



August 22, 2008

CPUC/BLM  
c/o Aspen Environmental Group  
235 Montgomery Street, Suite 395  
San Francisco, CA 94104

Re: A.06-08-010 – Sunrise Powerlink

Dear Ms. Blanchard:

San Diego Gas & Electric Company (SDG&E) submits the following comments to the California Public Utilities Commission (CPUC) and the Bureau of Land Management (BLM) on the Sunrise Powerlink Recirculated Draft Environmental Impact Report/Supplemental Draft Environmental Impact Statement (RDEIR/SDEIS) for the proposed Sunrise Powerlink Project.

**The Top Ranked Alternatives Are Infeasible, Do Not Meet the Project Objectives  
and/or Could Cause Substantial Delay**

In Section 5, the RDEIR/SDEIS includes a slightly revised ranking of alternatives from the rankings in the initial DEIR/EIS with the development of a new Environmentally Superior Southern Route (ESSR) (and UCAN's Modified Southern Route and its "Jacumba to Sycamore Route") as well as the addition of SDG&E's Enhanced Northern Route as alternative #7, but the overall results remain the same. (RDEIR/SDEIS at 5-1.) As SDG&E stated in prior comments on the DEIR/EIS, the ranking is not logical or practical on the basis of meeting system reliability, accessing sufficient renewable resources to meet state mandates, and feasibility of timely obtaining the necessary approvals required for construction. As discussed below and in SDG&E's prior comment letters, SDG&E's Proposed Project and the Enhanced Northern Route offer the best way to achieve project and state objectives. If the CPUC determines that a southern routing option is preferable for the project, then SDG&E believes its Modified Southern Route with the Coastal Link components of the Proposed Project<sup>1</sup> is best. With respect to any southern route, SDG&E will continue its efforts to overcome the potential approval and

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<sup>1</sup> The RDEIR/SDEIS asserts that the new ESSR as illustrated in Figure 5-1 is the same as SDG&E's Modified Southern Route except for the Star Valley Option, which is in SDG&E's Modified Southern Route but not the new ESSR. The Final EIR/EIS should make clear that another difference between the two routes is that the new ESSR includes the Coastal Link System Upgrades Alternative, which is not part of SDG&E's Modified Southern Route. Although SDG&E's Modified Southern Route has slight changes from that proposed in the Phase 2 proceedings, the arguments herein with respect to the advantages of SDG&E's Modified Southern Route equally apply.

construction challenges, as identified in its Phase 2 testimony<sup>2</sup>, prior comments<sup>3</sup> and summarized below.

### A. Ability to Provide System Reliability

SDG&E demonstrated in prior comments and in Phase 2 testimony that neither the non-Sunrise alternatives nor Aspen's Northern Route are feasible. Because such alternatives will not be built, they do not provide system reliability. SDG&E believes that the most feasible Sunrise alternatives are SDG&E's Enhanced Northern Route, SDG&E's Proposed Project and, to a lesser extent, SDG&E's Modified Southern Route. The Western Electricity Coordinating Council has determined that to satisfy applicable grid reliability criteria the southern routes will require implementation of a system protection scheme to provide adequate protection of the grid. A similar requirement has not been imposed for the northern routes. As a result, up to 1000 MW of customer load would be lost to protect the system under a certain transmission contingency condition for a southern route, but such a customer outage is much less likely to occur if a northern route is selected because that transmission contingency condition is far less likely to exist.<sup>4</sup> Accordingly, the northern routes provide better system reliability than the southern routes.

While the future generation assumed in Aspen's In-area All-Source Generation Alternative would be sufficient to provide system reliability for the San Diego area in 2010 and later years if it comes to exist, and while the future generation assumed in Aspen's In-area Renewable Generation Alternative would be sufficient to provide system reliability for the San Diego area in 2016 and later years if it comes to exist, these alternatives are infeasible. As SDG&E has previously testified and commented in its prior letters on the DEIR/EIS, Aspen relies on conventional and renewable generation projects that are hypothetical, stalled, abandoned or strongly opposed by communities and local government agencies, thereby increasing the uncertainty of project completion, if at all, in time to meet local reliability requirements.

The CPUC has recognized that prudent utility planning, in assessing the need for proposed new transmission, does not assume the existence of new generation that is not under construction (when planning five years ahead) or fully permitted (when planning ten years ahead). The reason is simple - a utility's obligation to ensure reliable electric service in accordance with CAISO requirements cannot rest upon the possibility that new generation or transmission resources may exist when there is no firm evidence (construction or permits, depending upon the timing of need) that such resources will exist when needed. Both CAISO Grid Planning Committee Guidelines and the CPUC's *Valley Rainbow* and *Jefferson-Martin* decisions make plain that none of the assumed future generation units should be considered in evaluating the need for Sunrise. In its *Valley Rainbow* decision, the CPUC considered what assumptions about new generation were reasonable in assessing the need for a transmission line

<sup>2</sup> See, e.g., SDG&E's Phase 2 Direct Testimony, Ex. SD-36, Ch. 8 and 10 discussing SDG&E's Modified Southern Route and Aspen's Southern Route, respectively.

<sup>3</sup> See SDG&E's comment letter #4 dated 4/11/08; see generally, SDG&E's Phase 2 Direct Testimony, Ex. SD-35 and 36.

<sup>4</sup> The southern routes are adjacent to the existing Southwest Powerlink (SWPL) for many miles while the northern routes are adjacent to SWPL for a very small number of miles.

project. It concluded that “[s]tandard industry practice indicates that we should include proposed generating units that are under construction or have received regulatory permits in the resource mix for transmission planning purposes unless there is compelling evidence that the future of such plants is in question.” (D.02-12-066 at 33.)

In its *Jefferson-Martin* Decision, the CPUC confirmed this standard in assessing the need for a new PG&E transmission line in light of claims that new generation would be available at some point in the future. The CPUC found (D.04-08-046 at 43):

Inclusion of the four CCSF turbines in the resource mix used to assess need for the Jefferson-Martin project would not be consistent with the ISO’s guidelines for either five-year or ten-year planning cases, since they have not received regulatory permits. We take official notice of information on the CEC’s website indicating that an Application for Certification was filed ... for three of the four turbines. In light of the on-going controversy about the turbines and the early stage of their certification process, we do not have sufficient confidence that the three CCSF combustion turbines subject to that application will be constructed in a timely fashion to warrant deviation from standard industry practice and include them in the resource mix used to evaluate need for the Jefferson-Martin project.

The CPUC further noted that no party in that proceeding even suggested that the CPUC should include in the resource mix used to assess the need for the *Jefferson-Martin* transmission line a “previously planned Potrero Unit 7 since Mirant has withdrawn its Application for Certification at the CEC.” (*Id.* at 25.)

Thus, the In-Area, All-Source Generation Alternative must be rejected as a viable option on this basis alone. Also, there is no evidence in the record that would suggest that the CPUC should deviate from its past recognition that reliance on the speculative future existence of possible generation imprudently puts SDG&E’s ability to ensure reliable electric service at risk.

These criticisms apply equally to the TE/VS Interconnect Alternative (also referred to as the “LEAPS Transmission-Only Alternative”). The Nevada Hydro Company’s (TNHC) application for a Certificate of Convenience and Necessity (CPCN) for the TE/VS Interconnect has still not been found to be complete by the CPUC. TNHC filed a revised Proponent’s Environmental Assessment (PEA) on July 22, 2008 in response to the CPUC’s second deficiency letter dated March 6, 2008, but there appear to be continued issues with TNHC’s revised PEA. Further, TNHC has proposed a project that cannot achieve even 500 MW of increased import capability claimed by TNHC without substantial network additions to SDG&E’s transmission system. When the costs of these network additions are taken into account, the total annual net benefits of this alternative are substantially less than the Proposed Project and SDG&E’s Enhanced Northern Route.

In sum, the non-wire alternatives still do not provide the necessary system reliability, and the northern route alternatives have been determined substantially more reliable than the

southern route alternatives. Improving system reliability is a key project objective and critical to San Diego consumers.

## **B. Ability to Facilitate Renewable Energy**

Since the Sunrise application was filed, more than 6600 MW of diverse renewable generation, including wind and solar, in the Imperial Valley, eastern San Diego County, and adjacent northern Mexico that could be facilitated by Sunrise has applied to the CAISO interconnection queue. In addition as of June 6, 2008, more than 2000 MW of renewable generation from the Imperial Valley region is on the Imperial Irrigation District (IID) interconnection queue. In contrast, the Tehachapi transmission upgrades were justified and approved based on 4300 MW of generator interconnection requests, all of which are limited to wind energy. In addition, SDG&E has received substantial bids for renewable resources that would be facilitated by the development of Sunrise, yet it has received no bids from the Tehachapi region in its last two renewables Request for Offers (RFO).

Moreover, the CAISO has adopted an 1150 MW dispatch limit on the SWPL between the Miguel Substation and the Imperial Valley Substation, potentially preventing thousands of MWs of proposed new renewable generation from ever being developed. Thus, without Sunrise, the CAISO has determined that only a small fraction of the more than 7000 MW of renewable generation that is currently in the CAISO queue could be developed and simultaneously dispatched. Given the existing system's constraints and that SDG&E depends on Imperial Valley renewables to meet its Renewable Portfolio Standard (RPS) goals, without Sunrise SDG&E cannot economically obtain sufficient renewable energy to meet its 20% RPS goals let alone meet a 33% RPS goal the State is contemplating.

Neither Aspen's In-area All-Source Generation Alternative nor its In-area Renewable Generation Alternative allow access to sufficient amounts of feasible and cost effective renewable potential that would allow SDG&E to meet the state's RPS goals.

Aspen's TE/VS Interconnect Alternative provides at best indirect access to renewables north of San Diego and no plausible access to the Imperial Valley region renewable potential. And none of the top three ranked alternatives mitigate the CAISO's dispatch limit for generation directly connected to Imperial Valley substation or to SWPL between Imperial Valley and Miguel Substations.

Among the Sunrise alternatives, the Proposed Project and the Enhanced Northern Route would most effectively and reliably increase the export capability of the Imperial Valley renewable resources into the CAISO system. Further, because either the Proposed Project or the Enhanced Northern Route also traverses within a few miles of a significant transmission improvement that IID is considering the Bannister Substation and the Midway to Bannister Line significant benefits can be realized by IID, including the increase of export capability for Imperial Valley renewable projects. With any southern route, there would be no easy connections from Sunrise to IID's transmission system, and energy exports from IID that would use the capacity made available by Sunrise would occur only at Imperial Valley Substation.

Neither SDG&E's Modified Southern Route nor the new ESSR provide as much diversity to interconnect renewables in Imperial Valley as a northern route. This is because these alternative routes do not go near the geothermal potential areas near the Salton Sea or the solar potential in Borrego Springs. In sum, the Proposed Project or the Enhanced Northern Route best facilitate renewable energy in the Imperial Valley.

### **C. Feasibility of Obtaining Necessary Approvals and Construction**

SDG&E's Proposed Project is the culmination of years of careful planning and collaboration to identify the optimal routing for a 500 kV transmission line that would provide access to the renewable resources of the Imperial Valley in a cost-effective and reliable manner. SDG&E's Proposed Project is feasible. SDG&E carefully selected the Proposed Project to primarily follow already-disturbed transmission corridors and existing linear features, consistent with the Garamendi Principles and CEC policy. The route deviates from these corridors and features where doing so is necessary to avoid or minimize environmental or other impacts.<sup>5</sup> The Proposed Project does not cross any Indian Reservation lands or any lands within the Cleveland National Forest (CNF).

SDG&E acknowledges that there will be regulatory processes that also must be followed to site Sunrise through Anza Borrego Desert State Park (ABDSP), either along the Proposed Project or the Enhanced Northern Route. However, given the years of discussions that have occurred about the project between SDG&E and State Parks, the General Plan language providing for future utility facilities, and the extensive environmental review that has already been performed to date specifically evaluating the impacts of these two routes on the Park, there is no reason that these regulatory processes could not be completed in an expeditious fashion.

Contrary to the conclusion in the DEIR/EIS, SDG&E believes that the project can be sited without amending the ABDSP General Plan because California law holds that no general plan revision is required if the undertaking is "necessary for the protection of public health and safety." (Cal. Pub. Res. Code § 5002.2 - providing also that no general plan amendment is required "if the only development contemplated by the department consists of the repair, replacement, or rehabilitation of an existing facility".) Ensuring reliable power and preventing blackouts with the implementation of the Sunrise Powerlink is a matter of public health and safety.<sup>6</sup> Even if a General Plan amendment is required, however, the amendment should be minor and consist only of a slight adjustment to certain wilderness boundaries within the Park to reflect a wider transmission corridor and to accommodate the minor deviations from that corridor requested by State Parks.

The Enhanced Northern Route, similarly, builds on those years of careful planning by following the Proposed Project for the most part, but deviating in certain locations to minimize environmental and other impacts, for example, by staying entirely within the existing transmission corridor through ABDSP to eliminate direct impacts to administratively-designated

<sup>5</sup> SDG&E's Phase 2 Direct Testimony, Ex. SD-36 at 7.1.

<sup>6</sup> SDG&E's Phase 2 Direct Testimony, Ex. SD-36 at 7.2 (implementation of Sunrise to ensure reliable power and prevent blackouts); Cal. Pub. Util. Code § 334 (recognizing that the importance of electrical system reliability is "of paramount importance to the safety, health, and comfort of the people of California").

state wilderness. Additionally, the Enhanced Northern Route does not cross any Indian Reservation lands. Because SDG&E determined that it would be preferable for Sunrise to follow the CNF Existing 69 kV Route Alternative, SDG&E must obtain approval from the Forest Service for this segment, which crosses land within CNF designated as having a high scenic integrity objective. That approval will likely include an amendment to the CNF Land and Resource Management Plan.<sup>7</sup> The approval and associated amendment required would likely take the form of a project specific, non-significant amendment that would be made at the time of the Forest Service's decision on the project.<sup>8</sup> This process is not expected to delay or impede the in-service date for the Enhanced Northern Route.<sup>9</sup>

In sum, these northern routing options for Sunrise are not only feasible, but offer a good chance of ensuring that Sunrise can be constructed in a timely fashion, with the least amount of regulatory and other feasibility obstacles within substantial control of California state agencies, and can help move San Diego forward in its use of clean, reliable electric power. They should be ranked higher among the alternatives in the Final EIR/EIS.

The RDEIR/SDEIS identifies a new ESSR that avoids direct impacts to American Indian reservation land and avoids Back Country Non-Motorized (BCNM) zones within CNF. This new alternative would still require the Forest Service to amend its land management plan to address scenic integrity objectives contained in the plan and would be subject to difficulties associated with that process, including anticipated further delays (e.g., the need for additional potential environmental review and administrative appeals of any Forest Service decision). Additionally, it should be noted that environmental groups, including the Center for Biological Diversity, have recently sued the Forest Service alleging that the existing Forest Plans in southern California, including the Cleveland National Forest Plan, violate NEPA and the Administrative Procedure Act, because, among other things, the revised plans allow "damaging and resource intensive activities, such as road building."<sup>10</sup> Thus, it is expected that implementation of any route through the forest will be substantially delayed.

SDG&E's Modified Southern Route would also mitigate the feasibility concerns arising from traversing Indian reservation land by avoiding the Campo and La Posta Reservations but still would require contingent Forest Service approvals. SDG&E would also prefer its Star Valley Option component. Other route constraints still remain, such as potential impacts to large archaeological districts and other eligible district areas, the significant difficulties associated with undergrounding a 230 kV transmission line in Alpine Boulevard through the unincorporated community of Alpine, and the infeasibility of locating any future 230 kV underground through Alpine Boulevard. However, SDG&E's Modified Southern Route retains the Coastal Link project components contemplated with the Proposed Project and Enhanced Northern Route. SDG&E continues to believe that its original Coastal Link proposals are preferable to the Coastal Link Upgrades Alternative contemplated by the new ESSR. In summary, SDG&E still believes

<sup>7</sup> SDG&E's Phase 2 Direct Testimony, Ex. SD-36, Attachment 7-1 at 2.

<sup>8</sup> SDG&E's Phase 2 Direct Testimony, Ex. SD-36 at 8.5, n.2.

<sup>9</sup> Trexel, T.4251:6-14 (noting that Forest Service has indicated to SDG&E that there would be a very different process involved to approve this route segment as compared to the southern routes).

<sup>10</sup> *Center for Biological Diversity v. U.S. Department of Agriculture*, N.D. Cal., No. 08-3884, filed 8/14/08).

that its Modified Southern Route (as revised) is superior to the new ESSR identified in the RDEIR/SDEIS, if the CPUC is inclined to approve a southern route.

### **Analysis Appropriately Not Included in the RDEIR/SDEIS**

Section 1.13 of the RDEIR/SDEIS appropriately dismissed requests by the City Attorney of San Diego, the Rincon and La Jolla Tribes, Bill Powers, Mussey Grade Road Alliance and the Conservation Groups for recirculation on certain topics. (*See*, RDEIR/SDEIS at 1-3 to 1-6.) SDG&E agrees that such requests have no merit based on the rationale for not including them in the recirculated/supplemented document set forth in the RDEIR/SDEIS, and many of the issues will be refined or clarified in the Final EIR/EIS.

### **General Comments**

Additional comments on the impact assessment, overstatement of impacts and mitigation measures discussed in the RDEIR/SDEIS have been previously documented in SDG&E's prior comment letters on the DEIR/EIS<sup>11</sup> and other SDG&E filings with the CPUC.<sup>12</sup> Nevertheless, SDG&E reiterates its concerns about several impact classifications and mitigation measures in this letter with more specificity and/or additional justification as to why these discussions should be modified so that the CPUC and BLM can address them universally throughout the Final EIR/EIS. Most of the comments are set forth sequentially throughout this letter referencing the sections of the RDEIR/SDEIS.

## **Section 2 – Sempra Presidential Permit And Related Facilities**

### **A. The Jacumba Substation Is Not A Connected Action**

SDG&E continues to dispute that the Jacumba Substation contemplated by SDG&E is a “connected action” to Sunrise, despite the DEIR/EIS’s and RDEIR/SDEIS’s characterization of it as such.<sup>13</sup> (DEIR/EIS at B-101; RDEIR/SDEIS at 2-1.) SDG&E has repeatedly stated that it intends to develop and separately permit the Jacumba Substation for renewable developers in the vicinity irrespective of whether, and where, Sunrise is ultimately approved.<sup>14</sup> Crucial to the determination of whether actions are connected for purposes of a NEPA analysis is whether the actions can be considered “inextricably intertwined” with each other. Where, as here, the projects have independent utility, they are not connected actions, even if the presence of each

<sup>11</sup> SDG&E’s comment letter #1 dated January 28, 2008; comment letter #2 dated February 11, 2008; comment letter #3 dated March 18, 2008; and comment letter #4 dated April 11, 2008.

<sup>12</sup> SDG&E Phase 2 Direct Testimony dated March 12, 2008 and SDG&E Phase 2 Hearing Transcripts.

<sup>13</sup> Projects that are considered connected actions under NEPA (40 CFR 1508.25(a)(1)) include actions that:

- (i) are automatically triggered by the proposed action;
- (ii) cannot or will not proceed unless the proposed action occurs first or simultaneously; or
- (iii) are interdependent parts of a larger action and depend upon the larger action for their justification.

<sup>14</sup> *See*, SDG&E’s Motion to Clarify Assigned Commissioner’s Ruling and for a Schedule Adjustment dated August 16, 2007, p. 13 (“the renewables substation is not a ‘connected action’ to Sunrise because the initial phase is independent of whether Sunrise is ultimately constructed”); *id.* at Exhibit Z, pages 2-3 (“SDG&E’s present expectation is that this substation will be constructed absent the Sunrise Powerlink, and the need for this substation is not dependent upon the Sunrise Powerlink for its justification...”).

would compliment each other. (*See Sylvester v. U.S. Army Corps of Eng'rs*, 884 F.2d 394, 400 (9th Cir. 1989) (finding that golf course was not connected to the development of a nearby ski resort by the same developer, since “each could exist without the other, although each would benefit from the other’s presence”); *Morongo Band of Mission Indians v. Fed. Aviation Admin.*, 161 F.3d 569, 580 (9th Cir. 1998) (finding that proposed flight path project to decrease congestion at LAX was not connected to larger LAX expansion project; even though flight path project would help the increased congestion expected from a bigger airport, both projects could occur independently).) As long as each project has independent utility and benefits that are not entirely dependent on the other - as is the case here - then they are not connected actions. Additionally, the not-yet filed Jacumba Substation will undergo separate environmental reviews by the CPUC, as recognized by Aspen.<sup>15</sup> (RDEIR/SDEIS at 2-2.)

The RDEIR/SDEIS implies that the Jacumba Substation is for Mexican-based generation only. (RDEIR/SDEIS at 2-1; “The Jacumba Substation, required to interconnect Mexican generation to the CAISO transmission system via the existing Southwest Powerlink (SWPL) transmission line...”). The majority of the proposed wind generation would be from Mexico, but there are also potential generation projects identified in the Jacumba and Boulevard areas of East San Diego County. Therefore, the planned Jacumba Substation is needed for renewable generation projects not just located in Mexico. Based on the CAISO Generator Interconnection Queue, there are currently seven potential generation projects requesting interconnection to the Southwest Powerlink via the Jacumba Substation (when built) and two generators that seek to interconnect at the Boulevard Substation. In order to take advantage of the renewable resources and both potential and known renewable generation projects in eastern San Diego County and Mexico, a substation in the Jacumba area is critically needed. Importantly, it must be recognized that additional generation can interconnect to the Southwest Powerlink even if the Sunrise Powerlink is not developed. (RDEIR/SDEIS at Fig. 2-2, illustrating substation connection to the Southwest Powerlink.) It is a matter of congestion management. Thus, the Jacumba Substation can be built without Sunrise and has independent utility from Sunrise.

## **B. The RDEIR/SDEIS Vastly Overstates The Potential Impacts Associated With The Jacumba Substation And Improperly Requires Unduly Burdensome Mitigation**

**Premature and Unnecessary Mitigation.** SDG&E is currently developing the PEA for its application to the CPUC for the Jacumba Substation. Until that evaluation is provided to the CPUC and analyzed under CEQA, it is premature for the CPUC to require specific mitigation

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<sup>15</sup> SDG&E does not agree that the La Rumorosa project is an indirect effect of Sunrise. Sunrise has not yet been approved, yet the La Rumorosa project is moving forward swiftly in its environmental review and permitting process. (*See* 73 Fed. Reg. 45218 (August 4, 2008) (Notice of Intent to prepare an environmental assessment and conduct public scoping meetings for proposed international transmission line that would originate at a wind generation facility to be located in northern Baja California, Mexico, cross the U.S.-Mexico international border, and extend one mile into the U.S. where it would terminate at a substation to be constructed SDG&E adjacent to the existing Southwest Powerlink (SWPL) 500-kV transmission line).) Further, it is well established that there is no legal requirement under NEPA to evaluate environmental impacts in Mexico, and the federal government has expressly rejected undertaking such analysis. (*See* DOE and BLM, Imperial-Mexicali 230-kV Transmission Lines Final EIS, Vol. 2 at 3-1 to 3-2 (Dec. 2004); *see also* *Border Power Plant Working Group v. Department of Energy*, 467 F.Supp.2d 1040 (S.D. Ca. 2006) (upholding EIS).) As such, by including impacts from Mexico associated with the La Rumorosa project in its analysis, the RDEIR/SDEIS significantly overstates the impacts from Sunrise.



measures for that separate project. Additionally, SDG&E believes it should not be prejudiced in the not-yet-filed Jacumba Substation project by the conclusions reached in the Sunrise RDEIR/SDEIS. The Final EIR/EIS should at least provide flexibility in the mitigation until SDG&E has finalized and submitted to the CPUC the project description and impact assessment.

Many of the onerous and inflexible mitigation measures in the DEIR/EIS are repeated in the RDEIR/SDEIS with respect to the Jacumba Substation components. As SDG&E has previously commented, numerous requirements, the timeframes and the enormous amount of mitigation measures are unprecedented for electric transmission and substation projects licensed by the CPUC. The volume and complexity of the mitigation measures will substantially delay the in-service dates for Sunrise as well as the planned Jacumba Substation project. Further, SDG&E is concerned about these unnecessary and overly burdensome mitigation measures adversely affecting future projects. The proposed modifications to mitigation measures presented below should apply to both the Jacumba Substation, if these measures continue to be applied to the Jacumba Substation, and to the Sunrise Powerlink.

**Project Design Clarifications.** SDG&E provides the following clarifications for the Final EIR/EIS. Figure 2-2 shows the 69 kV transmission line entering from the north side of the proposed substation, but the line should enter from the west side. On Figure 2-5, the initial Mexico 230 kV transmission lines should enter the substation on the southwest side of the Jacumba Substation instead of the northwest. On page 2-5, the Boulevard Substation is being demolished and rebuilt adjacent to the existing substation, not expanded. The overall footprint is expected to be closer to 1 acre (not including slopes, buffer, drainage, etc.). Contrary to the discussion on page 2-6, the planned Jacumba Substation is one substation made up of two yards: a 500 kV yard and 230/69 kV yard. They are not separate substations. There is not any 230 kV equipment in the upper yard. The purpose of the separation in pads is to limit the amount of grading and minimize environmental impacts. The labels in Figure 2-5 should be changed to reflect this information.

On page 2-13, the rebuilt Boulevard Substation will require 1 acre for the fenced portion of the substation, not  $\frac{3}{4}$  acre. Additional acreages will be required for slopes, drainage, buffer, etc. The property SDG&E is contemplating for the rebuild has changed to the property to the east instead of the northwest side. It is still a developed piece of land, and a house would still need to be removed, but there is additional space for transmission ingress and egress and it moves the transformer noise contours further away from the property line. Based on SDG&E's communications thus far, the property owner is willing to sell the property to SDG&E.

Also on page 2-13, a few statements should be revised as follows: "The transmission line would exit Jacumba Substation on the ~~north~~ **west** side and then..." and "SDG&E would purchase additional land on the ~~northwest~~ **east** side of the existing Boulevard substation."

On page 2-14, the RDEIR/SDEIS inaccurately states that SDG&E will install a tall steel monopole and remove two existing wood poles at the existing White Star communication facility (owned by San Diego County). SDG&E owns and operates a separate communications facility on an easement located adjacent to the County-owned White Star Facility. On this SDG&E

facility, SDE&E will remove the two poles, shorten one existing pole, and install the new monopole. In addition, the existing control shelter will be replaced.

Contrary to the statement on page 2-27 of the RDEIR/SDEIS, construction of the 69kV transmission line would not result in 13.4 miles of grading. The grading quantities are overstated, due to the fact that ground disturbance will only occur for the placement of new poles and spur roads, not the entire 13.4 mile swath. The transmission line will have approximately 4.66 miles of new access roads as well as approximately 7.5 acres of grading for pole locations, work areas and pull and tension sites.

On page 2-85, Figure 2-3.10 is referenced but missing. Figure 2.3-4A depicts utilizing the Sunrise right-of-way (ROW) for the new 69 kV transmission line as an alternative. This alternative wrongly implies that building the 69 kV transmission line depends upon the approval of a southern route for Sunrise.

### ***Biological Resources***

SDG&E has two major comments regarding the biological resources assessment: (1) a comprehensive review of the wildlife habitat currently available for acquisition indicates that mitigation lands are available to address all potential project impacts and the assumption in the RDEIR/SDEIS that impacts are significant and unmitigable because habitat may not be available is unwarranted; and (2) proposed mitigation measures that would delay the start of construction based on certain preconditions are overly restrictive and should be modified to provide flexibility and reflect the common practices used to assure mitigation, such as financial guarantees. In addition, SDG&E disagrees with impact interpretations for special status plant species, desert bighorn sheep, barefoot banded gecko and avian species. Finally, SDG&E requests modifications to the mitigation measures proposed for native trees, desert bighorn sheep, nesting birds and invasive species.

*Class I Impact Calls* - SDG&E disagrees with the classification of the biological impacts associated with the contemplated Jacumba Substation identified in Impact B-1 as Class I<sup>16</sup> and the accompanying mitigation measures throughout Section 2.2.1. The impacts are overstated and there are measures that can reduce potential impacts to an acceptable level; adequate mitigation lands are available.<sup>17</sup> Accordingly, SDG&E requests that the Class I impacts be reduced to Class II impacts for all of the Jacumba Substation project components. Similarly, SDG&E disagrees with Impact B-7, which is incorrectly designated as Class I because purportedly adequate mitigation land upon which the wildlife depends may not be available. This should also be reduced to Class II. Again, current information indicates that adequate mitigation lands are available.<sup>18</sup>

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<sup>16</sup> The RDEIR/SDEIS incorrectly classifies impacts as Class I for sensitive vegetation communities, Class I for vegetation management and Class I or II for type conversion. (RDEIR/SDEIS at 2-27 to 2-28.)

<sup>17</sup> See, SDG&E comment letters #2 dated 2/11/08 and #3 dated 3/18/08.

<sup>18</sup> *Ibid.*

*Timing of Habitat Mitigation* - SDG&E requests that Mitigation Measure B-1(a)(CA) “Mitigation Parcels/Habitat Management Plans” at page 2-32 (similar to Mitigation Measure B-1(a)) be modified in the Final EIR/EIS as follows:

**Mitigation Parcel/Habitat Management Plans.** All off-site mitigation parcels shall be approved by the CPUC, BLM, Wildlife Agencies, State Parks (for impacts to ABDSP) and USDA Forest Service (for alternatives with impacts to National Forest lands). ***SDG&E will coordinate acquisition of approved mitigation parcels with the Wildlife Agencies, State Parks (for impacts to ABDSP) and USDA Forest Service (for alternatives with impacts to National Forest lands) and must be acquired prior to initiation of vegetation disturbing activities.***

As SDG&E noted in prior comments on the DEIR/EIS, SDG&E believes that this mitigation measure is onerous and infeasible and will substantially impede both project construction and mitigation implementation. Many options and potential packages of various parcels exist for appropriate biological mitigation; developing a suite of acceptable mitigation parcels involves significant time and discussion with many relevant agencies before approval. Absent more flexibility, the mitigation measure, as drafted, effectively provides other agencies with a veto power over the entire project. Moreover, the process to acquire these lands from existing landowners can take various lengths of time, and difficult to acquire parcels, of course, can take significantly longer. The biological resources impacts can be sufficiently mitigated to the required levels without the final, legal acquisition of all mitigation parcels prior to the commencement of vegetation disturbing activities. This measure should be structured to afford SDG&E greater flexibility to work with the Wildlife Agencies to ensure mitigation without unduly delaying the commencement of construction activities that disturb vegetation. Common approaches used for habitat conservation, such as placing funds in escrow or other processes to ensure that mitigation will be accomplished, should be allowed subject to approval by the Wildlife Agencies in their discretion.

*Desert bighorn sheep* - Several incorrect statements in the RDEIR/SDEIS regarding Peninsular Bighorn Sheep<sup>19</sup> lead to an overclassification of impacts and to excessive mitigation requirements. For instance, the RDEIR/SDEIS wrongly states that desert bighorn sheep have a high potential to occur along the Jacumba Substation SWPL Loop-In and have the potential to occur at the proposed Jacumba Substation site. (*See, e.g.*, RDEIR/SDEIS at 2-22.) The footprint of the Jacumba Substation and 69 kV transmission line, as indicated in Figure 2-2, are both outside of currently designated and proposed Critical Habitat for desert bighorn sheep. (USFWS 2001, 2007.) The proposed substation and eastern portion of the proposed 69 kV line are also in an area of sandy washes and gently rolling terrain that is extremely unlikely to receive even

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<sup>19</sup> The RDEIR/SDEIS uses an outdated taxonomic designation for desert bighorn sheep in this region of northern Baja and southern California, referring to them in Table 2-21 as Peninsular bighorn sheep (*Ovis canadensis cremnobates*) and thereafter as PBS. However, this taxonomy was revised in 1993. Under the International Code of Zoological Nomenclature (International Commission on Zoological Nomenclature 1999) the bighorn sheep subspecies found in this region is correctly referred to as desert bighorn sheep (*Ovis canadensis nelsoni*). This revised taxonomy has been in use by the United States Fish and Wildlife Service since 1998 (USFWS 1998, 2000, 2007). The bighorn sheep population in the Peninsular Ranges of southern California is listed as an endangered Distinct Vertebrate Population Segment, and is correctly referred to as “desert bighorn sheep in the Peninsular Ranges of California.” (USFWS 2000.)

transient use by desert bighorn sheep. The area is southwest and well outside of permanently occupied habitat of the Carrizo Canyon subpopulation. (Rubin et al. 1998; USFWS 1998, 2000) It is also west of the In-Ko-Pah Gorge and the I-8 “island” areas that receive transient desert bighorn sheep use. (R. Botta - CDFG, pers comm.; G. Wagner - USFWS, pers. comm.) Most of the desert bighorn sheep population lives along the east-facing slopes of the Peninsular Ranges, ranging from 300 feet to 4,000 feet in elevation, along the northwestern edge of the Sonoran Desert. No known lambing areas are located south of Interstate 8 or within 5 miles of the Jacumba project area. According to personnel at the USFWS Carlsbad office, the probability of the species occupying the portion of critical habitat south of U.S. Highway 8 and 600 feet east of the Jacumba Substation project area now or in the future is remote. U.S. Highway 8 acts as a major barrier between known populations of desert bighorn sheep and the Jacumba Substation project area. Based on the recovery plan, there are no historical observations of desert bighorn sheep for this area.<sup>20</sup>

Although the RDEIR/SDEIS correctly states that the Jacumba Substation, SWPL loop-in will cross approximately 0.25 mile of designated critical habitat for desert bighorn sheep (RDEIR/SDEIS at 2-22), there will be no ground-disturbing activities within PBS critical habitat.<sup>21</sup> The only activities anticipated to be conducted within critical habitat for the planned SWPL loop-in will take place on an existing SWPL tower, which will be accessed from an existing access road. In addition, on October 10, 2007, USWFS recommended that the boundaries of the critical habitat for desert bighorn sheep be revised. As proposed, critical habitat will be reduced in size from 844,897 acres to 384,410 acres and would not include any areas south of U.S. Highway 8, including the proposed SWPL loop-in project area.<sup>22</sup>

Mitigation Measure B-7c places unjustified and unnecessary restrictions on construction and maintenance that constrain all activity into a narrow range of dates (potentially at odds with other mitigation measures) that will substantially delay the project. (RDEIR/SDEIS at 2-48.) It has also come to SDG&E’s attention that sheep spotting techniques have been successfully used in BLM areas for activities producing noise such as helicopter operations. This pre-activity on-the-ground and aerial reconnaissance that can monitor the locations, movement and activities of the sheep and direct construction to areas to avoid and minimize sheep disturbance, as well as monitoring the effects of these activities on the sheep, would provide another impact-reducing tool in lieu of the strict exclusionary scheduling currently proposed. The proposed schedule restriction would adequately protect desert bighorn sheep if it restricted helicopter construction during the time when the majority of lambing occurs (January 31 to May 1)<sup>23</sup> and only when construction is within 1 kilometer of occupied lambing areas (i.e., when there could be a potential effect on lambing). The restriction on work during periods of greatest water need should be stricken because there is no potential to effect the species if water sources are nowhere near the transmission line corridor. Otherwise, SDG&E can only perform construction activities

<sup>20</sup> Recovery Plan for Bighorn Sheep in the Peninsular Ranges of California (USFWS 2000).

<sup>21</sup> Designated critical habitat can include areas not occupied by the species when it is listed under the ESA. (16 U.S.C. § 1532(5)(A).)

<sup>22</sup> 72 Fed. Reg. 57740, 57742, 57748 (October 10, 2007) (“New information indicates that many areas included in the 2001 critical habitat designation do not support the features essential for the conservation of Peninsular bighorn sheep and/or otherwise contain unsuitable habitat or the subspecies”).

<sup>23</sup> Rubin, E., et al. “Reproductive Strategies of Desert Bighorn Sheep.” 81 *Journal of Mammalogy* 769-786 (2000) (finding that 87% of Peninsular bighorn sheep were born in February-April).

between October 1 and January 31. Thus, the following modifications are proposed to be included throughout the Final EIR/EIS:

With regard to the timing of activities, construction and maintenance activities in bighorn sheep habitat shall be limited to outside the *period when the majority of lambing occurs and only when construction is within one kilometer of occupied lambing areas.* ~~lambing season and the period of greatest water need. The lambing season is~~ *Thus, construction shall be restricted from* February through May. ~~August. The period of greatest water need is May through September~~ *To determine whether occupied lambing areas are located within 1 km of construction activities or whether access to water sources located within 1 km of construction activity could be interfered with, sheep spotting techniques can be employed to allow construction activities during the above-referenced months via on-the-ground and aerial reconnaissance which can monitor the locations, movement and activities of the sheep and direct construction to areas to avoid and minimize sheep disturbance, as well as monitoring the effects of these activities on the sheep. Weekly reports of the results of the sheep spotting activities and observations of sheep activity shall be provided to the BLM, CPUC, USFWS and CDFG.*

With respect to Impact B-12, the Final EIR/EIS should conclude that maintenance activities will not result in impacts to desert bighorn sheep. (RDEIR/SDEIS at 2-57 to 2-58.) The RDEIR/SDEIS incorrectly states that maintenance activities would result in disturbance to wildlife and could result in Class I impacts to desert bighorn sheep. As discussed previously, desert bighorn sheep are not expected to occur within the area of the planned Jacumba Substation, SWPL loop-in, or 69 kV transmission line; therefore, there would be no impacts due to maintenance activities at the substation and associated facilities.

*Barefoot banded gecko* - Section 2.2.1 states that barefoot banded gecko has a moderate potential to occur in the project component areas and Impact B-70 states that impacts to the barefoot banded gecko will be significant (Class I). (RDEIR/SDEIS at 2-51 and 2-52.) The presence of the barefoot banded gecko within the proposed Jacumba Substation and SWPL loop-in sites is unlikely, however, because these areas range from 2,800 feet to over 3,000 feet above sea level, and the species is not known to occur above 2,200 feet above sea level.<sup>24</sup> As a result, the species is not anticipated to be located in the planned Jacumba Project and no impacts would occur.

Also, with respect to Impact B-12, the Final EIR/EIS should conclude that maintenance activities will not result in impacts to the barefoot banded gecko. (RDEIR/SDEIS at 2-57 to 2-58.) The RDEIR/SDEIS states that maintenance activities would result in Class II impacts to the barefoot banded gecko. Again, the barefoot banded gecko is not expected to occur within the area of the planned Jacumba Substation, SWPL loop-in or 69 kV transmission line. Therefore, there would be no impacts to this species due to maintenance activities.

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<sup>24</sup> CaliforniaHerps.com. 2008. *Coleonyx switaki switaki* - Peninsular [Barefoot] Banded Gecko. <http://www.californiaherps.com/lizards/pages/c.switaki.html>. Accessed August 18, 2008.

*Invasive species mitigation measures* - Mitigation Measure B-3a on pages 2-39 and 2-40 should be revised because the process of washing all vehicles including undercarriage (and tools) before and after leaving the work site each day is excessive and would greatly impact the work schedule and project cost. Typical tracking control measures such as the use of grills and/or 6-inch gravel at access entrances are standard Best Management Practices (BMPs) used by SDG&E. They collect mud and dirt from vehicle tires that may contain invasive seed species and should be considered as an alternative to the proposed vehicle washing. The proposed excessive invasive species measure will require significant additional water resources and water disposal measures, as well as increased work areas and longer construction durations. A comprehensive weed abatement plan is unnecessary for those portions of the line that are located within or adjacent to an existing transmission ROW or other linear feature. Also, this measure should not continue for long-term maintenance activities. In recent transmission projects, such as SDG&E's Miguel Mission #2 project (D.04-07-026), the CPUC's final mitigation to control noxious weeds only required the following:

- Existing vegetation shall be cleared only from areas scheduled for immediate construction (within 10 days) and only for the width needed for active construction activities with one exception: If grading within the 10-day window would occur during a time frame which prohibits grading in certain areas for specific species then grading may occur outside the 10-day window, in which case, SDG&E would immediately implement appropriate erosion control measures and commence work as soon as possible.
- During construction, the upper 12 inches of topsoil (or less depending on the existing depth of topsoil) shall be salvaged and replaced wherever the transmission line is trenched through open land (not including graded roads and road shoulders)
- Disturbed soils shall be revegetated with an appropriate seed mix that does not contain invasive, non-native plant species.

SDG&E requests that the Final EIR/EIS contain a similar invasive species mitigation measure.

*Special status plant species* - As recognized in the RDEIR/SDEIS, no special status plant species occur at the proposed Jacumba Substation site based on a special status plant survey conducted in 2008. (RDEIR/SDEIS at 2-41.) Nevertheless, the RDEIR/SDEIS concluded that Impact B-5 is Class I. With the exception of the Jacumba Substation, rare plant surveys have not yet been conducted but the RDEIR/SDEIS assumed presence and that all impacts would be unmitigable. Documentation of occurrences through focused surveys and subsequent project design would avoid many plant impacts. Unavoidable impacts would be compensated through off-site mitigation. Again, current research indicates that adequate mitigation lands are available.<sup>25</sup> The Final EIR/EIS should recognize that the potential impacts to special status plant species are less than significant through avoidance, minimization and mitigation measures.

*Avian collisions* - With respect to Impact B-10, the Final EIR/EIS should reflect that the SWPL loop-in and 69 kV transmission line will not have significant impacts in regards to avian

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<sup>25</sup> See, SDG&E's comment letter #2 dated 2/11/08.

collision and mortality. (RDEIR/SDEIS at 2-55.) The RDEIR/SDEIS states that the SWPL loop-in and the 69 kV transmission line will have Class I impacts to listed species and Class II impacts for collision for non-sensitive species or daytime migration. The Jacumba Substation will not be located within a major flyway for migratory birds. One existing tower of the SWPL will be replaced and two new structures will be constructed just east of the Jacumba Substation as part of the SWPL loop-in. The replacement of the existing tower will not increase avian collision rates from what they are currently for SWPL. The addition of two new towers closely placed near the proposed Jacumba Substation site will not significantly increase collision rates. The new 69 kV line will be shorter than the existing 500 kV line, which it will parallel for approximately 10 miles, thus impacts would not be significantly different than the existing conditions. The north/south portion of the new transmission line is not expected to have a significant avian collision effects because most species migrate north/south. Additionally, SDG&E will ensure that the 69 kV transmission structures are spatially configured and designed in accordance with the Avian Power Line Interaction Committee's *Suggested Practices for Avian Protection on Power Lines* in order to minimize the potential for avian collisions. As a result, impacts should be characterized as less than significant.

*Native tree mitigation measures* - Regarding Impact B-1, impacts to native trees, mitigation should only be required for native trees where greater than 30 percent of the canopy is trimmed. As stated on page 2-28 of the RDEIR/SDEIS, "Trimming more than 30 percent of a native tree's crown would diminish the tree's value as wildlife habitat and could cause harm to the tree leading to its decline or death." Consistent with this finding, mitigation should only be required for native trees where greater than 30 percent of the canopy is trimmed.

*Riparian Birds* - Mitigation Measure B-12(a) details extensive mitigation requirements for coastal California gnatcatcher, least Bell's vireo and southwestern willow flycatcher. (RDEIR/SDEIS at 2-59 to 2-60.) Yet, according to the San Diego County Bird Atlas, other published data, and field surveys by qualified biologists, there are no known nesting sites for these species located within the anticipated Jacumba Substation site, SWPL loop-in or 69 kV transmission line corridor and the species are not expected to occur within the area.<sup>26</sup> The Final EIR/EIS should reflect that impacts to these species are not expected to occur and that no mitigation is required.

*Type Conversion* - With respect to Section 2.2.2 starting on page 2-29, the increased fire hazard in the project area can be attributed to other influences not directly related to power lines such as (a) extended period of drought, in excess of 10 years below average rainfall; (b) many more people living and recreating in the wildland urban intermix areas increasing ignition sources; (c) land planning activities encouraging clustering, which leaves high fuel loads available for consumption; (d) past fire suppression practices creating patches of high fuel loads; and (e) federal, state and local land management agencies dedicating large expanses of open space for non-development and preservation.

Because power lines cause a very low percentage of wildland fires, the Final EIR/EIS should reflect that they are not significant contributors to type conversion (that require multiple fires over a short duration). According to Cal Fire's latest Fire and Resource Assessment

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<sup>26</sup> Unitt, Philip. *San Diego County Bird Atlas*. San Diego Natural History Museum. San Diego, California. 2004.

Program (FRAP) data (2006), in the fire perimeter layer, only 170 out of 15,737 fires statewide were listed as caused by power lines. This constitutes 1.1% of all fires in Cal Fires' assessment program, which includes fires from 1950 through 2006. Even when power lines have been associated with fires, they typically result from distribution rather than transmission lines such as those proposed for the Sunrise project. Based on SDG&E's records since the initiation of its Fire Information Reporting System in 2004 through March 2008, the cause of 114 fires was related to SDG&E equipment or facilities. Of these 114 fires, less than 0.4 of 1% were related to transmission facilities and less than 0.1 of 1% were caused by major transmission structures. The CPUC itself has recognized that power line fires generally make up only 1% of ignitions, and high-voltage lines only make up about 3% of these. (RDEIR/SDEIS at 1-4.)

In addition, electric systems have been in existence in San Diego County for 100 years, and there is no correlation between type conversion and transmission lines. This was confirmed by SDG&E's analysis of the available data using three different approaches, which demonstrated that (1) using non-native vegetation as a proxy of type conversion reveals that non-native vegetation cannot be correlated with the presence of the lines themselves; (2) a GIS analysis reveals that only 0.55 miles of transmission line cross undeveloped land containing non-native vegetation; and (3) non-native vegetation located within and adjacent to transmission line ROW in the County totals 47.39 acres, or only 0.43% of the total 11,016 acres of non-native vegetation and only 1.8% of the non-native vegetation located in undeveloped and non-agricultural areas. In sum, because the evidence demonstrates that type conversion cannot be attributed to transmission lines, any suggestion that power lines create a risk of type conversion should be removed from the Final EIR/EIS.

### *Visual Resources*

The anticipated Jacumba Substation has fewer visual resources impacts and should have less mitigation than described in the RDEIR/SDEIS. Overall, the aesthetics analysis exaggerates the expected level of visual impact associated with several of the project components. It does not acknowledge the effectiveness of feasible mitigation, such as landscape screening, which will reduce the project's visibility with respect to affected public views. In addition, the visual analysis incorrectly identifies "view blockage" as a visual effect associated with the project. As outlined below, the RDEIR/SDEIS overstates three "Class 1" (significant) visual impacts and overestimates the need for visual mitigation.

With respect to the Jacumba Substation (V-87), the RDEIR/SDEIS inaccurately identifies a "significant, unmitigable visual impact with respect to views from Old Highway 80. At page 2-68, the RDEIR/SDEIS purports that viewer exposure is "moderate to high"; however, this does not account for the fact that the substation will be visible from a limited segment of Old Highway 80, which means that the duration of affected roadway views will be relatively brief. Despite the lack of a visual simulation showing the appearance of the project, making a comparative assessment of "before" and "after" visual conditions difficult, the RDEIR/SDEIS claims the project would result in "Increased structure contrast, industrial character, view blockage, sky lining..." (RDEIR/SDEIS at 2-68.) The RDEIR/SDEIS provides no support for this claim.



The RDEIR/SDEIS states that the affected viewing area is “adjacent and to the immediate south of the existing Southwest Powerlink (SWPL) transmission line,” which includes a number of large scale lattice tower transmission structures. (RDEIR/SDEIS at 2-67.) Several of these structures appear in the existing view from Old Highway 80. (See, Figure 2.3-2) However, the RDEIR/SDEIS analysis fails to mention that many of the new structures within the Jacumba Substation will be considerably lower in height than the existing SWPL lattice transmission towers, which are generally well over 100-feet-tall. Further, the RDEIR/SDEIS does not recognize the effectiveness of mitigation, such as landscaping and revegetation using native plant material. Implementation of these measures will effectively minimize potential visual contrast, thus reducing the project’s visibility. A more detailed and accurate visual impact assessment with visual simulations will be included in SDG&E’s PEA for that project (when it is filed) and will clearly demonstrate that while the project will appear against a landscape backdrop, it will not substantially block views of the background mesa and mountain slopes. The Jacumba Substation structures will generally neither “skyline” nor will they appear to noticeably contrast with the surrounding landscape setting in terms of line, form or color. Given these visual effects and the potential to mitigate them, the visual impact should be characterized as less than significant.

On page 2-67, the RDEIR/SDEIS describes the Jacumba Substation as two adjacent substations, which is not accurate because the substation will be comprised of two pads, as previously explained. The visual impact of a substation on a single pad would be greater due to larger slopes.

SDG&E agrees with the statement in the RDEIR/SDEIS at page 2-77 that the landscape presently exhibits an industrial character due to SWPL. As with lattice structures, substation structures are not completely solid and backgrounds can be seen behind the structures. The new structures will not significantly block the views of the Sierra Juarez mountains. SDG&E intends to revegetate the slopes around the substation after completion of construction and the substation surface will be similar in color to the natural soils in the area. SDG&E is also positioning the substation such that views from the north and east are blocked by Jade Peak.

SDG&E disagrees, however, with the statement on page 2-77 that “There is no mitigation available to reduce the significant visual impact of the substation complex to a level that would be less than significant, aside from selection of an entirely different substation location.” SDG&E performed a constraints analysis and site evaluation study as part of its development of the substation project, which included visual resources as a constraint. The proposed site was chosen based on the analysis of all of the constraints. SDG&E selected the location west of the location shown in the DEIR/EIS to reduce visual impacts. The substation would be highly visible to the town of Jacumba and the proposed Ketchum Ranch development if built in the location suggested in the document.

The description of the Boulevard Substation Expansion has changed since information was provided to the CPUC. The substation is being rebuilt adjacent to the existing site instead of expanded. Regardless of the final design, the rebuilt Boulevard Substation will not dramatically change the character of the area. The existing Boulevard Substation is on an elevated pad, and the proposed rebuild will be built at a lower elevation. There is also a CalTrans facility

approximately ¼ mile east of the substation. That facility has several tall buildings and idle vehicles, which are all visible from Old Hwy 80. This information should be included in the Final EIR/EIS.

SDG&E intends to use landscaping and visual screening concepts (fencing with slats) at the Boulevard Substation to mitigate aesthetic effects. Figure 2.3-5B exaggerates the size of the 69 kV rack. The 69 kV rack is only one bay in depth, whereas this figure shows two bays in depth (north-south). The 12 kV rack is also only one bay in depth (north-south). The 12kV rack is also only one bay in depth (north-south).

Mitigation Measure V-21a requires permanent lighting must not be visible to the public. (RDEIR/SDEIS at 2-81.) SDG&E installs lighting on the transmission structures consistent with FAA regulations which may require installations that conflict with this mitigation measure. The mitigation measure should be amended accordingly.

Mitigation Measure V-3a states that no new access roads should be immediately straight downhill from structure. (RDEIR/SDEIS at 2-81.) This will increase impact areas, cost and schedule. Typical design focuses on avoidance of hydrology and soil disturbance concerns. The Final EIR/EIS should clarify how far from the structure does the access need to go before proceeding downhill and what minimum grade must exist before this requirement for access roads applies, as well as revise this measure to provide more flexibility.

Although the anticipated 69 kV transmission line follows 4.5 miles of new right-of-way, it is still less of a visual impact than some of the other alternatives that were initially evaluated. It also would be less of a visual impact than the routes proposed in Figure 2.3-4A of the RDEIR/SDEIS.

SDG&E disagrees with this statement on page 2-85 that the new 69 kV line would block views of Boundary Peak. SWPL structures and distribution structures already exist in the area, so a new 69 kV line is not expected to change the character beyond what it is today or block views of Boundary Peak. SDG&E does not agree that the routes proposed in Figure 2.3-4A will be less of a visual impact. Those routes would be much more visible from Old Hwy 80, which is traveled more frequently than Tule Jim Lane. The red routes shown in Figure 2.3-4A would be much more visible.

### ***Land Use***

The analysis for Impact L-2 concludes that the presence of a project component (the Boulevard Substation rebuild) would result in a significant, unmitigable impact because of a division of an established community or disruption of existing land uses. (RDEIR/SDEIS at 2-115.) But, as noted in the discussion, the landowner would be compensated based on the fair market value of the property. (*Ibid.*) In the CPUC's Mitigated Negative Declaration for the Uptown Substation Project (A.04-03-015), the CPUC concluded that the displacement of six residential units resulting in the displacement of approximately 17 people would have a less than significant impact with the implementation of the relocation program. A copy of the CPUC's MND's title page and page B.4.12-3 are attached hereto as Attachment 1 and incorporated by

reference. Furthermore, the Boulevard Substation is an existing use that SDG&E is moving slightly and expanding, so it is not a change or disruption to the existing land use. Because a permanent community division or disruption will not occur by the relocation of a resident, this impact classification should be reduced to Class II in the Final EIR/EIS.

SDG&E wants to clarify the statements regarding the communication facilities. On pages 2-113, 2-116, 2-161 and 2-170, the White Star site where SDG&E proposes work is described as being owned by the County. Although the County is the underlying fee owner, SDG&E would like to clarify that it has an easement and the right to build its facilities thereunder without the need to obtain any additional land rights from the County.

### *Agriculture*

On page 2-125, the RDEIR/SDEIS states: “‘Substantial impacts relating to other issues,’ is defined to include effects that result in a permanent reduction in productivity or the ability to conduct pre-project operations (e.g., obstruction of and disturbance to agricultural land and operations, interference with aerial spraying applications, exposure of livestock to stray voltage and EMF, and avian perching near vineyards).” (Emphasis added.) EMF should not be included with stray voltage in referring to presumed impacts on livestock. No significant behavioral or physiological impacts to livestock have ever been scientifically demonstrated for power-frequency EMF.

In Section 2.6, the RDEIR/SDEIS states that forage crops are grown between MP 2.3 and 3.75; however, based on field observation, the crops grown in this area are organic salad crops (e.g., lettuce, cabbage and kale). (RDEIR/SDEIS at 2-126.) Approximately two transmission structures will be erected on the property. In order to provide a safe work space, each transmission structure will require approximately 70 feet by 70 feet of cleared workspace for construction activities. Additionally, temporary disturbance of an approximately 115 feet by 115 feet area may be required for staging and operation of vehicles and equipment to facilitate each pole installation. Therefore, a total of approximately 0.8 acre of temporary disturbance is anticipated for the construction of both transmission structures. The total agricultural portion of Jacumba Valley Ranch (proposed location for the Ketchum Ranch development) is approximately 320 acres and the area that will be temporarily removed from agricultural production represents 0.25 percent of the total area. Moreover, SDG&E will coordinate with the landowner to minimize disturbance to agricultural activities during construction and will compensate for any associated losses, as appropriate. Therefore, the temporary impacts resulting from construction will be less than significant and should be revised accordingly in the Final EIR/EIS.

### *Cultural*

On page 2-128, the RDEIR/SDEIS states that “The 69 kV transmission line crosses the historical Old Highway 80. This former intercontinental highway once called the “Broadway of America” has been designated as a County of San Diego “Historic Route” and has been nominated as a “State Historic Route.” A 33-mile portion of the Old Highway 80 route has been recommended eligible for NRHP and CRHR under Criteria A and C, with specific contributing

and non-contributing elements (Lortie, 2000).” Delete the phrase “and has been nominated as a State Historic Route” and insert the following after the citation to (Lortie, 2000): “It should also be noted that the remaining portions of Old Highway 80 in Imperial and San Diego counties that are still in use today were designated as “Historic U.S. Highway Route 80” in the California legislature. The assembly concurrent resolution 123 (ACR 123) was chaptered by the California Secretary of State on August 16, 2006. While ACR designates Old Hwy 80 as a historic highway route, it does not provide it protection from future planning or development. Rather, ACR 123 states “That the designation of Historic U.S. Highway Route 80 pursuant to this resolution shall have no impact upon the future planning or development of adjacent private and public properties....”

The discussion on page 2-129 of the RDEIR/SDEIS concerning Los Pinos should be deleted in the Final EIR/EIS because SDG&E is not proposing any work related to the Jacumba Substation at this location.

On page 2-132, 4<sup>th</sup> paragraph and in the “Components and Comments” column in the table on page 2-145, SDG&E suggests the Final EIR/EIS include “and rock art” after “and a third is presumed eligible due the recorded presence of cremations” and reference the fact that Ken Hedges from the San Diego Museum of Man recorded rock art features at this site in 1979.

Page 2-132 of the RDIER/SDEIS states that construction of Jacumba Substation, SWPL loop-in, and 69kV transmission line may have Class II impacts; however, impacts to human remains will be Class I. SDG&E believes that impacts to human remains will be reduced to Class II with the implementation of Mitigation Measure C-2a: Properly Treat Human Remains and other pertinent mitigation measures.

Page 2-138 of the RDEIR/SDEIS states that construction of the 69 kV line will cause adverse change to sites known to contain human remains; however, the one site mentioned, CA-SDI-176, which was originally recorded in 1942, noted evidence of cremations. This site was updated in 2006 during a survey for the BLM and no human remains were found. The northern boundary of this site extends only to the southern most boundary of the transmission line ROW. As a result, known human remains will not be impacted.

A portion of Mitigation Measure C-2a states that “Although subject to the recommendations of the MLD...” (RDEIR/SDEIS at 2-139.) To take into account the possibility that remains may be located on private lands, this statement should be revised to read “Recommendations may be made by the MLD, *and if agreed upon with the landowner...*”

With respect to Impact C-3, the construction of the Jacumba Substation, SWPL loop-in, 69 kV transmission line will not have Class I impacts to unknown significant buried prehistoric and historical archaeological sites or buried Native American human remains. Page 2-139 of the RDIER/SDEIS states that construction of Jacumba Substation, SWPL loop-in, and 69 kV transmission line may have Class II impacts; however, impacts to human remains will be Class I. SDG&E believes that impacts to human remains will be reduced to Class II with the implementation of Mitigation Measure C-2a: Properly Treat Human Remains and other pertinent mitigation measures.

Operation and maintenance of the Jacumba Substation, SWPL loop-in and 69 kV transmission line will not have Class I impacts to known historic properties (Impact C-5). Pages 2-143 and 2-144 of the RDEIR/SDEIS state that operation and maintenance of the Jacumba Substation, SWPL loop-in and 69kV transmission line may have Class II impacts; however, impacts to human remains will be Class I. Once again, SDG&E believes that impacts to human remains will be reduced to Class II with the implementation of Mitigation Measure C-2a: Properly Treat Human Remains and other pertinent mitigation measures.

### *Noise*

SDG&E disagrees that there would be significant impacts associated with the inspection and maintenance of the Boulevard Substation because a substation already exists there today and the maintenance activities would not change after the substation is rebuilt. (RDEIR/SDEIS at 2-159.) Inspection of the transmission line would involve routine observation of the facility usually done from a pickup truck. Because the poles and crossarms will be steel, and the insulators made of a polymer material, the maintenance activities are expected to be minimal. The noise associated with the transmission maintenance activities would be minor, and the Final EIR/EIS should be revised accordingly.

Impacts to sensitive receptors due to construction-related noise at the Boulevard Substation and 69 kV transmission line should not be deemed Class I. Page 2-154 of the RDEIR/SDEIS does not simulate the potential increases in ambient noise due to construction of the 69 kV transmission line and Boulevard Substation. Instead, it assumed that these activities will result in a Class I impact. Further, due to the linear nature of the 69 kV transmission line's construction, ambient noise level increases at sensitive receptors will be short-term in nature. The ambient noise related to the construction of the transmission line will be localized near individual poles and will not be distributed along the entire 69 kV transmission line. In addition, construction will be phased and is not expected to occur at the same site for multiple, sequential days. Sensitive receptors are not likely to be subjected to noise in excess of 75dB due to their distance from the poles (at least 300 feet), and all noise impacts will be for short periods of time. These impacts will be less than significant.

If a comprehensive noise simulation indicates that these receptors could be exposed to construction-related noise in excess of 75dB for extended periods of time, mitigation measures are available to SDG&E in order to reduce impacts to a less-than-significant level. These measures may include erecting shielding or barriers to block or attenuate the construction noise from the sensitive receptors or temporarily relocating residents during peak construction periods. As a result, impacts should be characterized as Class II or Class III.

Finally, all construction activities will be restricted to those hours allowed by the applicable noise ordinances unless otherwise allowed by the applicable jurisdiction. As a result, the project will not violate any local ordinances. Impacts to local rules, standards and/or ordinances should not be classified as a Class I impact.

Increases in ambient noise levels due to routine inspection and maintenance activities at the Boulevard Substation and along the 69 kV transmission line should not be classified as Class I. Page 2-158 of the RDEIR/SDEIS states that routine inspection of the 69 kV transmission line will bring construction equipment within 200 feet of sensitive receptors creating a significant impact. The routine, ground-based inspection and maintenance activities that will typically consist of a crew accessing the structures to perform various maintenance activities within a 150-foot diameter work area centered on each structure. In general, these planned maintenance activities will not require the use of heavy equipment and will be short-term in nature. Visual inspections of the 69 kV transmission line, performed by helicopter, will occur several times annually. These inspections will cause short-term increases in ambient noise along the transmission line ROW. Routine inspection and maintenance at the Boulevard Substation will not differ significantly from the current schedule and activities. Due to the short term and periodic nature and the fact that these inspections already occur in the area for existing facilities, ambient noise levels will not increase significantly during these activities. As a result, noise impacts should be characterized as less than significant.

### ***Transportation and Traffic***

Impacts resulting from temporary road closures associated with construction of the Jacumba Substation project components should not be classified as Class II. Page 2-164 of the RDEIR/SDEIS states that that construction of the 69 kV transmission line and the communication facility could cause temporary road and lane closures that would disrupt the flow of traffic. Although SDG&E agrees that traffic may be disrupted temporarily, SDG&E disagrees that Mitigation Measure T-1a, which restricts lane closures to off-peak periods in congested areas, is required. All roadways in the 69 kV transmission line and communication facility area are rural and have very low traffic volumes. Traffic may be stopped on local rural roadways for a maximum of 15 minutes while conductor is pulled for the 69 kV transmission line, but no roadways will be closed for construction. A traffic control plan will be developed for the transmission portion of the project. As a result, impacts will be less than significant and do not justify the imposition of Mitigation Measure T-1a.

Impacts resulting from the temporary disruption of pedestrian and bicycle movement should not be classified as Class II. Page 2-166 of the RDEIR/SDEIS states that the construction of the 69 kV transmission line, the Boulevard Substation rebuild and the communication facility would be result in the temporary closures of sidewalks and pedestrian facilities. SDG&E disagrees with this statement because there are no sidewalks or pedestrian facilities in the area of these facilities. Although bicyclists may be stopped for a maximum of 15 minutes while conductor is pulled across local roadways for the 69 kV transmission line, these impacts will be brief and distributed across the area. Therefore, this impact should be reclassified in the Final EIR/EIS as Class III.

### ***Public Health and Safety***

On page 2-179, the RDEIR/SDEIS states that “at this time we are unable to determine whether there is a significant scientifically verifiable relationship between EMF exposure and negative health consequences.” The CPUC’s Findings of Fact #5 in D.06-01-042 (page 19) more

explicitly states, “As discussed in the rulemaking, a direct link between exposure to EMF and human health effects has yet to be proven despite numerous studies including a study ordered by this Commission and conducted by DHS.” (Emphasis added.) The CPUC’s own Findings of Fact should trump introductory comments taken out of context.

Under the discussion of Electric and Magnetic Fields, the RDEIR/SDEIS states that “Mitigation measures may be determined on a project by project basis by the CPUC in any proceeding decision.” SDG&E would like to the Final EIR/EIS to clarify that clear policy guidance and mitigation criteria are provided in D.06-01-042 and in CPUC-mandated and approved EMF Construction Guidelines. D.06-01-042 states in relevant part “When new scientific research becomes available, we will then consider opening a new rulemaking. As a result, prospective policy changes regarding EMF health effects should not be litigated in future utility Certificate of Public Convenience and Necessity (CPCN) or Permit to Construct (PTC) proceedings.” (p. 19.) Also, D.06-01-042, Conclusions of Law 2, states, “EMF concerns in future CPCN and PTC proceedings for electric transmission and substation facilities should be limited to the utility’s compliance with the Commission’s low-cost/no-cost policies.” (p. 21.) The Final EIR/EIS should include these limitations on mitigation.

### *Air Quality*

Under Mitigation Measure AQ-1a, SDG&E may be required to apply water to unpaved areas three times daily irrespective of visible dust levels and wind conditions. (RDEIR/SDEIS at 2-185) This is an overly burdensome measure that should be more flexible in the Final EIR/EIS. Field personnel should only be required to water areas as needed (so long as visible emissions are minimized to below required Air District thresholds). Also, this mitigation measure requires a Dust Control Plan (DCP) to be prepared and filed with the ICAPCD, SDAPCD, BLM, and CPUC. The SDAPCD only requires compliance with its Visible Emissions and Nuisance rules and does not mandate preparation and/or filing of a DCP. The requirement to prepare a DCP for the SDAPCD should be deleted in the Final EIR/EIS.

Under Mitigation Measure AQ-1b, portable diesel engines (rated  $\geq 50$  HP) that are not registered under CARB’s Portable Equipment Registration Program (PERP) would, at a minimum, have to be Tier 2 certified engines. (RDEIR/SDEIS at 2-185.) Furthermore, this mitigation measure states that engines rated greater than 100 HP could be Tier 1 (if Tier 2 certification is not available for that HP range). The mitigation measure also specifies the use of diesel particulate filters on all uncertified engines that are greater than 100 HP. Mitigation Measure AQ-1a is unnecessary and is in conflict with the State’s Airborne Toxics Control Measure (ATCM) for portable diesel engines. The ATCM already requires all  $\geq 50$  HP portable diesel engines (registered under CARB’s PERP or local air district portable programs) that are uncertified (i.e. Tier 0) to be retired from service by Jan 1, 2010. The ATCM also requires all new engine purchases (starting Jan 1, 2006) meet the most stringent Tiered certification for the applicable HP range (e.g. current new registrations are limited to Tier 3 or higher engines for most HP classes above 50 HP). Most portable diesel engines that will be employed during construction will meet the ATCM requirements and likely exceed the requirements of Mitigation Measure AQ-1b.

Mitigation Measure AQ-1g states that unnecessary construction vehicle and idling time will be minimized. (RDEIR/SDEIS at 2-186.) The Final EIR/EIS should note that CARB has already inserted specific idling restrictions in its recently adopted ATCM regulation for off-road diesel vehicles ( $\geq 25$  HP). The ATCM specifies that idling cannot exceed 5 consecutive minutes (this idling restriction would not apply to certain situations such as queuing, testing/servicing, or if idling is necessary to accomplish work -- such as operating a crane). CARB has also adopted similar idling requirements for On-Road Heavy-Duty commercial diesel vehicles (greater than 10,000 pounds GVW). Compliance with these ATCM regulations will not necessitate additional mitigation requirements for vehicle idling.<sup>27</sup>

### ***Hydrology***

Mitigation Measure H-1a to limit grading activities to the dry season would potentially increase impacts to water quality at the Jacumba Substation. (RDEIR/SDEIS at 2-192.) This measure may not be feasible and is contrary to most BMPs, as it could result in a suspension of grading activities for eight months, as opposed to completing the grading phase and permanently stabilizing soils disturbed by the project. Thus, this mitigation measure should be removed. The requirements of the SWPPP and SDG&E's BMP Manual, which include specific BMPs on scheduling, would ensure that impacts to water quality would be less than significant. Furthermore, timing restrictions for this region are not warranted due to the low level of precipitation in the area.

On page 2-201, the RDEIR/SDEIS states that a large spill at the Jacumba Substation could travel downstream into Boulder Creek, resulting in a significant hydrology impact without mitigation. However, during field surveys of the Jacumba Substation site by qualified biologists, it was observed that the substation site is down slope and at least 1,500 feet west of Boulder Creek and could not be hydrologically connected to Boulder Creek. In addition, Boulder Creek flows north and east away from the proposed Jacumba Substation site. Nonetheless, the substation would be built according to the Environmental Protection Agency (EPA) spill prevention control and countermeasure regulations for electrical substation projects to prevent an inadvertent release of oil from the substation site. As a result, accidental releases of contaminants from project facilities during operation will not degrade water quality in Boulder Creek (Impact H-7).

### ***Geology, Mineral Resources and Soils***

On page 2-206, under White Star Communication Tower, the last few sentences of the discussion relate to the substation not communication facilities and should therefore be removed from this section.

SDG&E requests that the Final EIR/EIS rectify and make consistent impacts and mitigation identified in the DEIR/DEIS and the RDEIR/SDEIS. For example, any southern route alternative would impact desert pavement areas yet the impact and associated mitigation is not mentioned in the RDEIR/SDEIS. Based on SDG&E's review of the desert pavement Mitigation Measure G-2a, which affects the design and project description of the alternatives discussed in

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<sup>27</sup> SDG&E's comment letter #3 dated 3/18/08.



the RDEIR/SDEIS, temporary mats would be ineffective in protecting desert pavement, given its relatively delicate nature and proclivity to disturbance. It is also unclear whether the impact is visual, as a unique geologic feature, or whether there is a natural habitat component associated with the resource. Assuming that the visual component is the unique element of desert pavement, and given the fact that desert pavement is widespread along the southern alternative routes and may be difficult to substantially avoid and remain roughly parallel to SWPL within the BLM-Designated Utility Corridor, SDG&E proposes the following revisions to Mitigation Measure G-2a in the Final EIR/EIS:

**Mitigation Measure G-2a Protect desert pavement.** Grading for new access roads or work areas in areas covered by desert pavement shall be avoided or minimized *to the greatest extent feasible*. If avoidance of these areas is not possible, the desert pavement surface shall be protected from damage or disturbance from construction vehicles by use of temporary mats placed on the ground surface. *be restored with a BLM-approved oxidizing stain or similar treatment to replicate the dark visual characteristic of the desert pavement.* A plan for identification and avoidance or protection of sensitive desert pavement *and a delineation of short- and long-term access routes to the towers with specific limits to vehicle parking, turn-around and foot travel* shall be prepared and submitted to the CPUC and BLM for review and approval at least 60 days prior to start of construction. The plan shall define how protective measures will prevent destruction of desert pavement.

### ***Fire and Fuels Management***

With respect to Section 2.15, SDG&E's following comments apply generally throughout this section, starting on page 2-224.

As a preliminary matter, power lines cause a very low percentage of wildland fires. Even when fires have been associated with power lines, they typically have not involved transmission lines such as those proposed for Sunrise. As discussed above, power line fires constitute approximately 1% of ignitions statewide and high-voltage lines only make up about 3% of these fires. Vegetation management practices have reduced power line related fires in recent years, and SDG&E hazard reduction practices around substations in the wildland further reduce fire risk.

In addition, all activities potentially creating a fire risk during construction can be mitigated to an insignificant risk level despite the RDEIR/SDEIS impact classifications summarized on page 2-225. For example, high risk activities can be scheduled during low risk fire days. SDG&E can develop and adhere to a Fire Plan for all project activities in the wildland. SDG&E could also assign a "Fire Patrol" during construction activities, specifically assigned to mitigate fire risk; have proper equipment immediately available on site to suppress fires should they occur; perform hazard reduction activities where appropriate to reduce risk prior to construction; conduct pre-project inspections with jurisdictional fire representatives; and hold pre-project fire safety meetings and periodic safety meetings throughout construction, with emphasis on high fire danger days.

Power lines are an existing presence, which both aerial and ground resources work with on a daily basis in most every geographic area. They are linear features that occupy minimal space with respect to an overall fire area. In most cases, the power lines can be easily avoided with little to no impact on firefighting activities. In situations where it is critical to work under or immediately adjacent to these facilities, the lines can be de-energized in very short order. On those rare occasions that electric demand prevents taking a line out of service (such as when the possibility of causing a rolling blackout exists), aerial firefighting operations can continue as long as there are no ground resources underneath the lines. In sum, fire and fuel management impacts are not significant and should be reduced in classification in the Final EIR/EIS.

With respect to Mitigation Measure F-1a on pages 2-227 and 2-228, SDG&E can conduct certain construction and maintenance activities that pose no fire risk, so they should be able to continue. Also, there may be no fire risk in certain areas such as those that Cal Fire has classified as low risk (i.e., urban areas), so construction and maintenance should also be able to continue in those areas. Prohibiting all construction activities would unnecessarily delay the project, particularly because the prohibition would be at odds with other mitigation measures that restrict construction activities to the dry season. Therefore, SDG&E suggests the following revisions to Mitigation Measure F-1a be included throughout the Final EIR/EIS:

During Red Flag Warning events, as issued daily by the National Weather Service in SRAs and Local Responsibility Areas (LRA), and when the USFS Project Activity Level (PAL) is Very High on CNF (as appropriate), ~~all~~ construction and maintenance activities ***that pose a fire risk shall cease in Cal Fire's very high, high or moderate fire severity zones.***

Mitigation Measure F-1b on page 2-228 requires that “SDG&E shall submit the Plan for review and approval by the following agencies at least 90 days prior to energizing the Proposed Project: CPUC, BLM, CAL FIRE, US Forest Service and ABDSP.” SDG&E suggests that the Final EIR/EIS delete “approval” and replace it with “comment,” as getting final approval from all of the listed agencies will be difficult if not impossible to do in a timely manner and incorporating the agencies’ comments will still reduce the impacts to a sufficient level. SDG&E has no objection to the other numerous requirements in this measure.

Paragraph 3 of Mitigation Measure F-1c states in pertinent part that “SDG&E shall contact Cal-Fire and CNF dispatch seven days prior to helicopter use...” (RDEIR/SDEIS at 2-229.) Seven days advance notice is very excessive in an emergency fire suppression situation and would not provide any advantage to the dispatch centers. A week’s notice would likely get “lost in the shuffle” and be difficult for everyone involved to manage, if it is even possible to provide so much advance notice. Two days is more than adequate notice to coordinate helicopter activities in an emergency.

### **Section 3 – Revisions To Proposed And Alternative Transmission Line Routes**

Section 3.1.1.3 states, “Because the original Proposed Project has been 66 percent intensively surveyed for cultural resources (100 percent of its length, but only a 200-foot wide corridor), compared to approximately one percent of the BLM Gifted Lands Reroute, there is a

much greater potential to find additional cultural resources within surveys of the reroute.” (RDEIR/SDEIS at 3-5.) SDG&E would like to clarify that for the Proposed Project a portion of the study corridor surveyed for cultural resources west of the Central East Substation was 300 feet wide. The 200 feet wide corridor and the 300 feet wide study corridors were based on the proposed ROW widths for those segments of the route. Similarly, the proposed ROW widths for the new ESSR are 200 feet for the 500 kV segment east of the MRDA Substation and 300 feet for the 230 kV segment west of the MRDA substation up to the junction of the Proposed Project. This is also consistent with shape files and map books submitted as part of responses to CPUC Energy Division data requests.

Although the reconductor of the Sycamore to Pomerado 69 kV transmission line is shown on Figure 3-5, the Final EIR/EIS should contain some discussion of the scope of this work. (RDEIR/SDEIS at 3-21.) The Final EIR/EIS should change the following paragraph to complete the description of the Sycamore – Scripps 69 kV upgrade:

In addition, as part of the Sycamore – Scripps 69 kV reconductor, the Coastal Link System Upgrades Alternative would require the ~~upgrade-reconductor~~ of ~~two~~ **three** existing underground portions of the Sycamore – Scripps 69 kV circuit from single 1750 Al kcmil cable to a single 3000 or 3500 CU kcmil cable (dependent upon trench depth). Existing conduit would be utilized at both Scripps and Sycamore substation while a short segment (930 feet) of underground construction would be required in Rue Biarritz to re-locate the underground segment into city streets while replacing the existing wood cable poles with new wood cable poles.

Figure 3-13 shows a yellow polygon located northeast of the substation on Mr. Lightner’s property. This was shown as a potential laydown (fly) yard, however, SDG&E has eliminated this site as a laydown yard so it can be removed in the Final EIR/EIS.

Mitigation Measure V-2d, included in the DEIR/DEIS, appears to be applicable to CNF lands and the route alternatives discussed in the RDEIR/SDEIS but was not cited in this document, even though Impact V-2 was included as a potential effect in Section 3.2.3.2 of the RDEIR/SDEIS. SDG&E assumes that this measure would apply to the southern alternatives affecting CNF based on the following statement in the DEIR/DEIS on multiple locations:

However, if site-specific conditions indicate that the mitigation measures [V-2a, V-2b, V-2c, V-2e] would not be effective in eliminating unnatural demarcations in the vegetation landscape and reducing the resulting visual impact to a level that would be less than significant, then Mitigation Measure V-2d (Construction by helicopter) would be required following consultations with the CPUC and USFS.

Clearly, the intent of this measure was to reduce potential visual impacted within CNF. Therefore, SDG&E requests the mitigation measure be revised in the Final EIR/EIS to clearly define it applies to only CNF lands and that the revised measure be appropriately cited for any southern route alternative that potentially affects CNF lands:

**Mitigation Measure V-2d Construction by helicopter.** In those areas where long-term land-scarring and vegetation clearance impacts would be visible to sensitive public viewing locations, or where construction would occur on slopes over 15 percent *on USFS lands*, SDG&E will consult with the Authorized Officer *of the USFS* and appropriate land management agency, on a site-by-site basis regarding the use of helicopter construction techniques and the prohibition of access and spur roads. Agency consultations must be conducted and approvals received at least 120 days prior to the start of construction.

Further, Mitigation Measure V-2d requires that “in those areas where long-term land scarring and vegetation clearance impacts would be visible to sensitive viewing locations, or where construction would occur on slopes over 15 percent, SDG&E shall consult with the Authorized Officer and appropriate land management agency, on a site-by-site basis regarding the use of helicopter construction techniques and the prohibition of access and spur roads.” Agency consultation must be conducted and approvals received at least 120 days prior to the start of construction. (RDEIR/SDEIS at 2-76.) This requirement will adversely affect SDG&E’s ability to properly maintain the transmission line in a safe and efficient manner. It also will have a negative impact on system reliability. Many structure locations are on slopes greater than 15%. Prohibiting vehicle access for so many additional structures has major implications for repair of this major line in the event of outages. Safety of line maintenance workers performing scheduled maintenance is a major issue if access is restricted to walking or by helicopter. If repair of outages is required in stormy or windy weather, or during fires, safety of maintenance workers would be placed even further in jeopardy. If an outage occurs at night then virtually no system restoration can begin until suitable daylight flying conditions exist if solely reliant upon helicopter access. Additionally, the time to restore power in the event of unplanned outages can be much more if no vehicle access is available for so many structures, thus affecting system reliability. In areas with slopes greater than 15%, SDG&E can take all practical measures to construct access roads to restrict effects on scenery. Such measures would include road construction at right angles to the slope (along contours) as much as possible. This comment applies to all measures where long-term scarring, vegetation clearance impacts would be visible to sensitive public viewing locations or slopes over 15% are at issue.<sup>28</sup>

Although Mitigation Measure V-45a “Inconsistency with USFS Scenic Integrity Objective due to introduction of structure contrast, industrial character, view blockage and skylining when viewed from forest lands along the CNF alternative route (SMS)” is not specifically mentioned in the RDEIR/SDEIS, its requirements will affect the project design for any southern route alternative that traverses CNF and therefore needs to be further clarified in the Final EIR/EIS. Mitigation Measure V-45a states in pertinent part:

**Distance Zones.** Support towers within approximately one mile of sensitive primary viewpoints and without a backdrop, should be a monopole design with a simple, clean and less industrial appearance. Support towers viewed beyond one mile from sensitive viewpoints or only at distance, should be lattice towers.

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<sup>28</sup> The same comment also applies to Chapter D.3; Appendix 12; Page App. 12-51 (discussing Mitigation Measure V-2d).

Section 3.3.2 of the RDEIR/SDEIS provides a description of an alternative that avoids incompatible land use areas of the CNF, namely, BCD Alternative and BCD South Option Revisions. (RDEIR/SDEIS at 3-29.) Although this was not included in the RDEIR/SDEIS, it is assumed that it applies to all routes through CNF and would be implemented as part of the project for any southern route affecting CNF. The aesthetic implications of should have been included in the Visual Resources discussion on page 30 of Section 3 of the RDEIR/SDEIS. Furthermore, this measure is not consistent with the Forest Service's position regarding the MRDA alternative. It is SDG&E's understanding that the Forest Service has not endorsed the placement of monopoles anywhere within CNF, and specifically the Pacific Crest Trail, which can be considered a "sensitive primary viewpoint." SDG&E suggests that the Final EIR/EIS address this inconsistency and the visual analysis be revised as necessary.

#### **Section 4 – Other Modifications To The Draft EIR/EIS**

In several places throughout Section 4, the RDEIR/SDEIS overstates impacts to cultural resources. Page 4-1 of the RDEIR/SDEIS states that "Based on new information provided in comments on the Draft EIR/EIS, this impact has been revised to be significant and unmitigable (Class I) within the Central Link. Impact C-2 was found to be significant and unmitigable in the Imperial Valley, Anza-Borrego, and Inland Valley Links in the Draft EIR/EIS." SDG&E believes that construction impacts to human remains will be reduced to Class II with the implementation of Mitigation Measure C-2a: Properly Treat Human Remains and other relevant mitigation measures. SDG&E will avoid human remains where possible by spanning, re-routes, or flagging and avoiding. For example, if a site is too large to span and resource issues prevent a re-route or workaround, SDG&E can still flag the remains and avoid them during construction. The site itself is impacted in this scenario but human remains themselves are not. Therefore, the impact is significant but mitigable.

Page 4-2 of the RDEIR/SDEIS states that "Any adverse effect to human remains is considered significant (Class I). CR-APM-3 outlines procedures for the treatment of unanticipated discoveries during construction, but it would not mitigate construction impacts to Native American human remains. Mitigation Measures C-1b, C-1c, C-1d, C-1e, C-1f and C-2a (see Section 2.7 for the full text of the measures) would partially mitigate impacts to human remains; however, the impacts would still be considered significant and unmitigable (Class I). Impacts to Native American human remains are considered an adverse effect, even after mitigation (36 CFR 800)." SDG&E believes that impacts to human remains will be reduced to Class II with the implementation of Mitigation Measure C-2a: Properly Treat Human Remains and other relevant mitigation measures.

On page 4-3, the RDEIR/SDEIS states that "If direct impacts to human remains cannot be avoided, project effects would be significant (Class I) even with mitigation." SDG&E believes that impacts to human remains will be reduced to Class II with the implementation of Mitigation Measure C-2a: Properly Treat Human Remains and other relevant mitigation measures.

In Section 4.1.2 on page 4-2, the following statement is incorrect: "The Campo North Option is located entirely on the Campo Indian Reservation." A portion of this option crosses

private properties that are in-holding parcels within the exterior boundaries of the Campo Indian Reservation, but these parcels are not located within the legal boundaries of the reservation.

In Section 4.1.3 on pages 4-3 to 4-4, the RDEIR/SDEIS appears to inaccurately interpret the TRC 2001<sup>29</sup> cultural report evaluating the Alpine Boulevard area and its potential to contain significant cultural resources. The RDEIR/SDEIS states that “Research conducted by the CPUC/BLM after the public distribution of the Draft EIR/DEIS demonstrates that site CA-SDI-6706 does not extend south of Interstate 8 and into Alpine Boulevard. Although the site has been known to archaeologists since the late 1970s, there is no evidence that there have ever been any artifacts or site deposits found off the Reservation, south of Interstate 8.” Nowhere in the TRC 2001 report does the report conclude that site CA-SDI-6706 does not extend south of Interstate 8. Rather, the report finds that (i) the Level 3 Fiberoptic construction right-of way intersects the extreme southern edge of the site (TRC 2001:1); (ii) TRC was unable to evaluate the site boundaries outside of the right-of-way because they were limited to 50’ on either side of the Alpine Blvd centerline (TRC 2001:8); and (iii) that a bedrock milling feature was observed within the Level 3 construction right-of way located adjacent and south of the road in an area not tested because no fiberoptic materials were to be placed there (TRC 2001:8). The presence of this cultural feature south of Interstate 8 and Alpine Boulevard contradicts the statement in the RDEIR/SDEIS that “there is no evidence that there have ever been any artifacts or site deposits found off the Reservation, south of Interstate 8.”

Further, the RDEIR/SDEIS states that “[e]xtensive test excavations were completed in this vicinity in 2001, within Alpine Boulevard prior to installation of underground fiber optics lines by Level 3. No site deposits were found. In fact, this portion of Alpine Boulevard has been excavated into decomposing granite (TRC, 2001).” Close review of the 2001 TRC report, however, shows that the test excavations were all “excavated entirely in road fill”, including those excavated to decomposing granite (TRC 2001:20). This fact, which is overlooked by Aspen, is likely the reason no cultural materials were identified during test excavations. There was, however, a portion of the ROW that contained intact native ground surface between the edge of the road cut and the southern edge of the Level 3 Fiberoptic construction ROW (TRC 2001:8). The undisturbed portion of the Level 3 Fiberoptic construction ROW is on a top of a finger ridge at the center of the site (TRC 2001:8). This area of native soil was not tested, and as noted above, the observations of the bedrock milling feature in the southern portion of the ROW places the conclusions into serious question. (*See also* Schroth, A.B., N.M. Harris, and D.R. Gallegos. 1998. Archaeological Test to Determine National Register Eligibility for Sites CA-SDI-4906 and CA-SDI-6706 Viejas Indian Reservation, San Diego, California. Gallegos & Associates, Carlsbad, CA. (site map with dashed lines - signifies unknown boundary - extending south of the freeway and Willows Road and discussing Viejas tribal concerns with respect to protecting the site).)

In Section 4.3.1 on page 4-10 entitled “Expanded Workspace for I-8 Alternative,” the RDEIR/SDEIS states that there would be an increase in the severity of the Class I impacts

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<sup>29</sup> TRC, 2001. Final Cultural Resources Report Results of Site Testing at Site CA-SDI-6706. Level (3) Communications Long Haul Fiber Optics Project Segment WD04 San Diego to Yuma. TRC Mariah Associates, Laramie, WY.

identified in the DEIR/EIS to sensitive vegetation, flat-tailed horned lizard, peninsular bighorn sheep, sensitive plant species, Quino checkerspot butterfly and barefoot banded gecko. Class I impacts are assumed based on the incorrect assumption that adequate mitigation land for these species may not be available. SDG&E has addressed the inaccuracy of this assumption above under the discussion of “Biology.”

### **Section 5 – Environmentally Superior Alternatives**

#### **UCAN’s Modified Southern Route Does Not Meet The Project Objectives And Is Infeasible**

SDG&E requests that UCAN’s Modified Southern Route be removed from the Final EIR/EIS because there are serious construction issues with building a 500 kV transmission line all the way to the Sycamore Substation. Section 5.3.3 of the RDEIR/SDEIS, first paragraph, third sentence states: “The second is essentially a method of phasing construction of a 500 kV transmission line by first constructing the 500 kV line only from Jacumba to Sycamore Canyon.” UCAN suggests an alternative whereby SDG&E would install a 500 kV line between the contemplated Jacumba Substation and Sycamore Substation. The discussion on page 5-13 fails to note that there are serious construction challenges with building a 500 kV transmission line all the way to the Sycamore Substation. If the CPUC approved either the I-8 or Modified Southern Route from the proposed Jacumba Substation, this option would require underground construction of 500 kV approximately eight miles in Alpine Boulevard (or six miles if the Star Valley Option is selected). The feasibility of installing 500 kV underground cable is highly questionable. The existing transmission line ROW from Highway 67 to Sycamore Substation is only 100 feet wide, which is not wide enough to accommodate a 500 kV transmission line. An additional 150 feet of ROW would need to be acquired. Also, there is no 500 kV switchyard at Sycamore Substation and insufficient land surrounding the substation to expand it to accommodate a 500 kV switchyard.

Even if the intent of the proposed Jacumba to Sycamore Canyon line was to be double circuit 230 kV, the alternative still does not meet project objectives. A double circuit 230 kV line without a new 500 kV line in addition to SWPL from Imperial Valley Substation to Jacumba would not increase import capability enough to significantly improve system reliability. It would also make the future expansion even more constrained due to the increased distance from SDG&E’s load center. Moreover, access to renewables would be even more constrained due to the limited scope of the Jacumba to Sycamore line.

Additionally, as noted on page 5-13, because the Forest Service has stated that the Interstate 8 Alternative traversing the BCNM zone is not eligible for a Special Use Permit, then UCAN’s Modified Southern Route is infeasible and should be eliminated from consideration. To further support this direction, the RDEIR/SDEIS acknowledges on page 5-14 that “the UCAN Modified Southern Route would not be regulatorily feasible.”

UCAN proposes to postpone the IV- ECO (Jacumba) segment until some future date. Thus, this alternative also fails to meet Basic Project Objective Nos. 1 (reliability) and 3 (access to renewables), as recognized in the RDEIR/SDEIS at page 5-14. Based on its infeasibility and inability to meet the project objectives, UCAN’s Modified Southern Route should not be ranked

4<sup>th</sup> in the top alternatives and should be eliminated from further consideration in the Final EIR/EIS.

### Section 1 - There is No Need for Recirculation of the DEIR/Supplementation of the DEIS

SDG&E maintains that neither the “connected actions” nor the mitigation re-routes proposed to reduce environmental impacts justify recirculating the Draft EIR or supplementing the Draft EIS. California law is clear on the criteria necessitating recirculation of an environmental review document and that it should be the exception rather than the rule.<sup>30</sup> The critical factor in evaluating the need to recirculate is what constitutes “significant new information.”<sup>31</sup> The California Supreme Court addressed this issue in *Laurel Heights Improvement Assn. v. Regents of Univ. of California* (1993) 6 Cal. 4th 1112 (*Laurel Heights II*). This standard later was incorporated in the California Environmental Quality Act (CEQA) Guidelines,<sup>32</sup> which provides in pertinent part:

#### § 15088.5. Recirculation of an EIR Prior to Certification

(a) A lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification. As used in this section, the term “information” can include changes in the project or environmental setting as well as additional data or other information.

Aspen contends that recirculation is mandated to provide a “meaningful opportunity to comment on certain route modifications that do **not result** in new significant impacts”<sup>33</sup> and due to alleged “significant new information” arising from:

(1) A **new significant** environmental impact would result from the project or from a new mitigation measure proposed to be implemented; and

(2) A substantial increase in the severity of an environmental impact would result **unless** mitigation measures are adopted that reduce the impact to a level of insignificance.<sup>34</sup>

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<sup>30</sup> “[T]he Legislature did not intend to promote endless rounds of revision and recirculation of EIR’s. **Recirculation was intended to be an exception, rather than the general rule.** Significantly, at the time section 21092.1 was enacted, the Legislature had been and was continuing to streamline the CEQA review process. Recognizing the legislative trend, we previously have cautioned: “[R]ules regulating the protection of the environment must not be subverted into an instrument for the oppression and delay of social, economic, or recreational development and advancement.” In our interpretation of section 21092.1, we have given consideration to both the legislative goals of furthering public participation in the CEQA process and of not unduly prolonging the process so that the process deters development and advancement.” (*Laurel Heights Improvement Ass’n v. Regents of Univ. of California* (1993) 6 Cal. 4th 1112, 1132 (citations omitted).)(Emphasis added.)

<sup>31</sup> Cal. Pub. Res. Code § 21092.1.

<sup>32</sup> 14 Cal. Code of Regs. § 15088.5.

<sup>33</sup> RDEIR/SDEIS at 1-1.

<sup>34</sup> *Id.* (citing CEQA Guidelines)



Aspen's position is neither supported by law nor fact. Under California law, a plan or project in development stages (as is the contemplated Jacumba Substation project) after the issuance of a Draft EIR that does not clearly cause a new or increased significant impact does not constitute "significant new information" triggering recirculation. In *Chaparral Greens v. City of Chula Vista*, the appellate court confirmed that the city's decision not to recirculate a Program EIR based on new information was supported by substantial evidence. (*Chaparral Greens, supra*, (1996) 50 Cal.App.4<sup>th</sup> 1134, 1147.) After the issuance of the draft PEIR, the city was informed of drafts of new environmental studies issued by the regional conservation planning programs and also of designation of the California gnatcatcher as a threatened species under the federal Endangered Species Act. However, the city did not revise or recirculate the PEIR based on the new information. A conservation group challenged the certification of the PEIR on the ground that the city violated CEQA by failing to consider the regional environmental studies. The court noted that the regional planning activities were in *formative stages* at the time the project approval process was pending and that substantial evidence supports the decision that this additional data was not "significant new information." (*Ibid.* at 1149.) The *Chaparral* court determined that the city had no obligation to include the new information and no obligation to recirculate the environmental document for further public review.

Federal law is similarly clear. Under the National Environmental Policy Act (NEPA), a supplement to an EIS is required only when there are *significant* new circumstances or information relevant to the environmental concerns related to the proposed action or its impacts. (40 CFR 15029(c)(1).) None of the clarifications with respect to the purported "connected actions" or mitigation "re-routes" contained in the RDEIR/SDEIS rise to the level of *significant* new circumstances or information relevant to the environmental aspects of the project mandating a supplemental Draft EIS under NEPA.

Indeed, in deciding whether a public agency had to revise and recirculate an EIS when it selected an alternative not analyzed in the document, the Ninth Circuit Court of Appeals observed:

The main policy reason for soliciting public comment is to use public input in assessing a decision's environmental impact. [Citations.] To effectuate this purpose, agencies must have some flexibility to modify alternatives canvassed in the draft EIS to reflect public input. If an agency must file a supplemental draft EIS every time any modifications occur, agencies as a practical matter may become hostile to modifying the alternatives to be responsive to earlier public comment. Moreover, requiring agencies to repeat the public comment process when only minor modifications are made promises to prolong endlessly the NEPA review process. (*State of Cal. v. Block* (9<sup>th</sup> Cir. 1982) 690 F.2d 753, 771.)

As set forth below, SDG&E disputes the conclusions of new significant unmitigable impacts resulting from the activities analyzed in the RDEIR/SDEIS. In particular, the data do not support any of the components of the planned Jacumba Substation project having Class I impacts, as unjustifiably concluded in the RDEIR/SDEIS.

Further, SDG&E believes that the public has already had a more than meaningful opportunity to comment on the project with the unprecedented public participation, notice, hearings and extensive outreach conducted by the CPUC and SDG&E over the last several years. The Notice of Availability itself describes the many opportunities since 2006 for the public to comment on the project, its alternatives, potential impacts and mitigation measures. (NOA at 1.) The public certainly has not been “deprived” of the chance to weigh in on a substantial adverse environmental impact or a feasible mitigation measure - the legal triggers for recirculation.

### **Conclusion**

SDG&E appreciates the CPUC’s consideration of the foregoing comments on the RDEIR/SDEIS for inclusion in the Final EIR/EIS.

Encls.

Sincerely,

A handwritten signature in cursive script that reads "Jill Larson".

Jill Larson  
*Attorney for SDG&E*

# Attachment 1

**San Diego Gas & Electric Company's  
Application for a Permit to Construct**

**Uptown Substation Project  
(A.04-03-015)**

**Draft Initial Study/  
Mitigated Negative Declaration**

**California Public Utilities Commission**

*Energy Division*  
505 Van Ness Avenue  
San Francisco, CA 94102

*Prepared by:*



605 Third Street  
Encinitas, CA 92024

**September 2004**

**B.4.12b Displace Substantial Numbers of Existing Housing** **Less than Significant Impact**

The proposed substation would displace six residential units. Displacement of six residences would not require the construction of replacement housing elsewhere. No other housing will be displaced or otherwise affected by the proposed project. As identified in APM-23 in *Table B.1-3*, SDG&E will implement a relocation program for the affected residents that conform to the standards and provisions of the State of California Relocation Assistance Law, Government Code, Section 7260, et. seq., the California Code of Regulations; and rules, regulations and procedures adopted by SDG&E. The relocation program will provide assistance to displaced residents by way of relocation advisory assistance and relocation benefits such as moving expenses, rental assistance, and down payment assistance. Implementation of APM-23 would ensure that impacts due to displacement of existing residences would be less than significant.

**B.4.12c Displace Substantial Numbers of People** **Less than Significant Impact**

The proposed project would displace six residences resulting in the displacement of approximately 17 people. As discussed in *Section B.4-12b*, SDG&E has proposed APM-23 requiring SDG&E to implement a relocation program for affected residences in conformance with the standards and procedures of the State of California Government Code Section 7260. Implementation of APM-23 would ensure that displacement of existing residences on the project site would be less than significant by ensuring just compensation.