without a new CDP or a Commission-approved amendment to this CDP unless the Executive Director determines that no amendment is legally required.

2. AVOIDANCE OF BIRD BREEDING SEASON. By acceptance of this permit, the applicant agrees that all construction activities shall occur outside of the breeding season of the California Gnatcatcher (February 1 – September 15). In addition, a qualified biologist shall be on site during all construction activities to ensure protection of bird and other sensitive species.

3. CONFORMANCE WITH CONSTRUCTION GRADING, EROSION AND SEDIMENT CONTROL PLANS
A. As proposed, and by acceptance of this permit, the applicant shall implement: 1) the Morro Substation Project Erosion and Sediment Control Plan, prepared by Mark Miller, QSD/QSP, dated 9/10/2020; and 2) The Grading, Erosion Control and Sedimentation Plan (Plan Sheets C1.0, C1.1, C1.2, C1.3, C1.4, C2.0, and C2.1 (received by the Coastal Commission on 3/5/2021) during all construction activities on site.

B. The permittee shall undertake development in accordance with the approved Erosion and Sediment Control Plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plans shall occur without a Commission amendment to this CDP unless the Executive Director determines that no amendment is legally required.

4. Conformance with the Requirements of the Resource Agencies. This permit does not obviate the need to obtain necessary authorizations and/or permits from other agencies, including but not limited to the California Department of Fish and Wildlife, California State Water Quality Control Board, Regional Water Quality Control Boards, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality, the marine environment, and sensitive species. Any change in the approved project which is required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the

proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.

5. CONSTRUCTION BEST MANAGEMENT PRACTICES.

A. The permittee shall comply with the following construction-related requirements and shall do so in a manner that complies with all relevant local, state and federal laws applicable to each requirement:

(1) No construction materials, debris, or waste shall be placed or stored where it may be subject to wave, wind, rain, or tidal erosion and dispersion;
(2) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
(3) Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters;
(4) Erosion control/sedimentation Best Management Practices (BMPs) shall be used to control dust and sedimentation impacts to coastal waters during construction. BMPs shall include, but are not limited to, placement of sand bags around drainage inlets to prevent runoff/sediment transport into coastal waters; and
(5) All construction materials, excluding lumber, shall be covered and enclosed on all sides, and stored as far away from a storm drain inlet and receiving waters as possible.

B. Best Management Practices (BMPs) designed to prevent spillage and/or runoff of construction-related materials, sediment, or contaminants associated with construction activity shall be implemented prior to the onset of such activity. Selected BMPs shall be maintained in a functional condition throughout the duration of the project. Such measures shall be used during construction:

(1) The permittee shall ensure the proper handling, storage, and application of petroleum products and other construction materials. These shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. It shall be located as far away from the receiving waters and storm drain inlets as possible;
(2) The permittee shall develop and implement spill prevention and control measures;
(3) The permittee shall maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems. Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than 50 feet away from a storm drain, open ditch or surface water; and
(4) The permittee shall provide adequate disposal facilities for solid waste, including excess concrete, produced during construction.

IV. FINDINGS AND DECLARATIONS

A. Project Description and Location

The applicant, Southern California Edison (SCE), is proposing to address drainage and erosion problems at its Morro Substation located in Laguna Canyon, adjacent to and north of Laguna Canyon Road, just west of Woodland Drive. The subject site is surrounded on three sides by the Laguna Coast Wilderness Park and on the fourth side by Laguna Canyon Road. It is adjacent to, but not within, the wilderness park. The substation is located just under three quarters of a mile inland of Coast Highway and Main Beach in Laguna Beach. The site is an unincorporated area of Orange County, surrounded on three sides by the Newport Coast LCP and on the fourth side by the City of Laguna Beach LCP. There is no certified LCP for the subject site. The existing drainage facilities at the site cannot handle flows from 100-year storm events. The applicant states that extreme drainage from the adjacent steep hillsides in the wilderness park threatens continuous provision of electricity to the surrounding customers.

Morro Substation was built in 1969 and provides power to the residents and businesses of the City of Laguna Beach, encompassing approximately 23,000 customers within its service area. The substation is connected to three 66 kV transmission lines, where the substation transforms the high transmission voltage to a lower distribution voltage (between 4 kV and 12 kV). The applicant (SCE) is proposing the drainage and erosion control project “to ensure the continued safe and reliable use of Morro Substation.” To address severe erosion of soil adjacent onto the substation, the project would include some vegetation removal, grading, and the construction of energy dissipator detention basins, placement of drain pipes, and energy dissipator riprap channels (**Exhibit 2**).

The substation is adjacent to steep hillsides that erode severely during 100-year storm events. These events have recurred over a number of years and are expected to continue into the future. The erosion has flooded the substation with runoff soils and debris that have caused concern for the reliability of the substation and the safety of the SCE crews. The applicant indicates that the goal of the project is to ensure the continued safe and reliable use of Morro Substation per the requirements of the California Public Utilities Commission (CPUC). To that end, the applicant states that SCE, for public safety, is required to maintain assets, including this substation, in good condition and functioning properly, ensure reliable service, and provide adequate and safe access to assets for inspection and repairs.

A drainage study prepared for the Morro Substation (PGA Engineers, Inc., and dated 12/11/2020) demonstrates how stormwater runoff flows from steep slopes to either side of the substation. The drainage study prepared for the proposed project divides the surrounding area into Drainage Area A and Drainage Area B. Neither of the subject ephemeral drainages (Area A & Area B) are recognized as blue line streams. Drainage Area A (northwest) comprises 35 acres and drains for approximately 2,590 linear feet to

the west side of the substation. Drainage Area B (northeast) is 9 acres and drains for approximately 1,010 linear feet to the east side of the substation. The highest elevation of Drainage Area A is 720 feet above mean sea level (msl) and Drainage Area B is 570 feet msl, while the point of entry into the culvert at Laguna Canyon Road is 65 feet msl. The peak flow for the 100-year storm event is approximately 263 cubic feet per second (cfs) from the 44 acres comprising both drainage areas. The drainage study finds that the proposed project is needed because existing drainage devices cannot handle the flow from the surrounding drainage areas. To address severe erosion of soil adjacent to and upstream of the substation, the proposed project includes some vegetation removal (of which 0.16 acres is native vegetation), grading, and the construction of energy dissipator detention basins, placement of drain pipes, and energy dissipator riprap channels. All proposed development will occur on SCE-owned property.

In conjunction with the proposed development, a Biological Resource Habitat Assessment was prepared (Artemis Environmental Services, Inc., 12/10/2019). The Biological Assessment mapped the presence of sensitive habitat surrounding the substation: Coastal Sagebrush (Artemisia californica-Eriogonum fasciculatum Shrubland), Laurel Sumac Lemonade Berry (Rhus integrifolia Shrubland), and Blue Elderberry (Sambucus nigra Shrubland). The remainder of the surrounding area is comprised of non-native and ornamental vegetation and barren and developed land (**Exhibit 4**). The proposed would impact 0.16 acres of native habitat.

Proposed Drainage & Erosion Control Features:
Western Detention Basin: this detention basin is proposed within the lowest reaches of Drainage Area A at the northwest corner of the project site. The bottom/center of the basin will be covered with 87 square feet of 4- to 6-inch rip rap stone, placed on geotextile fabric membrane. The total basin area for this northwest riprap basin will be 487 square feet. The basin will be created by grading the area, creating sides with maximum slopes of 2:1. The detention basin is intended to store water for a period of time, slowing the velocity of runoff and allowing slow release and infiltration of the stormwater. A 36- by 36-inch pre-cast drop inlet structure is proposed in the southwestern area of the detention basin. Exposed areas of the graded slope sides will be hydroseeded with appropriate natives. This basin is located in an area mapped as Artemisia californica-Eriogonum fasciculatum Shrubland (Coastal Sagebrush), as well as a small area of Barren Land, on the Vegetation Communities Map in the Biological Assessment.

Eastern Detention Basin: this detention basin is proposed within the lowest reaches of Drainage Area B at the northeast corner of the project site. The bottom/center of the basin will be covered with 44 square feet of 4- to 6-inch rip rap stone, placed on geotextile fabric membrane. The total basin area for this northwest riprap basin will be 173 square feet. This basin will also be created by grading the area, creating sides maximum slopes of 2:1. The detention basin is intended to store water for a period of time, slowing the velocity of runoff and allowing slow release and infiltration of the stormwater. A 36- by 36-inch pre-cast drop inlet structure is proposed in the

southeastern area of the detention basin. Exposed areas of the graded slope sides will be hydroseeded with appropriate natives. This basin is located in an area mapped as Barren Land and Artemisia californica-Eriogonum fasciculatum Shrubland (Coastal Sagebrush) on the Vegetation Communities Map.

West Drainage Pipeline & Improvements: the west side of the project site currently includes a concrete ditch and an unvegetated ephemeral, earthen bottom drainage. An 18-inch HDPE pipeline would be installed from the drop inlet structure in the west detention basin, along the northern half of the western property line, to an energy dissipator/rip rap channel to be installed along the southern half of the western property line. The 18" HDPE pipeline will be placed by excavating trenches with a minimum 3-foot depth and minimum 4-foot width. Thus, the existing concrete lined swale located at the northern half of the western property line will be converted to underground pipeline. The trenches will be backfilled with 12 inches of sand on the bottom, 24 inches of granular material compacted to 90% over the pipes, and covered with native soil materials. The pipeline will outlet into the proposed energy dissipater rip rap channel, which will be approximately 71 feet long and 8.5 feet wide, totaling approximately 603 square feet, with a channel bottom width of 24 inches. The sides of the channel will slope at 2:1, with edges of minimum 12-inch thickness. The rip rap will be 4- to 6-inch stone, installed on the bottom and side slopes of the channel, placed on geotextile fabric membrane. The existing unvegetated, earthen bottom, ephemeral drainage along the southern half of the eastern property line will be converted to this rip rap channel. The rip rap channel will connect to an existing drainage swale that will not be altered. The area of the proposed west drainage work is mapped as Artemisia californica-Eriogonum fasciculatum Shrubland (Coastal Sagebrush), Sambucus nigra Shrubland (Blue elderberry shrub), Malosma laurina Shrubland (Laurel sumac), and Barren Land on the Vegetation Communities Map.

East Drainage Pipeline & Improvements: Similarly, the eastern drainage is proposed to connect the drop inlet in the eastern detention basin through a new 18" HDPE pipeline to a curving energy dissipator rip rap channel at the southern side of the eastern property line. The 18" HDPE pipeline will be placed by excavating trenches with a minimum 3-foot depth and minimum 4-foot width. The trenches will be backfilled with 12 inches of sand on the bottom, 24 inches of granular material compacted to 90% over the pipes, and covered with native soil materials. Currently there is concrete lined swale in this area which will be replaced with the pipeline and the rip rap channel. The rip rap channel, at the southern side of the eastern property line, will be approximately 10 feet wide, and 56 feet long, with a channel bottom width of 24 inches. The rip rap will be comprised of 4- to 6-inch stone, placed on geotextile fabric membrane. The channel sides will slope at 2:1. Total area of the rip rap channel will be approximately 560 square feet. The rip rap channel will connect to an existing drainage swale. This area of the proposed east drainage work is mapped as Barren, Artemisia californica-Eriogonum fasciculatum Shrubland (Coastal Sagebrush), Mesembryanthemum spp. – Carpobrotus spp. Semi-natural Herbaceous Stands (primarily ice plant) on the Vegetation Communities Map.

North Drainage Ditch: an existing 143-foot-long concrete lined ditch will be widened from 3-5 feet to a new width of 13 feet wide, including a 2-foot-wide channel bottom, 4-foot-wide sloping side walls and 1-foot-wide edges and a depth of approximately 6-inches. This drainage ditch will be comprised of 4- to 6-inch thick concrete. The north ditch will occupy approximately 2,123 square feet. The existing drainage ditch is within an area mapped as Barren Land on the Vegetation Communities Map. Most, though not all, of the expanded ditch will occur within the mapped Barren Land area. The north drainage ditch will direct drainage from its midpoint to either end where drainage will be directed to the new detention basins.

Approximately 600 cubic yards of soil would be removed (cut) and there would be no soil fill. Structures to be placed in aquatic resources include 68 cubic yards of riprap and 40 cubic yards of concrete, and 300 linear feet of HDPE pipe. Vegetation grubbing[1] and removal will occur within the area of the proposed erosion control and drainage facilities. Existing K-rails along the northwest property line and shorter K-rails on the western and eastern sides of the property will be removed. Construction equipment to be employed includes a small size backhoe/loader, excavator, tamper compactor, crew trucks, bob cat, dump truck and cement truck. Prior to commencement of construction, the limits of all work will be flagged with brightly colored flags, which are to be maintained in good repair for the duration of the project. The proposed flagging will make project limits clear and reduce potential project impacts. All staging of equipment and materials will occur on the existing substation driveway, within the substation, or existing developed areas.

Habitat Mitigation & Monitoring Plan

The proposed project also includes a Habitat Mitigation & Monitoring Plan (HMMP) to offset 0.16 acres of impacts to environmentally sensitive habitat area at the substation site with a habitat restoration project also located within Laguna Canyon in the same Laguna Canyon Creek watershed, approximately 2.5 miles upstream of the substation site (**Exhibit 6**). Although 2.5 miles inland, the mitigation site is located within the coastal zone. The HMMP proposes to restore 0.48 acres of habitat, including 0.28 acres of coastal sage scrub, 0.14 acres of lemonade berry scrub, 0.04 acres of coast live oak woodland habitats, and 0.0245 acres of ephemeral streambed. The amount of mitigation proposed results in a mitigation ratio of 3:1 (mitigation:impact), consistent with the Commission's typically required mitigation ratio for the types of habitat impacts resulting from the proposed project. The proposed HMMP includes removal of non-native vegetation and container planting and seeding of the mitigation area with native species. All HMMP work will be performed by qualified restoration staff.

The HMMP includes removal of non-natives and planting of natives (including both container planting and seeding). The native plants/seeds to be used will originate from

[1] Grubbing is the removal of vegetation, including roots that may remain in the soil.

local, wild sources to maximize the chance of long-term success of the restoration plantings and to preserve regional genetic integrity. When a local plant material source is not available, use of non-local material will be considered on a case-by-case basis, considering the importance of the species to the plant palette and available information on genetic variability for that species. Planting areas will be established in areas currently devoid of native vegetation. Container plants and seed will be distributed in a manner mimicking natural plant distribution within analogous areas in the Laguna Canyon Creek watershed. Supplemental irrigation will be limited to a temporary irrigation system used solely for the establishment of the plantings. Proposed maintenance and monitoring activities include plant inspection, weed management, trash and debris removal, and remedial planting and seeding. The proposed HMMP monitoring will include baseline, project effectiveness, adaptive management, and focused and regional monitoring. Focused monitoring efforts for the proposed project include: annual targeted invasive weed control survey; annual wildlife surveys; and annual breeding and nesting bird surveys in and around restoration areas.

The proposed HMMP includes performance standards (success criteria) to measure whether the mitigation has been successful. The performance standards will be evaluated regularly in conjunction with on-going mitigation monitoring. Proposed HMMP monitoring includes preparation of quarterly and annual reports to be submitted to the Coastal Commission and Regional Water Quality Control Board (RWQCB). These monitoring reports will include: an assessment of progress toward stated project goals and objectives; photo point monitoring album; quantitative estimates of survival/replacement of container stock; percent cover of native and non-native species; diversity of native species for each habitat type; a narrative of progress over the past year, including details of maintenance and remedial tasks recommended and accomplished; and adaptive management strategies and mitigation measures needed if the restoration is not progressing as expected. Maintenance and monitoring of the proposed mitigation will continue for a minimum of five years and until the performance standards are met. The Commission's Senior Staff Ecologist has reviewed the proposed project impacts and the proposed HMMP and determined that the proposed HMMP is adequate, including the proposed container and seed plant lists and mitigation and monitoring methods. **Special Condition No. 1** requires the HMMP be implemented as proposed.

Breeding Birds

The project Biological Assessment (Artemis Environmental Services, Inc., 12/10/2019) notes that a Coastal California Gnatcatcher (Polioptila californica californica) pair was observed within the project study area, to the north of the existing substation, within the Coastal Sagebrush. The pair was observed foraging and vocalizing multiple times during the survey period, approximately 50 to 150 feet away from the existing substation, depending on where the pair moved to and were foraging (**Exhibit 4**). No nests were observed. The Coastal California Gnatcatcher is listed as Federally threatened and a California special concern species. Its presence in the surrounding Coastal Sagebrush and Laurel Sumac Lemonade Berry habitat makes those areas

environmentally sensitive habitat area (ESHA), as defined in the Coastal Act.[2] No other sensitive species were observed within the Biological Assessment study area, though suitable habitat is present that could support other sensitive species.[3]

The Biological Assessment recommends: "Since the Project Study Area is in known occupied habitat for the California Gnatcatcher, all work should be scheduled between September 1 and February 14." In addition, the project's Lake and Streambed Alteration Agreement approved by the California Department of Fish and Wildlife requires, as Avoidance and Minimization Measure 2.3(c), that no project activity shall commence during the breeding season from February 1 through September 15. **Special Condition No. 2** requires that construction not occur during the gnatcatcher breeding season (February 1 – September 15).

ESHA Protection

This proposal consists of repair and maintenance activities. 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 structure being repaired or maintained. However, 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's 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 (emphasis added): 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

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[2] Coastal Act Section 30107.5 defines ESHA as: "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 activities and developments."

[3] Western spadefoot (Spea hammondii) SSC, BLMS; orange-throated whiptail (Aspidoscelis hyperythra) FSS; coastal whiptail (Aspidoscelis tigris stejnegeri) SSC; coast horned lizard (Phrynosoma blainvillii) SSC, BLMS; western mastiff bat (Eumops perotis californicus) SSC, BLMS.

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.…

Although the proposed repair and maintenance activities will not add to or enlarge the subject substation, the proposed work involves removing and placing solid materials and the temporary use of mechanized equipment within 50 feet of ESHA. The proposed repair project therefore requires a coastal development permit under CCR Section 13252. In considering a permit application for a repair or maintenance project pursuant to the above cited authorities, the Commission reviews whether the proposed method of repair or maintenance is consistent with the Chapter 3 policies of the Coastal Act. The Commission's evaluation of such repair and maintenance projects does not extend to an evaluation of the conformity with the Coastal Act of the underlying existing development.

Because the project consists of repair and maintenance of existing facilities surrounding the substation, some of which are located in ESHA, there are no alternative locations for the project that could entirely avoid ESHA. As described above, the proposed project is repair and maintenance of an existing facility. Thus, although, non-resource dependent development is proposed in ESHA, there are no alternative methods of accomplishing the proposed repair and maintenance project that will avoid ESHA, and the Commission is only able to review the method by which the applicant carries out repair and maintenance. The Commission has conditioned the project to ensure that the method of repair and maintenance limits impacts to ESHA to the maximum extent feasible and that the project will not significantly degrade ESHA. Additionally, the applicant is proposing to mitigate for the impacts to ESHA. The repair and maintenance project is therefore consistent with Coastal Act Section 30240.

Special Condition No. 1 requires the HMMP be implemented as proposed. **Special Condition No. 2** requires that construction not occur during the bird breeding season (February 1 – September 15). **Special Condition No. 3** requires the applicant to conform with the project plans as proposed. **Special Condition No. 4** requires the applicant to conform with the requirements of the resource agencies. And **Special**

Condition No. 5 requires the applicant to conform with water quality Best Management Practices during construction.

B. Standard of Review

The subject site is located in an unincorporated area of Orange County. The site is surrounded on three sides by the certified Newport Coast LCP and on the fourth side by the certified City of Laguna Beach LCP. The site is not within the boundaries of the City of Laguna Beach (**Exhibit 7**). Although surrounded by certified LCPs, there is no certified LCP that includes the subject site. Therefore, in this uncertified area, the standard of review is the Chapter 3 policies of the Coastal Act.

C. Sensitive Habitat

Coastal Act Section 30240 protects sensitive habitats. Adverse impacts to sensitive habitat have been minimized to the maximum extent feasible and all impacts will be mitigated at the typically imposed ratio of 3:1 (mitigation:impact) within the same watershed. Although a minimal amount of adverse impact will occur to sensitive habitat (0.16 acres), the impact is unavoidable and the least amount necessary to protect the pre-existing and pre-Coastal public service use. As conditioned, the proposed project is consistent with the resource protection policies of Chapter 3 of the Coastal Act.

D. Water Quality

The proposed development has a potential for discharge of polluted runoff from the project site, ultimately into coastal waters. The development, as proposed and as conditioned, incorporates design features to minimize the effect of construction and post construction activities on the marine environment. These design features include, but are not limited to, the appropriate management of equipment and construction materials, the continued use of non-invasive drought tolerant vegetation to reduce and treat the runoff discharged from the site, and for the use of post-construction best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

F. Local Coastal Program (LCP)

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit for development in an area with no certified Local Coastal Program ("LCP") only if the project will not prejudice the ability of the local government having jurisdiction to prepare an LCP that conforms with Chapter 3 policies of the Coastal Act. There is no certified LCP for this area. It is located within an unincorporated area of Orange County. It is surrounded on three sides by the certified Newport Coast LCP. There does not appear to be a plan to add this area to the County's Newport Coast LCP. However, as

conditioned, the proposed development is consistent with the Chapter 3 policies of the Coastal Act. Therefore, approval of the proposed development will not prejudice the County's ability to prepare a Local Coastal Program for this area that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

G. California Environmental Quality Act (CEQA)

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse effect which the activity may have on the environment.

In this case, the California Department of Fish & Wildlife (CDFW) issued a Categorical Exemption for the proposed development (Type – Class 1 (b); California Code of Regulations, title 14, section 15301), finding that the project includes the repair, maintenance, or minor alterations of existing public or private structures involving negligible or no expansion of use. No trees will be removed. CDFW found the project will not have significant environmental impacts if it is completed under the protective features of Streambed Alteration Agreement No. 1600-2020-0122-R5.

The proposed project has been conditioned to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, in the form of special conditions, require: 1) the Habitat Mitigation & Monitoring Plan be implemented as proposed; 2) avoidance of the gnatcatcher breeding season; 3) conformance with the project plans as proposed; 4) conformance with the requirements of the resources agencies; and 5) implementation of construction best management responsibilities. As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and complies with the applicable requirements of the Coastal Act to conform to CEQA.

APPENDIX A

SUBSTANTIVE FILE DOCUMENTS

1. Coastal Development Permit Application File 5-20-0410 (SCE).
2. CDFW Final Lake or Streambed Alteration Agreement, Notification No. 1600-2020-0122-R5, 10/29/2020.
3. Biological Resource Habitat Assessment and Avoidance Measures, Morro Substation Project, Artemis Environmental Services, Inc., 12/10/2019.
4. Drainage Study for Morro Substation, PGA Engineers, Inc., 12/11/2020.
5. SCE Morro Substation Habitat Mitigation and Monitoring Plan, Laguna Canyon Foundation, Revised 2/7/2022.