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Decision 12-04-022 April 19, 2012

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In The Matter of the Application of SAN DIEGO GAS & ELECTRIC COMPANY (U902E) for a Permit to Construct Electrical Facilities With Voltages Between 50 kV and 200 kV and New Substations With High Side Voltages Exceeding 50 kV: The East County Substation Project.	Application 09-08-003 (Filed August 10, 2009)

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INTERIM DECISION CERTIFYING ENVIRONMENTAL IMPACT REPORT/ENVIRONMENTAL IMPACT STATEMENT

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INTERIM DECISION CERTIFYING ENVIRONMENTAL IMPACT REPORT/ENVIRONMENTAL IMPACT STATEMENT

1. Summary

This interim decision certifies that the Environmental Impact Report/Environmental Impact Statement for the East County Substation, Tule Wind, and Energia Sierra Juarez Generation Tie-In Projects was completed in compliance with the California Environmental Quality Act, that the Commission has reviewed and considered it prior to approving the project, and that the Environmental Impact Report/Environmental Impact Statement reflects the Commission's independent judgment.

2. Proposed Substation Project

By this application, San Diego Gas & Electric Company (SDG&E) seeks a permit to construct the East County Substation (ECO Substation) Project, which includes a new 500/230/138 kilovolt (kV) electric substation, a new 500 kV transmission line of approximately 3,065 feet to loop the substation into the existing 500 kV Southwest Powerlink transmission line (SWPL), rebuild of the Boulevard Substation to operate at 138/69/12 kV on a new parcel adjacent to the existing substation, a new 138 kV transmission line of approximately 13.3 miles from the ECO substation to the rebuilt Boulevard Substation, and a microwave communication relay system. The project will enable the proposed renewable wind energy generation in southeastern San Diego County and Mexico to interconnect to the transmission grid and will improve the reliability of electric service to several communities in the area.

3. Procedural Background

3.1. Summary

SDG&E filed this application for a permit to construct the ECO Substation Project on August 10, 2009. Backcountry Against Dumps (BAD), the Protect Our Communities Foundation, and the East County Community Action Coalition jointly protested the application.

After the conduct of a prehearing conference on February 18, 2011, the assigned Commissioner issued a scoping memo and ruling on March 15, 2011, determining that the requisite authority to construct the ECO Substation is a permit to construct, identifying the issues to be determined by the Commission in resolving the proceeding, and setting a schedule for addressing those issues.

As the scoping memo and ruling explains, in order to issue a permit to construct pursuant to General Order 131-D, the Commission must find that the project complies with the California Environmental Quality Act (CEQA).[1] CEQA requires the lead agency (the Commission in this case) to conduct a review to identify environmental impacts of the project, and ways to avoid or reduce environmental damage, for consideration in the determination of whether to approve the project or a project alternative. CEQA precludes the lead agency from approving a proposed project or a project alternative unless it requires the project proponent to eliminate or substantially lessen all significant effects on the environment where feasible, and determines that any unavoidable remaining significant effects are acceptable due to overriding considerations. (CEQA Guidelines §§ 15090, 15091, 15093, 15126.2, 15126.4 and 15126.6.) Because the

[1] Public Resources (Pub. Res.) Code Section 21000 *et seq.*

project also requires approval from the federal Bureau of Land Management (BLM), it is also subject to environmental review pursuant to the National Environmental Protection Act (NEPA), which requires the preparation of an environmental impact statement (EIS). Under these circumstances, CEQA encourages the state agency to conduct its environmental review jointly with the federal agency. (CEQA Guidelines § 15222.)

In addition, pursuant to General Order 131-D and Decision (D.) 06-01-042, the Commission will not certify a project unless its design is in compliance with the Commission's policies governing the mitigation of electromagnetic field (EMF) effects using low-cost and no-cost measures.

Accordingly, the scoping memo and ruling determined the following issues to be within the scope of the proceeding:

1. What are the significant environmental impacts of the proposed project?
2. Are there potentially feasible mitigation measures that will eliminate or lessen the significant environmental impacts?
3. As between the proposed project and the project alternatives, which is environmentally superior?
4. Was the environmental impact report (EIR) (in this case, the combined EIR/EIS) completed in compliance with CEQA, did the Commission review and consider the EIR/EIS prior to approving the project or a project alternative, and does the EIR/EIS reflect the Commission's independent judgment?
5. Are the mitigation measures or project alternatives infeasible?
6. To the extent that the proposed project and/or project alternatives result in significant and unavoidable impacts, are there overriding considerations that nevertheless merit

Commission approval of the proposed project or project alternative?

7. Is the proposed project and/or project alternative designed in compliance with the Commission's policies governing the mitigation of EMF effects using low-cost and no-cost measures?

The Commission's Energy Division and the BLM issued the draft EIR/EIS on December 24, 2010, which was received into evidence by the assigned Commissioner's scoping memo and ruling. Evidentiary hearing was held on May 2, 2011. The final EIR/EIS was received into the evidentiary record by Administrative Law Judge (ALJ) ruling on October 31, 2011. SDG&E, BAD and the San Diego Rural Fire Protection District[2] filed opening briefs on all issues on November 7, 2011, and reply briefs on November 17, 2011. A public participation hearing was conducted on January 24, 2012, in Jacumba, California, after which the record was submitted.

By ruling dated March 16, 2012, the assigned Commissioner amended the schedule to provide for the issuance of this interim decision resolving issues 1 through 4 and certifying the EIR/EIS, to be followed at a later date with a decision resolving the remaining issues in the proceeding.

3.2. Environmental Review Process

On December 28, 2009, the Commission's Energy Division staff issued a Notice of Preparation (NOP) of a joint EIR/EIS for the proposed project. The NOP was mailed to the state clearinghouse as well as to 23 federal agencies,

[2] The San Diego Rural Fire Protection District's unopposed September 27, 2011, motion for party status was granted by ALJ ruling dated October 31, 2011.

24 state agencies, eight county agencies, 29 local agencies (including three local libraries), 38 local organizations/stakeholders, and 34 Native American groups. In addition, a public notice was published in the San Diego Union-Tribune on December 28, 2009, and in the January 2010 edition of the Back Country Messenger, and distributed to more than 1500 identified property owners within a two-mile radius of the proposed ECO Substation, wind energy generation and gen-tie projects. The NOP described the proposed project, solicited written and oral comments on the EIR/EIS's scope, and gave notice of the public scoping meetings to be held on January 27, 2010, in Jacumba, California, and on January 28, 2010, in Boulevard, California. Energy Division received oral comments from 37 people at the public meetings and 60 letters from various agencies and individuals during the 30-day comment period. Energy Division issued the draft EIR/EIS on December 24, 2010, and conducted public information meetings on January 28, 2011, in Jacumba, California, and on February 2, 2011, in Boulevard, California. Energy Division received written comments from more than 235 individuals and organizations during the 70-day comment period.[3] Energy Division responded to all comments in the final EIR/EIS, which was issued on October 14, 2011 and received into the evidentiary record by ALJ ruling.[4]

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[3] Although the customary comment period is 45 days (CEQA Guidelines § 15205(d)), the public comment period was originally set for 54 days and later extended to 70 days.

[4] On November 16, 2011, Energy Division served a document titled "ECO/Tule/ESJ Gen-Tie Final EIR/EIS Errata"; by informal ruling on that date, the ALJ admitted the document into the evidentiary record as Exhibit 12. On January 27, 2012, Energy Division served a document titled "East County Substation/Tule Wind/Energia Sierra Juarez Gen-Tie Projects CEQA Addendum"; by informal ruling on January 28, 2012, the

Footnote continued on next page

3.3. Public Comment and Public Participation Hearing

A public participation hearing was conducted on January 24, 2012, in Jacumba, California, which was attended by approximately 113 people. Thirty-seven people spoke,[5] and an additional two people submitted written statements into the record of the public participation hearing.

Seventeen people spoke, and one person submitted a written statement, in opposition to the project. Most of the opponents identified themselves as property owners, residents, or recreational users of the community. The opponents included a representative of the Forest Committee of the San Diego chapter of the Sierra Club and a representative of the Rural Economic League in Campo. Most of the speakers opposing the project expressed concerns with regard to the project's environmental impacts on recreation (camping, hiking, and off-road vehicle), scenic vistas, biological resources (in particular, golden eagles), fire safety (prevention and fire-fighting), noise and vibration (construction and operational), public health and safety (EMF effects, shadow flicker and light) and well water. Ten speakers raised objections that the project benefits urban and corporate interests at the expense of local property values and

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ALJ admitted the document into the evidentiary record as Exhibit 13. On February 27, 2012, Energy Division served a document titled "ECO/TULE/ESJ GEN-TIE FINAL EIR/EIR ERRATA II," and asked that it be substituted as Exhibit 13. No party has objected. We hereby affirm the admission of Exhibit 12, "ECO/Tule/ESJ Gen-Tie Final EIR/EIS Errata," and the reopening of the record for the limited purpose of admitting Exhibit 13 "ECO/TULE/ESJ GEN-TIE FINAL EIR/EIS ERRATA II" into the evidentiary record.

[5] Many of the speakers also submitted their written statements and/or other materials for inclusion in the transcript.

quality of life. Six speakers challenged the need for the project on the basis of electrical demand, the availability of distributed generation as an alternative to the project, and/or the inefficiency of wind power due to the requirement for back-up power.

Sixteen people spoke, and one person submitted a written statement, in support of the project. The supporters included seven property owners and/or residents (including a representative of the East County Chamber of Commerce), four representatives of various renewable energy projects, and the Campo Band of Mission Indians. Of these, approximately 16 speakers commented on the role of the project in enabling the deployment of wind and solar energy resources; three speakers commented on the need to reduce global warming; and five speakers commented on job creation attributable to the project.

Three speakers opposed undergrounding portions of the project on the basis that the visual impact of the project is minor due to its remote location and the cost of undergrounding is significant, while one speaker commented in favor of the undergrounding.

Two speakers asserted that SDG&E failed to follow through on required mitigation on previous transmission line projects, and a third speaker expressed the importance of ensuring that SDG&E do so.

In addition, outside of the public participation hearing, 16 people e-mailed public comments to the ALJ, and one person left a voice message, expressing opposition to undergrounding for reasons of its remote location and high cost.

4. Description of CEQA Project and Project Alternatives

CEQA requires the consideration of a range of reasonable alternatives to the proposed project that would feasibly attain most of the basic objectives of the

project and avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives including the "no project" alternative. In considering the proposed ECO Substation project, the EIR/EIS evaluated the whole of the action (see CEQA Guidelines § 15378(a)), which it determined to include the Tule Wind Project proposed by Tule Wind, LLC (a subsidiary of Iberdrola Renewables, Inc.), which would tie into the Boulevard Substation rebuild, the Energia Sierra Juarez Generator-Tie-Line (ESJ Gen-Tie) proposed by Energia Sierra Juarez U.S. Transmission, LLC, which would connect to the ECO Substation, as well as the proposed Campo, Manzanita and Jordan wind energy projects.

4.1. Proposed Project

As proposed by SDG&E, the ECO Substation Project includes the construction of a 500/230/138 kV substation in southeastern San Diego County, construction of a short loop-in of the existing SWPL transmission line to the proposed substation, construction of a 13.3-mile, 138 kV transmission line between the proposed substation and the Boulevard Substation, and the rebuild of the Boulevard Substation. The ECO Substation, SWPL loop-in, rebuilt Boulevard Substation and all but 1.5 miles of the transmission line would be located on private lands owned by SDG&E or within SDG&E easements within unincorporated San Diego County; the 1.5 mile portion of the transmission line would be located on BLM-administered land.

The proposed Tule Wind Project would include up to 128 wind turbines in the range of 1.5 megawatt (MW) to 3.0 MW, a 34.5 kV overhead and underground collector cable system linking the wind turbines to the collector substation, a five-acre collector substation site and a five-acre operations and

maintenance building site, three permanent meteorological towers and one sonic detecting and ranging unit or one light detecting and ranging unit, a 138 kV overhead transmission line running south from the collector substation to interconnect with the rebuilt Boulevard Substation, and 36.76 miles of newly constructed access roads and 23.44 miles of temporarily widened and improved existing access roads. The Tule Wind Project would be primarily located in the In-Ko-Pah Mountains near the McCain Valley in southeastern San Diego County on lands administered by the BLM, the Ewiiaapaayp Indian Reservation, the Manzanita and Campo Indian Reservations, the California State Lands Commission, and private land under the jurisdiction of San Diego County.

The proposed ESJ Gen-Tie would have the capacity to import up to 1250 MW of renewable energy generated in northern Baja California, Mexico to the SWPL in southeastern San Diego County. Depending on whether it is single-circuit 500 kV or double-circuit 230 kV, the gen-tie would be constructed on either three to five 150-foot lattice towers or three to five 170-foot steel monopoles, and would interconnect with the ECO Substation and extend south for less than one mile to the U.S.-Mexico international border. As part of the gen-tie project, a new access route would be constructed approximately four miles east of the ESJ Gen-Tie site, from Old Highway 80 to an existing well site. The ESJ Gen-Tie would be located on private land primarily owned by Energia Sierra Juarez Transmission, LLC, with the remaining land owned by SDG&E.

SDG&E's proposed Campo Wind Project would include approximately 106 turbines capable of generating 160 MW, and would be located south of the Tule Wind Project and west of the Boulevard Substation on the Campo Indian

Reservation. As sufficient project-level information has yet to be developed for the proposed project, project facilities (turbines, collector system and substation, operations and maintenance facility, gen-tie line, access roads and construction areas) are assumed to be similar to those proposed for the Tule Wind Project.

The proposed Manzanita Wind Project would include up to 25 wind turbines capable of generating up to 57.5 MW, and would be located on the same ridgeline as the existing Kumeyaay Wind facility and interconnect to the Boulevard Substation.

The proposed Jordan Wind Project would include 40 2.3 MW turbines capable of generating 92 MW, and would be located west of the Boulevard Substation and interconnect to it.

4.2. "No Project" Alternative 1

Under the "no project" alternative 1, the whole of the proposed project including the ECO Substation, Tule Wind, ESJ Gen-Tie, Campo, Manzanita, and Jordan wind energy projects, would not be built. All environmental impacts associated with the construction and operation of the proposed project would be eliminated and existing environmental conditions would be unaffected.

4.3. "No Project" Alternative 2

Under the "no project" alternative 2, the ECO Substation Project would not be built, and the conditions in the existing energy grid and local environment would remain. Without the ECO Substation Project, there would not be an interconnection hub that would enable renewable generation such as the ESJ Gen-Tie or Tule Wind projects to connect to the grid. Additionally, energy transmission would remain unreliable in the surrounding communities. Planned generation facilities in the project area would require additional miles of

transmission line to reach an interconnection point and possibly multiple connection points on SDG&E's existing transmission system. In addition, new substations to be constructed by each generator might be required to connect the generation facilities to the grid.

4.4. ECO Substation Project Alternatives

The ECO Substation Alternative Site would be located 700 feet east of the proposed site, change the configuration of the SWPL Loop-In to require two additional structures, extend the 138 kV transmission line to 13.4 miles to require one additional pole, and shift the location of seven of the steel poles along the 138 kV transmission line. The northwest corner of the western ECO Substation pad would be removed to reduce impacts to water resources. The alternative would include an additional construction staging area with a temporary tap connecting to the existing 12 kV distribution system, located to the south of the substation pad; three additional staging areas located to the east of the substation pad; 830 feet of additional access roads; and 0.09 acres of additional permanent maintenance pads. The proposed project's two retention basins (for stormwater collection) would be joined to form a single retention basin. Finally, the access road to the ECO Substation would be located along the west and south sides of the substation site, rather than along the north side.

The ECO Partial Underground 138 kV Transmission Route Alternative would be the same as the proposed project, except that the approximately four miles of the route between the SWPL and Boulevard Substation and approximately 2.7 miles of the route along Old Highway 80 and Carrizo Gorge Road would be installed underground.

The ECO Highway 80 138 kV Transmission Route Alternative would be the same as the proposed project, except that the proposed route from approximately milepost 5.8 to milepost 13.3 would be installed along Old Highway 80 where it would follow and overbuild an existing electrical distribution line.

The ECO Highway 80 Underground 138 kV Transmission Route Alternative would be the same as the ECO Highway 80 138 kV Transmission Route Alternative, except that the relocated portion of the transmission line would be installed underground.

4.5. Tule Wind Project Alternatives

The Tule Wind Alternative 1 would be the same as the proposed project, except that the operations and maintenance and collector substation facilities would be co-located on Rough Acres Ranch approximately five miles south of the proposed site, the temporary five-acre concrete batch plant would be moved from its proposed location on BLM jurisdictional lands to Rough Acres Ranch, and the proposed overhead collector line located west of Lost Valley Rock would be relocated to east of Lost Valley Rock and constructed within the proposed Tule Wind Project 138 kV alignment that would be vacated as a result of the operations and maintenance facility and collector substation location shift.

The Tule Wind Alternative 2 would be the same as the Tule Wind Alternative 1, except that the 138 kV transmission line would run underground from the alternate collector substation approximately one mile east, then south underground along McCain Valley Road, and then west underground along Old Highway 80 until connecting to the Boulevard Substation.

The Tule Wind Alternative 3 would be the same as the Tule Wind Alternative 1, except that the 138 kV transmission line would run from the alternate collector substation approximately three miles west to Ribbonwood Road, continue south along Ribbonwood Road, and then east along Old Highway 80 until connecting to the Boulevard Substation.

The Tule Wind Alternative 4 would be the same as the Tule Wind Alternative 3, except that the 138 kV transmission line would run underground from the alternate collector substation approximately three miles west to Ribbonwood Road, continue underground south along Ribbonwood Road, and then underground east along Old Highway 80 until reaching the Boulevard Substation.

The Tule Wind Alternative 5 would be the same as the proposed project, except that it would remove six turbines adjacent to the In-Ko-Pah Mountains Area of Critical Environmental Concern (ACEC) and 57 turbines on the western side of the project site.

4.6. ESJ Gen-Tie Project Alternatives

The ESJ 230 kV Gen-Tie Underground Alternative would follow the same path as the proposed project, but would be placed underground.

The ESJ Gen-Tie Overhead Alternative Alignment would be the same as the proposed project, except that it would provide connection (under either the 230 kV or the 500 kV option) for the ECO Substation Alternative Site located 700 feet east of the proposed location.

The ESJ Gen-Tie Underground Alternative Alignment would be the same as the proposed project, except that it would not have the 500 kV option, and the 230 kV gen-tie line would be placed underground.

5. Significant Environmental Impacts

5.1. Summary

Under all of the alternatives, the whole of the project would have significant and unmitigable adverse impacts on biological resources, visual resources, cultural resources, noise, air quality, and fire and fuels management. Impacts to land use, wilderness and recreation, agriculture, transportation and traffic, public health and safety, water resources, geology, mineral resources and soil, public services and utilities, social and economic conditions, environmental justice, and climate change would be less than significant under CEQA and/or less than significant with the implementation of mitigation measures presented in the EIR/EIS.

5.2. Biological Resources

The proposed project would result in the following significant impacts on biological resources:

- the temporary and permanent losses of native vegetation;
- substantial adverse effects to jurisdictional waters and wetlands through vegetation removal, placement of fill, erosion, sedimentation, and degradation of water quality;
- the introduction of invasive, non-native, or noxious plant species;
- the creation of dust that would result in degradation of vegetation;
- direct or indirect loss of listed or sensitive plants or a direct loss of habitat for listed or sensitive plants;
- disturbance to wildlife and wildlife mortality;
- direct or indirect loss of listed or sensitive wildlife or a direct loss of habitat for listed or sensitive wildlife;

- potential loss of nesting birds in violation of the Migratory Bird Treaty Act; and
- electrocution of, and/or collisions by, listed or sensitive bird or bat species.

With the following exceptions, these biological impacts can be mitigated to less than significant with the mitigation measures identified in the Mitigation Monitoring, Compliance, and Reporting Plan.

The proposed ECO Substation Project, and all project alternatives, would have significant adverse and unmitigable impacts on Quino checkerspot butterfly critical habitat. Quino checkerspot butterfly is a federally endangered species found only in western Riverside Country, southern San Diego County, and northern Baja California, Mexico. The proposed substation would result in the permanent loss of 2.27 acres of U.S. Fish and Wildlife Service (USFWS) critical habitat for this species. Because comparable habitat compensation may not be obtainable as mitigation for project impacts, this impact cannot be mitigated. The impacts on Quino checkerspot butterfly critical habitat under the ECO Substation Site Alternative would be similar to those under the proposed project, while impacts under the other three alternatives would be greater than the proposed project due to increased ground disturbance during construction and/or an increase in sensitive riparian habitat and Quino checkerspot butterfly habitat.

The proposed Tule Wind Project and all wind project alternatives would have similar adverse and unmitigable impacts to birds, such as golden eagles, due to the risk of mortality from collision with operating wind turbines. While mitigation is provided, including the requirement of USFWS and California Department of Fish and Game approval of the mitigation measures and adaptive

management program related to golden eagle pursuant to the Bald and Golden Eagle Protection Act and the California Fish and Game Code, this impact would remain adverse and unmitigable.

5.3. Visual Resources

The proposed project would result in the following significant impacts on visual resources:

- Substantial adverse effect on a scenic vista;
- Degradation of the existing visual character of quality of the site and its surrounding;
- Creation of a substantial new source of light or glare that would adversely affect day or nighttime views in the area; and
- Inconsistency with federal, state, or local regulations, plans, and standards applicable to the protection of visual resources.

With the following exceptions, these visual impacts can be mitigated to less than significant with the mitigation measures identified in the Mitigation Monitoring, Compliance and Reporting Program (MMCRP).

The proposed ECO Substation and substation alternatives would be located in a predominantly undeveloped desert landscape in eastern San Diego County, approximately 0.5 mile to the west of the Jacumba Mountains Wilderness, and approximately 0.7 mile to 1.5 miles south of the Table Mountain ACEC and Anza-Borrego Desert State Park. Under all alternatives, the substation would be mainly visible by travelers and dispersed residences along Interstate 8 and Old Highway 80, and views would also be possible from the Jacumba Mountains Wilderness, the Table Mountain ACEC and other BLM-administered public lands, and would have adverse impacts on scenic

vistas and substantially degrade the area's existing visual character. The ECO Highway 80 138 kV Transmission Route alternative would have greater impacts than the proposed project due to the installation of a new transmission line along a more visible corridor. The ECO Partial Underground 138 kV Transmission Route alternative and ECO Highway 80 Underground 138 kV Transmission Route alternative would avoid adverse impacts on scenic vistas; however, the levels of other visual impacts would be similar to that of the proposed project.

The proposed Tule Wind Project, and all project alternatives, would have significant adverse and unmitigable impacts on visual resources. The proposed wind turbines and associated overhead and underground 34.5 kV collector cable systems would be situated in a natural, undeveloped desert landscape of eastern San Diego County in the In-Ko-Pah Mountains near the McCain Valley. The northern extent of the project area would be bordered by high mountainous terrain to the north, northwest, and east including the Sawtooth Mountains Wilderness Area to the north, the Laguna Mountains to the northwest, and Sombrero Peak to the northeast in Anza-Borrego Desert State Park. The wind turbines would be visually dominant and prominent against the skyline. The Tule Wind 138 kV transmission line would create significant impacts to scenic views where it would cross Interstate 8 and parallel and cross Old Highway 80 into the Boulevard Substation, and would introduce a moderate to strong industrial feature into a landscape characterized by a mixture of natural and rural community elements.

The impacts of Tule Wind Alternatives 1 and 3 would be nearly identical to those of the proposed project. Although the impacts of the Tule Wind Alternatives 2 and 4 would be less than that of the proposed project due to the

undergrounding of a portion of the transmission line, the overall impact levels of these alternatives would remain adverse and unmitigable. Likewise, although the impacts of Tule Wind Alternative 5 would be less than that of the proposed project due to the removal of turbines from the highest ridgelines, the overall impact levels would remain adverse and unmitigable due to the remaining turbines on elevated ridgelines.

The proposed ESJ Gen-Tie Project and all project alternatives would be situated in a predominantly natural, undisturbed desert landscape in eastern San Diego County immediately south of the proposed ECO Substation. While the 500 kV or 230 kV gen-tie would not be openly visible or cause adverse visual impacts, the ESJ Phase 1 wind turbine to be located in Mexico would create strong, openly visible and sky-lined visual contrasts along the ridgeline and slopes of the Sierra de Juarez Mountains. These impacts would be adverse and unmitigable under all project alternatives.

5.4. Land Use

The proposed project would result in the following significant impacts on land use:

- Temporary disturbance of land uses at or near project components;
- Division of an established community or disruption of land uses at or near project components; and
- Conflict with applicable land use plans, policies, or regulation of an agency with jurisdiction over the project adopted for the purposes of avoiding or mitigating an environmental effect.

All of these land use impacts can be mitigated to less than significant with the mitigation measures identified in the MMCRP.

5.5. Wilderness and Recreation

Construction of the proposed project and project alternatives would temporarily reduce access and visitation to the wilderness or recreation areas. This wilderness and recreation impact can be mitigated to less than significant with the mitigation measures identified in the MMCRP.

5.6. Agriculture

The proposed project and project alternatives would not result in any significant adverse impacts on agriculture.

5.7. Cultural and Paleontological Resources

The proposed project would result in the following significant impacts on cultural and paleontological resources:

- Cause an adverse change to known significant prehistoric and historic archaeological resources;
- Cause an adverse change to sites known to contain human remains either in formal cemeteries or buried Native American remains;
- Cause an adverse change to Traditional Cultural Property (TCP);
- Destroy or disturb significant paleontological resources; and
- Cause an adverse change to known significant historical architectural (build environment) resources.

With the following exception, these cultural and paleontological impacts can be mitigated to less than significant with the mitigation measures identified in the MMCRP.

The proposed ECO Substation Project, and all project alternatives, would have potential adverse and unmitigable impacts to TCP. Although no TCPs

have been identified, potential National Registry of Historic Places eligibility of unknown TCPs is assumed. In some cases, avoiding direct and indirect impacts to TCPs such as traditional landscapes, topographic elements including sacred mountains, or use areas may not be completely feasible. In this event, the impact on TCPs would be adverse and, while mitigation is provided, the impacts would not be mitigated to a level that is less than significant. Impacts would be similar under the proposed ECO Substation Project, the ECO Substation Site Alternative, and the ECO Highway 80 138 kV Transmission Route alternative. Impacts would increase under the ECO Partial Underground 138 kV Transmission Route and ECO Highway 80 Underground 138 kV Transmission Route alternatives due to open trenching along the undergrounded routes.

As with the ECO Substation Project, the Tule Wind Project and all project alternatives may cause adverse and unmitigable impacts to potential, unknown TCP. The impacts of Tule Wind Alternatives 1 and 3 would be reduced due to the operations and maintenance and substation facilities being located in a more disturbed area, but their overall impacts would remain significant and unmitigable. The impacts of Tule Wind Alternatives 2 and 4 would likewise be reduced due to the operations and maintenance and substation facilities being located in a more disturbed area, but would be increased where trenching would occur; in any event, their overall impacts would remain significant and unmitigable. The impacts of Tule Wind Alternative 5 would be reduced due to less ground disturbance as a result of fewer turbines, but its overall impacts would also remain significant and unmitigable.

As with the ECO Substation Project, the proposed ESJ Gen-Tie Project and all project alternatives, impacts would increase under the underground alternatives due to open trenching along the undergrounded route.

5.8. Noise

The proposed project would result in the following significant impacts on noise:

- Substantially disturb sensitive receptors and violate local rules, standards, and/or ordinances during construction;
- Temporarily cause groundborne vibration during construction; and
- Permanently increase noise levels due to corona noise from operations of the transmission lines and noise from other project components.

With the following exception, these noise impacts can be mitigated to less than significant with the mitigation measures identified in the MMCRP.

The proposed ECO Substation Project, and all project alternatives, would have adverse and unmitigable noise impacts that would occur temporarily during construction due to construction-related nighttime noise, helicopters and blasting. Noise impacts under all of the project alternatives would be similar, except that noise impacts under the ECO Substation Site Alternative would be less than those of the proposed project (but still significant) due to the increased distance to residences.

The proposed Tule Wind Project, and all project alternatives, would have adverse and unmitigable noise impacts that would occur temporarily during construction due to construction-related blasting and drilling activities. Noise impacts of Tule Wind Alternatives 1 and 5 would be similar to those of the proposed project. Noise impacts of the other alternatives would be greater than

those of the proposed project due to trenching activities along the underground portion of the transmission line (Tule Wind Alternative 2), an increase in sensitive receptors along the alternate route (Tule Wind Alternative 3), or both (Tule Wind Alternative 4).

5.9. Transportation and Traffic

The proposed project would result in the following significant impacts on transportation and traffic:

- Construction would cause temporary road and lane closures that would temporarily disrupt traffic;
- Construction activities would restrict the movements of emergency vehicles, and there are no reasonable alternative access routes available;
- Construction activities would result in unstable flow, or fluctuations in volumes of traffic that temporarily restrict flow; or in an unacceptable reduction in performance of the circulation system, as defined by an applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system;
- Construction would substantially disrupt bus or rail transit service, and there would be no suitable alternative routes or stops; or would impede pedestrian movements or bike trails, and there are no suitable alternative pedestrian/bicycle access routes or accommodation through construction zones; or would conflict with planned transportation projects in the project area;
- Cause a noticeable increase in deterioration of roadway surfaces used for the construction zone as a result of heavy truck or construction equipment movements;
- A project structure, crane, or wires would be positioned such that they/it could adversely affect aviation activities, or a proposed land use would conflict with the applicable Airport Land Use Compatibility Plan.

These impacts can be mitigated to less than significant with the mitigation measures identified in the MMCRP.

5.10. Public Health and Safety

The proposed project would result in the following significant impacts on public health and safety:

- Impacts to soil or groundwater could result from an accidental spill or release of hazardous materials due to improper handling or storage of hazardous materials during construction activities;
- Residual pesticides and/or herbicides could be encountered during grading or excavation;
- Previously unknown soil and/or groundwater contamination could be encountered during grading or excavation;
- Potential safety hazards could adversely affect construction workers or the general public accessing the project site during construction, operation, or decommissioning;
- Impacts to soil or groundwater could result from an accidental spill or release of hazardous materials during operations and maintenance;
- Undue risks could result due to the breaking of a rotor blade;
- Operation could result in electromagnetic interference, including interference with radar, radio, television, and electrical equipment; and
- Operation could result in induced currents and shock hazards in joint use corridors.

These impacts can be mitigated to less than significant with the mitigation measures identified in the MMCRP.

5.11. Air Quality

Construction of the proposed project and project alternatives would have a significant impact on air quality. Construction of the ECO Substation Project and its alternatives will generate emissions of nitrogen oxides (NO_x) and particulate matter less than or equal to 10 microns (PM_{10}) in excess of the significance levels recommended by the San Diego Air Pollution Control District; construction of the Tule Wind Project and its alternatives will generate volatile organic compounds (VOC), NO_x, particulate matter less than or equal to 2.5 microns ($PM_{2.5}$), and PM_{10} emissions in excess of the recommended significance levels; and construction of the ESJ Gen-Tie Project and its alternatives will generate PM_{10} emissions in excess of the recommended significance levels. Construction of all three projects in combination will generate carbon monoxide (CO) emissions, as well as emissions of NO_x, VOC, PM_{10} and $PM_{2.5}$, in excess of the recommended significance levels. With the mitigation identified in the MMCRP, these impacts would be reduced but would remain significant and unmitigable.

5.12. Water Resources

The proposed project would have the following significant impacts on water resources:

- Construction activity could degrade water quality due to erosion and sedimentation;
- Construction activity could degrade water quality through spills of potentially harmful materials;
- Excavation could degrade groundwater quality in areas of shallow groundwater;
- The project could deplete local water supplies;

- Project features located in a floodplain or watercourse could result in flooding, flood diversions, or erosion, or could expose people or structures to significant risk;
- Accidental releases of contaminants from project facilities could degrade water quality; and
- Creation of new impervious areas could cause increased runoff, resulting in flooding or increased erosion downstream.

These impacts can be mitigated to less than significant with the mitigation measures identified in the MMCRP.

5.13. Geology, Mineral Resources, and Soils

The proposed project would have the following significant impacts on geology, mineral resources, and soils:

- Erosion would be triggered or accelerated due to construction activities;
- Corrosive soils could cause deterioration of concrete and reinforcing steel in project structures exposing people or structures to potential substantial adverse effects;
- Seismically induced ground shaking, ground failure, or fault rupture would expose people or structures to potential substantial adverse effects; and
- Landslides, earthflows, rockfall, and/or subsidence would expose people or structures to potential substantial adverse effects.

These impacts can be mitigated to less than significant with the mitigation measures identified in the MMCRP.

5.14. Public Services and Utilities

The proposed project would have the following significant impacts on public services and utilities:

- Construction of the project would disrupt the existing utility systems or cause a co-location accident; and
- Sufficient water supplies are not available to serve the project from existing entitlements, and resources and new or expanded entitlements would be needed.

These impacts can be mitigated to less than significant with the mitigation measures identified in the MMCRP.

5.15. Fire and Fuels Management

The proposed project would be located primarily within a very high fire hazard severity zone characterized by highly flammable, dense, drought-adapted desert chaparral vegetation; seasonal, strong winds; and a Mediterranean climate that results in vegetation drying during the months most likely to experience Santa Ana winds. The proposed project would have the following significant impacts on fire and fuels management:

- Construction and operational maintenance activities would significantly increase the probability of a wildfire;
- Presence of project facilities including overhead transmission lines would increase the probability of a wildfire;
- Presence of the overhead transmission lines would reduce the effectiveness of firefighting; and
- Project activities would introduce non-native plants, which would contribute to an increased ignition potential and rate of fire spread.

With the following exception, these fire and fuels management impacts can be mitigated to less than significant under the environmentally superior alternatives which would underground a portion of the overhead transmission lines and with the mitigation measures identified in the MMCRP.

As part of the plan for mitigating the increased probability of a wildfire and the reduced firefighting effectiveness associated with the ECO Substation overhead transmission lines, SDG&E is required to develop a fire protection plan for the ECO Substation, which will be subject to review and comment by responsible agencies and final approval by the lead agencies (Mitigation Measure FF-4), and to provide funding assistance to the San Diego Rural Fire Protection District (District) (as well as to the San Diego County Fire Authority) to support fire code specialist positions in an amount to be determined by the lead agencies (Mitigation Measure FF-3). Because the fire protection plan and funding assistance arrangements have yet to be approved by the lead agencies, the EIR/EIS states that the effectiveness of this mitigation in reducing these impacts "is not known and therefore, [the impacts are] considered unavoidable for purposes of the analysis conducted in this EIR/EIS." (Exhibit 11 at D.15-58 and D.15-68.)

5.16. Social and Economic Conditions

The proposed project and project alternatives would not result in any significant impacts on social and economic conditions.

5.17. Environmental Justice

The proposed project and project alternatives would not result in any impacts on environmental justice.

5.18. Climate Change

The proposed project and project alternatives would not result in any significant impacts on climate change.

6. Environmentally Superior Alternative

Pursuant to CEQA, the EIR/EIS identifies the environmentally superior alternative, other than the "no project" alternative, as the ECO Substation Alternative combined with the ECO Partial Underground 138 kV Transmission Route Alternative, Tule Wind Alternative 5 (reduction in turbines) combined with Tule Wind Alternative 2 (underground the 138 kV transmission line from the operations and maintenance and collector substation facilities co-located on Rough Acres Ranch), and the ESJ Gen-Tie Overhead Alternative Alignment.

The EIR/EIS also identifies the BLM's preferred alternative pursuant to NEPA requirements; the BLM's preferred alternative is the same as the environmentally superior alternative.

7. Certification of EIR/EIS

CEQA requires the lead agency to certify that the EIR/EIS was completed in compliance with CEQA, that the agency has reviewed and considered it prior to approving the project, and that the EIR/EIS reflects the agency's independent judgment. As previously discussed, the EIR/EIS was completed after notice and opportunity for public comment on the scope of the environmental review and the draft EIR/EIS, as required by CEQA. The final EIR/EIS documents all comments made on the draft EIR/EIS, and responds to them, as required by CEQA. The EIR/EIS identifies the proposed project's significant and unavoidable environmental impacts, mitigation measures that will avoid or substantially lessen them, and the environmentally superior alternative. We have reviewed and considered the information contained in the EIR/EIS, as well as parties' challenges to the adequacy of the EIR/EIS as discussed below. We certify that the EIR/EIS was completed in compliance with CEQA, that we have

reviewed and considered the information contained in it, and that it reflects our independent judgment.

7.1. BAD

BAD asserts that the EIR/EIS violates CEQA by (1) inaccurately describing the project as distributing "only" renewable energy via the gen-tie line, (2) improperly dismissing the ECO System Alternative 6 and BAD's distributed generation alternative, and (3) inadequately analyzing hydrologic impacts, public health impacts, and impacts to avian species.

To the contrary, the EIR/EIS fairly describes the project based upon the known project purpose, provides sufficient explanation for dismissing the ECO System Alternative 6 and BAD's distributed generation alternative, and adequately analyzed all environmental impacts. Furthermore, BAD raised each of these assertions in its comments on the draft EIR/EIS, and the final EIR/EIS appropriately summarizes and responds to each of them. (See Exhibit 11 at (1) Comment/Response D.33-4, (2) Comments/Responses D.33-8 and D.33-90; and (3) Comments/Responses D.33-20, D.33-12, and D.33-15.) We reiterate CEQA Guideline § 15151 which states in part, "Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts."

7.2. San Diego Rural Fire Protection District

The District contends that the EIR/EIS must be modified to require the District's approval of any fire protection plan under Mitigation Measure FF-4 and of the level of funding assistance under Mitigation Measure FF-3. In support of its contention, the District argues variously that (1) by deferring the determination of the fire protection plan and funding assistance level, the

EIR/EIS fails to adequately describe mitigation measures in violation of CEQA Guidelines § 15126.4(a)(1); (2) the EIR/EIS's determination that there are unavoidable fire and fuels management impacts is unsupportable because requiring District approval of any fire protection plan and the level of funding assistance will potentially mitigate and/or avoid those impacts; and (3) the Commission is precluded from issuing a statement of overriding considerations that is premised on this unsupportable determination that there are unavoidable fire and fuels management impacts. The District maintains that these inadequacies can be cured by giving the District approval authority over the fire protection plan and funding assistance level. We disagree with the District's arguments.

The EIR/EIS does not defer the formulation of mitigation measures; rather, as CEQA Guidelines § 15126.4(a)(1)(B) expressly allows, Mitigation Measures FF-3 and FF-4 "specify performance standards which would mitigate the significant effect of the project which may be accomplished in more than one specified way." (Indeed, the specified performance standards in Mitigation Measure FF-4 include the District's own content requirements for fire protection plans.) This approach is appropriate where, as here, identifying the specifics is not reasonably practical or feasible before project approval and the EIR otherwise adequately discloses the project's impacts. (*Riverwatch v. County of San Diego*, 76 Cal. App. 4th 1428, 1448-50 (1999).) In its 135 pages of discussion of fire and fuels management impacts, and by cautiously declining to assume that the as-yet-to-be-determined fire protection plan and funding assistance will fully mitigate all significant impacts, the EIR/EIS fully informs the public and the Commission of the potential fire impacts and potential mitigation.

The District's suggestion that the Commission can cure these alleged deficiencies by requiring District approval of the fire protection plan and funding assistance level miscomprehends the Commission's and the District's respective authority and responsibilities under CEQA. The Commission is the lead agency and, as such, is responsible for determining the appropriate mitigation for the project. It would be inappropriate for the Commission to abdicate its responsibility and defer to the District to determine whether SDG&E ultimately complies with the mitigation measures that may be required as a condition of the Commission's project permitting.

Nevertheless, the Commission has welcomed the District's participation in the environmental review process, and seeks the District's further participation in the implementation of Mitigation Measures FF-3 and FF-4. In particular, Mitigation Measure FF-4 requires SDG&E to provide a draft fire protection plan to the District (and other responsible agencies) for comment and for SDG&E to resolve any such comments in consultation with the responsible agencies.

The District objects that the EIR/EIS improperly changes the title and, by implication, the focus of the fire protection plan required by Mitigation Measure FF-2 from "operation and maintenance" to "operational maintenance." To the extent that the District is concerned that the EIR/EIS does not provide for a fire protection plan addressing the operation of the project, the District's concern is unfounded. The plain language of Mitigation Measures FF-2, FF-3 and FF-4 addresses ongoing operational activity.

The District complains that there is no data or analysis in the EIR/EIS to support the "conclusion" set forth in Mitigation Measure FF-3 that "(a)ll fuel management activities shall be in accordance with CEQA Guidelines

Section 15304(i)." The District misreads Mitigation Measure FF-3. The statement is a requirement that SDG&E comply with CEQA Guidelines § 15304(i), not a conclusion that SDG&E already does so.

The proposed decision noted that, after briefs were submitted, the Energy Division submitted an errata to the EIR/EIS providing for a fixed annual fire mitigation fee to be provided by SDG&E to the District for mitigation funding (Ex.13) and invited the District to address, in its comments on the proposed decision, whether this errata resolves its concerns in its comments on the proposed decision. In its comments, the District stated that this errata goes a long way toward providing effective mitigation of the increased fire risk posed by the location of ECO Substation in the District's service area, but requests modification of the EIR to provide for the upfront payment of the total obligation (annual fee multiplied by the number of projected years of project operation) so that the District may invest the funds in order to recover the escalated costs of goods and labor over time. While we note the District's dissatisfaction, we nevertheless conclude that the EIR/EIS complies with CEQA and reflects our independent judgment.

7.3. Public Comments

We acknowledge the many public comments objecting to the project for its environmental impacts on recreation, scenic vistas, biological resources, fire safety, noise and vibration, public health and safety, and water, as well as its impact on local property values and quality of life and the asserted lack of need for the power that would be generated by the project. The main points of these objections were also raised in written comments on the draft EIR/EIS, and the final EIR/EIS summarizes and responds to them. (See Exhibit 11, Vol. 4.) We

are satisfied that the EIR/EIS has been prepared with a sufficient degree of analysis and information to enable us to take account of environmental consequences as required by CEQA, and that it discloses and responds to the public's objections. (See CEQA Guidelines § 15151.)

We also acknowledge the many public comments objecting to the identification of the ECO Substation Alternative combined with the ECO Partial Underground 138 kV Transmission Route Alternative as the environmentally superior alternative. The comments object that undergrounding is unacceptably costly, that it serves no compelling purpose as it would be located in the remote and uninhabited area of East San Diego County, and that the land disturbance will cause adverse impacts. We will address the public comments' economic objection to undergrounding in the final decision on this application, in the context of whether the environmentally superior alternative is infeasible. With regard to the public comments' objections to undergrounding for the reason that it serves no compelling environmental purpose in a remote rural area, the EIR/EIS appropriately documents the adverse impacts on visual resources by reference to viewers who include, not only to residents, but also users of designated park, recreation and natural areas and of historic routes and scenic highways. (Exhibit 11, Part D.3, D.3-4.) The EIR/EIS identifies partial undergrounding as a viable means of mitigating those impacts as required by CEQA.

We conclude that the EIR/EIS properly identifies the ECO Partial Underground 138 kV Transmission Route Alternative as the environmentally superior alternative.

8. Comments on Proposed Interim Decision

The proposed interim decision of ALJ Hallie Yacknin in this matter was mailed to the parties in accordance with Pub. Util. Code § 311 and comments were allowed pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure. BAD, the District, and Iberdrola Renewables, LLC (Iberdrola)[6] filed opening comments. BAD and SDG&E filed reply comments.[7]

In its opening comments, BAD repeats the arguments that it previously made in its opening and reply briefs in support of its assertion that the EIR/EIS does not comply with CEQA. The proposed decision addressed and properly disposed of BAD's arguments.

In its opening comments, the District urges the Commission to require modification of the EIR/EIS to provide for the upfront payment of the total fire mitigation fee obligation (annual fee multiplied by the number of projected years of project operation). While we note the District's dissatisfaction, the District does not identify any legal, factual or technical error in the proposed decision's conclusion that the EIR/EIS complies with CEQA.

In its opening comments, Iberdrola asks the Commission to edit the proposed decision to explicitly state that the Tule Wind Project's (as distinct from the project as a whole) fire and fuels management impacts can be mitigated to less than significant. We decline to do so because, as Iberdrola acknowledges,

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[6] Iberdrola's concurrent motion for party status was granted by informal ALJ ruling on April 12, 2012, and we affirm it here.

[7] SDG&E does not assert any factual, legal or technical error.

the proposed decision does not commit any legal, factual or technical error on this point that requires modification.

In its reply comments, BAD argues that the proposed decision errs in certifying the EIR/EIS because the EIR/EIS violates CEQA by impermissibly finding that the Tule Wind Project's fire and fuels management impacts can be mitigated to less than significant. Specifically, BAD asserts that, as the EIR/EIS acknowledges, the potential for the Tule Wind Project's infrastructure to significantly impede aerial firefighting efforts in the area is not reduced by the implementation of Mitigation Measure FF-2. To the contrary, the EIR/EIS finds that the *combination* of Mitigation Measures FF-2, FF-3, FF-5 and FF-6 (which provide funding, staffing, equipment, training, additional water tanks on site, warning and suppression systems, and de-energization provisions, among others) reduces this potential to less than significant. (See Exhibit 11 at D.15-71 through D.15-72.)

9. Assignment of Proceeding

Mark J. Ferron is the assigned Commissioner[8] and Hallie Yacknin is the assigned ALJ in this proceeding.

Findings of Fact

1. The ECO Substation Project will have significant and unmitigable impacts on biological resources by resulting in the permanent loss of at least 2.27 acres of USFWS critical habitat for the Quino checkerspot butterfly, a federally

[8] The proceeding was reassigned from Commissioner Michael R. Peevey to Commissioner Ferron on April 13, 2011.

endangered species found only in western Riverside Country, southern San Diego County, and northern Baja California, Mexico.

2. The Tule Wind Project will have significant and unmitigable impacts on biological resources by increasing the mortality risk of birds, such as golden eagles, due to collision with operating wind turbines.

3. All other significant biological impacts can be mitigated to less than significant with the mitigation measures identified in the MMCRP.

4. The ECO Substation Project will have significant and unmitigable impacts on visual resources because it will be located in a predominantly undeveloped desert landscape where it will have adverse impacts on scenic vistas and substantially degrade the area's existing visual character.

5. The Tule Wind Project will have significant and unmitigable impacts on visual resources because the proposed wind turbines and associated overhead and underground 34.5 kV collector cable systems would be situated in a natural, undeveloped desert landscape where it will be visually dominant and prominent against the skyline, create significant impacts to scenic views, and introduce a moderate to strong industrial feature into a landscape characterized by a mixture of natural and rural community elements.

6. The ESJ Gen-Tie Project will have significant and unmitigable impacts on visual resources because the ESJ Phase 1 wind turbine to be located in Mexico would create strong, openly visible and sky-lined visual contrasts along the ridgeline and slopes of the Sierra de Juarez Mountains.

7. All other significant visual impacts can be mitigated to less than significant with the mitigation measures identified in the MMCRP.

8. All land use impacts can be mitigated to less than significant with the mitigation measures identified in the MMCRP.

9. All wilderness and recreation impacts can be mitigated to less than significant with the mitigation measures identified in the MMCRP.

10. The ECO Substation Project, Tule Wind Project and the ESJ Gen-Tie Project will not result in any significant adverse impacts on agriculture.

11. The ECO Substation Project and Tule Wind Project will have significant and unmitigable impacts on cultural and paleontological resources because they have the potential to cause adverse and unmitigable impacts to unknown TCP which may be eligible for the National Registry of Historic Places, such as traditional landscapes, topographic elements including sacred mountains, or use areas.

12. All other significant cultural and paleontological impacts from the ECO Substation Project and Tule Wind Project can be mitigated to less than significant with the mitigation measures identified in the MMCRP.

13. The ESJ Gen-Tie Project will not result in any significant adverse impacts on cultural and paleontological resources.

14. The ECO Substation Project and Tule Wind Project will have significant and unmitigable noise impacts that will occur temporarily during construction due to construction-related nighttime noise, helicopters and blasting.

15. All other significant noise impacts from the ECO Substation Project, Tule Wind Project and ESJ Gen-Tie Project can be mitigated to less than significant with the mitigation measures identified in the MMCRP.

16. All transportation and traffic impacts can be mitigated to less than significant with the mitigation measures identified in the MMCRP.

17. All public health and safety impacts can be mitigated to less than significant with the mitigation measures identified in the MMCRP.

18. Construction of the ECO Substation Project will have significant and unmitigable air quality impacts due to the generation of NO_x and PM_{10} emissions in excess of the quantitative emission significance thresholds recommended by the San Diego Air Pollution Control District.

19. Construction of the Tule Wind Project will have significant and unmitigable air quality impacts due to the generation of VOC, NO_x, $PM_{2.5}$, and PM_{10} emissions in excess of the quantitative emission significance thresholds recommended by the San Diego Air Pollution Control District.

20. Construction of the ESJ Gen-Tie Project will have significant and unmitigable air quality impacts due to the generation of PM_{10} emissions in excess of the quantitative emission significance thresholds recommended by the San Diego Air Pollution Control District.

21. The combined construction of the ECO Substation Project, Tule Wind Project and ESJ Gen-Tie Project will have significant and unmitigable air quality impacts due to the generation of CO emissions in excess of the quantitative emission significance thresholds recommended by the San Diego Air Pollution Control District.

22. All other significant air quality impacts can be mitigated to less than significant with the mitigation measures identified in the MMCRP.

23. All water resources impacts can be mitigated to less than significant with the mitigation measures identified in the MMCRP.

24. All geology, mineral resources, and soils impacts can be mitigated to less than significant with the mitigation measures identified in the MMCRP.

25. All public services and utilities impacts can be mitigated to less than significant with the mitigation measures identified in the MMCRP.

26. The ECO Substation project will have adverse and unmitigable impacts on fire and fuels management because the ECO Substation overhead transmission lines will be located primarily within a very high fire hazard severity zone, the possibility of a transmission line fault creates a risk of fire, and transmission lines reduce firefighter effectiveness.

27. All other significant fire and fuels management impacts can be mitigated to less than significant with the mitigation measures identified in the MMCRP.

28. The ECO Substation Project, Tule Wind Project, and the ESJ Gen-Tie Project will not result in any significant adverse impacts on social and economic conditions.

29. The ECO Substation Project, Tule Wind Project, and the ESJ Gen-Tie Project will not result in any significant adverse impacts on environmental justice.

30. The ECO Substation Project, Tule Wind Project and the ESJ Gen-Tie Project will not result in any significant adverse impacts on climate change.

31. The environmentally superior alternative, other than the "no project" alternative, is the ECO Substation Alternative combined with the ECO Partial Underground 138 kV Transmission Route Alternative, Tule Wind Alternative 5 (reduction in turbines) combined with Tule Wind Alternative 2 (underground the 138 kV transmission line from the operations and maintenance and collector substation facilities co-located on Rough Acres Ranch), and the ESJ Gen-Tie Overhead Alternative Alignment.

32. The Commission has reviewed and considered the information contained in the EIR/EIS.

33. The EIR/EIS reflects the Commission's independent judgment and analysis.

Conclusions of Law

1. The EIR/EIS was completed in compliance with CEQA.

2. Exhibit 12, "ECO/Tule/ESJ Gen-Tie Final EIR/EIS Errata," and Exhibit 13, "ECO/Tule/ESJ Gen-Tie Final EIR/EIS Second Errata," should be admitted into the evidentiary record.

3. Iberdrola Renewables, LLC's motion for party status should be granted.

4. This order should be effective immediately.

O R D E R

IT IS ORDERED that:

1. The Environmental Impact Report/Environmental Impact Statement for the East County Substation, Tule Wind, and Energia Sierra Juarez Generation Tie-In Projects is certified as having been completed in compliance with the California Environmental Quality Act, reviewed and considered by the Commission prior to approving the project, and reflective of the Commission's independent judgment.

2. Exhibit 12, "ECO/Tule/ESJ Gen-Tie Final EIR/EIS Errata," and Exhibit 13, "ECO/Tule/ESJ Gen-Tie Final EIR/EIS Second Errata," are admitted into the evidentiary record.

3. Iberdrola Renewables, LLC is granted party status.

This order is effective today.

Dated April 19, 2012, at San Francisco, California.

MICHAEL R. PEEVEY
President
TIMOTHY ALAN SIMON
MICHEL PETER FLORIO
CATHERINE J.K.
SANDOVAL

MARK J. FERRON
Commissioners