

RESOLUTION 2015-99

RESOLUTION CONSIDERING AND ADOPTING THE FINDINGS IN THE CALIFORNIA COASTAL COMMISSION STAFF REPORT AND REVISED FINDINGS AS A SUBSTITUTE FOR AN ENVIRONMENTAL ANALYSIS DOCUMENT PURSUANT TO CALIFORNIA ENVIRONMENTAL QUALITY ACT GUIDELINES SECTION 15253 FOR THE SOUTH BAY SUBSTATION RELOCATION PROJECT AND AUTHORIZING STAFF TO FILE THE NOTICE OF DETERMINATION

WHEREAS, the San Diego Unified Port District (District) is a public corporation created by the Legislature in 1962 pursuant to Harbors and Navigation Code Appendix I, (Port Act); and

WHEREAS, in August 2008, San Diego Gas & Electric Company (SDG&E) submitted an initial proposal to the District for the possible relocation of the South Bay Substation located in the City of Chula Vista (City); and

WHEREAS, on January 5, 2010, the Board of Port Commissioners (Board) authorized a Real Estate Exchange Agreement with SDG&E in order to facilitate relocation of the South Bay Substation to a 12.42-acre site on the southernmost portion of the former Liquid Natural Gas (LNG) site in the City and in exchange for the LNG site, SDG&E relinquished its easement interest in the existing 7.22-acre South Bay Substation, as well as a 10.47-acre transmission and distribution easement area in the City; and

WHEREAS, on January 5, 2010, the Board also authorized the District to enter into an interim lease with SDG&E for the existing substation site with a term equal to the period of time that the existing substation will be in operation during the construction of the new substation and with a requirement, among others, that SDG&E to prepare a Decommissioning and Demolition Plan to be approved by the District in advance of demolition activities; and

WHEREAS, on February 22, 2015, the LNG and easement properties were exchanged at which time the District entered into an interim lease with SDG&E; and

WHEREAS, originally South Bay Substation Relocation Project (Original Project) included: 1) construction of a 230/69/12-kilovolt (kV) substation (Bay Boulevard Substation) in the City; 2) construction of a 230 kV transmission line loop-in, including an approximately 1,000-foot-long underground interconnection

and an approximately 300-foot-long overhead interconnection of the existing 230 kV tie-line, located east of the proposed Bay Boulevard Substation; 3) relocation of six 69 kV transmission lines and associated communication cables to the proposed Bay Boulevard Substation, requiring the relocation of approximately 7,500 feet of overhead line and the construction of approximately 4,100 feet of underground line; 4) installation of a 138 kV transmission line extension, including an approximately 3,800-foot underground and approximately 200-foot overhead span from one new steel cable pole to an existing steel lattice structure; and 5) demolition of the existing 138/69 kV South Bay Substation; and

WHEREAS, in accordance with the California Environmental Quality Act (CEQA), on October 17, 2013, the California Public Utilities Commission (CPUC) certified the "Final Environmental Impact Report for the South Bay Substation Relocation Project" (State Clearinghouse No. 2011071031) (FEIR) for the Original Project, made the necessary CEQA findings and adopted a Mitigation Monitoring, Compliance, and Reporting Program (MMCRP), which is another name used by the CPUC for a Mitigation, Monitoring and Reporting Program; and

WHEREAS, in accordance with the CEQA and the California Coastal Act, on March 13, 2014, the California Coastal Commission (CCC) approved a Coastal Development Permit (CDP) for the Original Project and added special conditions to the CDP for the Original Project, including, but not limited to 1) Special Condition 2, which requires SDG&E to provide a qualified biological monitor to conduct preconstruction surveys and observe vegetation removal activities, to review all proposed temporary work areas, and to conduct nesting surveys; 2) Special Condition 6, which requires SDG&E to mitigate for temporary or permanent loss of non-native grassland or disturbed coyote brush scrub through habitat restoration at a 1:1 ratio for non-native grasslands and 1.5:1 ratio for disturbed coyote brush scrub; 3) Special Condition 10, which requires that SDG&E submit a final wetland restoration and monitoring plan that also includes a grading plan, a more specific planting plan, adaptive management techniques, and a provision that mitigation monitoring continue until the success criteria have been met for three years without any remediation or maintenance activities except weeding and debris removal (this restoration would take place at the D Street Fill site and includes the elevation of property located within the District's jurisdiction (D Street Restoration Component); 4) Special Condition 14, which, among other items, requires the removal of two existing steel lattice towers and associated overhead facilities and the undergrounding of approximately 1,000 feet of 138 kV double-circuit duct package within the existing 138 kV overhead alignment; and

WHEREAS, in accordance with the CEQA and the California Coastal Act, on May 16, 2014, the CCC adopted revised findings for the CDP to reflect the CCC's March 13, 2014 decision and the revised findings included the following additional CDP conditions 1) Special Condition 23, which requires SDG&E to

provide \$500,000 to the Friends of the San Diego National Wildlife Refuge to support enhancement and restoration of wetlands in the San Diego Bay National Wildlife Refuge and 2) Special Condition 24, which requires SDG&E to provide \$2,000,000 to create an endowment fund to support the continued operation of the Living Coast Discovery Center, including programs supporting environmental education and public access and enjoyment of San Diego Bay (the Original Project as revised by the CCC is herein referred to as "Revised Project"); and

WHEREAS, in accordance with CEQA and prior to approval of the CDP, the CCC conducted a CEQA analysis made the following CEQA findings consistent with Public Resource Code Section 21080.5: 1) the Revised Project had been conditioned in order to be found consistent with the Coastal Act; 2) mitigation measures, including conditions addressing biological resources, fill of wetlands, visual resources, water quality, cultural resources and public access would minimize all adverse environmental impacts; 3) as conditioned, there were no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment; and 4) the Project was the least environmentally-damaging feasible alternative; and

WHEREAS, the CCC analysis and findings constitute the equivalent of an environmental impact report for purposes of the CEQA as a "certified regulatory program" pursuant to CEQA Guidelines section 15251(c); and

WHEREAS, in accordance with CEQA, on January 2015, the CPUC considered and adopted an Addendum to the Final EIR to address Special Condition 14 and to address a proposed increase of water needed for construction of the Revised Project, from an estimated water usage of 2.4 million to 20 million gallons for fugitive dust suppressions, soil compaction, and general construction purposes and made the appropriate CEQA findings; and

WHEREAS, on January 15, 2015, the CPUC granted approval of the Revised Project with the minor changes addressed in the Addendum (the Revised Project with the minor changes is herein referred to as "Project"); and

WHEREAS, on December 2, 2014, CCC staff approved an SDG&E wetlands restoration plan, which included an elevation increase of approximately 2 to 6 feet to the California Least Tern (CLT) nesting area, in a portion of land owned by the U.S. Fish and Wildlife Service and the District, and confirmed that the restoration plan satisfied Special Condition 10 of CDP; and

WHEREAS, District staff recommends the Board rely on the findings contained in the CCC Staff Report and Revised Findings as a substitute for an environmental analysis document pursuant to CEQA Guidelines Section 15253 to address the revisions to the Original Project made by the CCC, including, but not limited to, the wetland restoration and additional undergrounding of overhead

electrical equipment required by Special Conditions 10 and 14 of the CDP; and

WHEREAS, to facilitate completion of the D Street Restoration component of the Project, SDG&E is requesting Concept Approval from the District to implement portions of the elevation of the CLT nesting area located within the District's jurisdiction (Concept Approval); and

WHEREAS, it is recommended that the District consider, rely on and adopt the CCC findings pursuant to CEQA Guidelines Section 15253 and the District has determined that the requirements of CEQA Guidelines Section 15253(b) are met for the following reasons: (1) the District approval is for a component of the same Project; (2) the CCC was the first agency to grant a discretionary approval for the wetland restoration and additional undergrounding of overhead electrical equipment; (3) the CCC consulted with the District; (4) the CCC Staff Report and Revised Findings identify the significant environmental effects within the jurisdiction of the District and identify alternative and mitigation measures that could avoid or reduce the severity of significant environmental effects; (5) the District was afforded the opportunity to review the property in a manner designed to inform the District of any concerns before release of the Staff Report and Revised Findings for public review; (6) a consultation period was established for as long as required for public review of a Staff Report and Revised Findings; and (7) the CCC considered all significant environmental effects of the Project and making finding under Section 15091 for each significant effect; and

WHEREAS, the Project complies with all District policies and requirements and will allow SDG&E to relocate the South Bay Substation to the 12.42-acre site described above; and

WHEREAS, the District is the trustee of said tidelands where the portions of the Project will be implemented; and

WHEREAS, pursuant to Public Resources Code Section 21069 and Section 15381 of the CEQA Guidelines, the District is a responsible agency under CEQA because the Project requires subsequent discretionary approvals by the District, including approval of concept plans for the CLT nesting area elevation, Decommissioning and Demolition Plan and a Right of Entry Permit and the District is the public agency which has discretionary approval power over these components of the Project; and

WHEREAS, the Office of the District Clerk has caused notice to be duly given of a public hearing in this matter in accordance with law, as evidenced by the affidavit of publication and affidavit of mailing on file with the Clerk of the Board; and

WHEREAS, all materials with regard to this Project were made available

to the Board for its review and consideration of the Project including, but not limited to, the following:

1. The Final EIR and errata to the same;
2. The Findings of Fact adopted by the CPUC for the certification of the Final EIR;
3. The MMCRP (otherwise known as a MMRP) adopted by CPUC;
4. The CEQA Findings adopted by the CCC;
5. The CCC Staff Reports;
6. The CDP;
7. The Addendum to the Final EIR;
8. The Findings of Fact adopted by the CPUC for the adoption of the Addendum to the Final EIR;
9. The Staff Report and Agenda Sheet; and
10. All documents and records in this proceeding, including those filed by interested parties; and

WHEREAS, a duly noticed public hearing was held on August 11, 2015, before the Board, at which the Board received public testimony and reviewed and considered all testimony and materials made available to the Board regarding the Project; and

WHEREAS, having reviewed and considered all testimony and materials made available to the Board, including, but not limited to, those listed above and all the testimony and evidence in the record of the proceedings with respect to the Project, the Board took the actions hereinafter set forth.

NOW, THEREFORE, BE IT RESOLVED by the Board of Port Commissioners of the San Diego Unified Port District, as follows:

1. The Board finds the facts recited above are true and further finds that this Board has jurisdiction to consider, approve and adopt the subject of this Resolution.

2. The Board finds and determines that the applicable provisions of CEQA, the State CEQA Guidelines, and the Port District Guidelines have been

duly observed in conjunction with said hearing and the considerations of this matter and all of the previous proceedings related thereto.

3. Pursuant to CEQA Guidelines Section 15096(a) and (f), the Board finds and determines that (a) the Final EIR and the Addendum to the Final EIR prepared and certified by the CPUC has been presented to the Board, (b) the CCC CEQA Findings and CDP prepared and adopted by the CCC has been presented to the Board, (c) the Board has fully reviewed and considered the Final EIR, Addendum to the Final EIR, the CCC Findings and the environmental effects of the Project as shown therein prior to making a decision whether to approve the proposed Concept Approval, and (d) the Board has reached its own conclusions on whether and how to approve the Concept Approval.

4. Pursuant to Public Resources Code Section 21166 and CEQA Guidelines Sections 15096, 15162, 15164 and 15253, the Board finds the components of the Project within the District's jurisdiction to be within the scope of the Final EIR, Addendum and CCC CEQA Findings and finds that implementation of the portions of the Project within the District's jurisdiction would not cause environmental effects that were not analyzed in the Final EIR, Addendum or CCC CEQA Findings or require any new mitigation measures, and finds that a supplemental or subsequent EIR or other CEQA document is not required for approval of the portions of the Project within the District's jurisdiction.

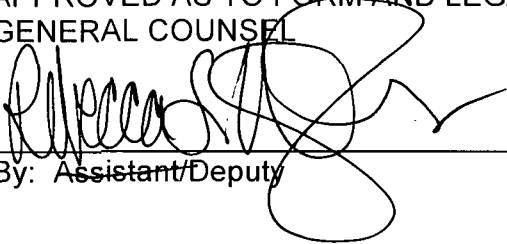
5. The Board finds that the requirements of CEQA Guidelines Section 15253(b) are met for the following reasons: (A) the District approval is for a component of the same Project; (B) the CCC was the first agency to grant a discretionary approval for the wetland restoration and additional undergrounding of overhead electrical equipment; (C) the CCC consulted with the District; (D) the CCC Staff Report and Revised Findings identify the significant environmental effects within the jurisdiction of the District and identify alternative and mitigation measures that could avoid or reduce the severity of significant environmental effects; (E) the District was afforded the opportunity to review the property in a manner designed to inform the District of any concerns before release of the Staff Report and Revised Findings for public review; (F) a consultation period was established for as long as required for public review of a Staff Report and Revised Findings; and (G) the CCC considered all significant environmental effects of the Project and making finding under Section 15091 for each significant effect.

6. Pursuant to Public Resources Code Section 21081 and CEQA Guidelines Sections 15091, 15096(h) and 15253, the Board hereby makes and adopts as its own the findings with respect to each significant environmental effect identified in CCC Findings of Fact, appended hereto as Exhibit "A" and made a part hereof by this reference, and declares that it considered the evidence described in connection with each such finding.

7. Pursuant to Public Resources Code Section 21152 and CEQA Guidelines Sections 15094 and 15096(i), the Office of the District Clerk shall cause a Notice of Determination to be filed with the Clerk of the County of San Diego and the State Office of Planning and Research.

8. Pursuant to Public Resources Code Section 21081.6(a)(2) and CEQA Guidelines Section 15091(e), the location and custodian of the documents and other materials which constitute the record of proceedings on which this Resolution is based is the Office of the District Clerk, San Diego Unified Port District, 3165 Pacific Highway, San Diego, California 92101.

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL



By: Assistant/Deputy

2015-99

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 11th day of August, 2015, by the following vote:

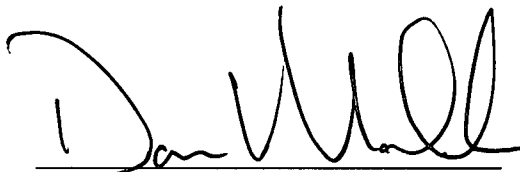
AYES: Castellanos, Malcolm, Merrifield, Nelson, and Valderrama.

NAYS: None.

EXCUSED: Bonelli and Moore.

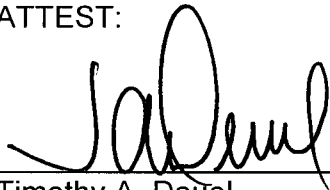
ABSENT: None.

ABSTAIN: None.



Dan Malcolm, Chairman
Board of Port Commissioners

ATTEST:



Timothy A. Deuel
District Clerk

