

1 INTRODUCTION

1.1 PROJECT TITLE

San Onofre Nuclear Generating Station (SONGS) Offshore Large Organism Exclusion Device (LOED) Installation Project

1.2 REGULATORY GUIDANCE

Southern California Edison Company (SCE) proposes to install a LOED around each Primary Offshore Intake Structure (POIS) at SONGS Units 2 and 3, on sovereign lands offshore San Diego County. The California State Lands Commission (CSLC) has jurisdiction over these sovereign lands, or lands held in public trust by the State of California, which include the tide and submerged lands adjacent to the entire coast and offshore islands of the State from the mean high tide line to 3 nautical miles offshore. In 1985, SCE's installation of the POIS required a lease granted by the CSLC (PRC No. 6785.1). The lease area includes right-of-way corridors on the ocean floor and occupies approximately 647,620 square feet (ft²) for Unit 2 and 486,900 ft² for Unit 3.

In order to take action on SCE's application to amend its existing lease to implement the proposed Project, the CSLC, must address the potential environmental effects associated with the Project. Therefore, in accordance with the California Environmental Quality Act (CEQA), the CSLC has prepared this Initial Study/Mitigated Negative Declaration (IS/MND), which includes a discussion of the Project's potential effects on the existing environment, and the identification of avoidance, minimization, and mitigation measures. The purpose of this document is to present to decision-makers and the public the potential environmental consequences of implementing the Project.

1.3 CEQA LEAD AGENCY

Under CEQA, the lead agency is the public agency with principal responsibility for carrying out or approving a project which may have a significant effect on the environment. Because implementation of the Project requires an amendment of SCE's existing CSLC lease, the CSLC is the lead agency for the Project.

<u>Lead Agency Name and Address:</u> California State Lands Commission 100 Howe Avenue, Suite 100 South Sacramento, CA 95825	<u>Contact person:</u> Cynthia Herzog, Environmental Scientist Division of Environmental Planning and Management California State Lands Commission Cynthia.Herzog@slc.ca.gov
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1 **1.4 PROJECT APPLICANT NAME AND ADDRESS**

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3 Southern California Edison
4 Ms. Karen Bjurman, Government Lands Coordinator
5 2131 Walnut Grove
6 Rosemead, CA 91770
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8 **1.5 SUMMARY OF FINDINGS**

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10 The Project would avoid most temporary and permanent environmental impacts;
11 however, some impacts resulting from the proposed construction could result. These
12 impacts could be reduced to less than significant levels with the incorporation of
13 mitigation measures. The following brief discussion lists the anticipated level of impact
14 for each issue area.
15

16 Based on the issues evaluated in Section 3, it has been determined that the Project
17 would have no impact, less than significant impact, or less than significant impacts after
18 the incorporation of mitigation measures to the following resource areas:
19

No Impact	Less than Significant Impact	Less than Significant Impact with Mitigation
Aesthetics	Air Quality	Biological Resources
Agriculture and Forestry Resources	Greenhouse Gas Emissions	Geology and Soils
Cultural and Paleontological Resources	Noise	Hazards and Hazardous Materials
Land Use and Planning	Public Services	Hydrology and Water Quality
Mineral Resources	Transportation/Traffic	Recreation
Population and Housing		
Utilities and Service Systems		

20
21 **1.6 PUBLIC REVIEW AND COMMENT**

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23 Consistent with the direction provided in the State CEQA Guidelines sections 15072
24 and 15073, this IS/MND is being circulated to local and State agencies and to interested
25 individuals who may wish to review and comment. Written comments may be submitted
26 to the CSLC during the 30-day public review period. Prior to taking action on adoption of
27 the MND and approval of the Project, the CSLC will consider the proposed IS/MND
28 along with all comments received. Written comments should be sent to:
29

1 Cynthia Herzog, Environmental Scientist
 2 California State Lands Commission
 3 Division of Environmental Planning and Management
 4 100 Howe Avenue, Suite 100 South
 5 Sacramento, CA 95825-8202
 6 CEQAcomments@slc.ca.gov
 7 FAX: (916) 574-1885
 8

9 1.7 PERMITS, APPROVALS, AND REGULATORY REQUIREMENTS

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 11 In May 2012, SCE submitted an application to the CSLC for an amendment to its
 12 easement lease agreement. It is anticipated that review of the easement lease
 13 amendment will be completed in October 2012. In addition to the CSLC's jurisdiction,
 14 the Project is subject to the review and approval of a number of other federal and State
 15 entities with statutory and/or regulatory jurisdiction over various aspects of the Project.
 16 Prior to implementing the Project, the permits and/or approvals in Table 1-1 may be
 17 required, and are further discussed below.
 18

19 **Table 1-1**
 20 **Federal and State Permitting Agencies**

Permitting Agency	Anticipated Approvals, Authorizations, And Regulatory Requirements
Federal Agencies	
U.S. Army Corps of Engineers (USACE)	Section 10 of the Rivers and Harbors Act Authorization/Section 404 Clean Water Act (under Nationwide Permit No. 7)
U.S. Coast Guard (USCG)	Local Notice to Mariners (LNM)
U.S. Fish and Wildlife Service (USFWS)	Section 7 Consultation (if necessary)
National Oceanic and Atmospheric Administration Fisheries Service (NOAA Fisheries) (also known as the National Marine Fisheries Service [NMFS])	Biological Opinion, Essential Fish Habitat Assessment (with USACE), Marine Mammal Protection Act, Nautical Chart updates
State Agencies	
California State Lands Commission (CSLC)	Lease Amendment PRC 6785, CEQA Compliance
California Coastal Commission (CCC)	Coastal Development Permit
California Department of Fish and Game (CDFG) and California Fish and Game Commission (CFG)	California Endangered Species Act Consultation Authorization for Use of Marine Protected Area (if necessary)
San Diego Regional Water Quality Control Board (RWQCB)	Clean Water Act Section 401 Water Quality Certification

1 **Regulatory Review, Authorizations and Requirements**

2

3 Federal

4

5 **Federal Endangered Species Act of 1972 (ESA)** – The ESA (7 United States Code
6 [USC] 136, 16 USC 1531 et seq.) is administered in southern California by NMFS and
7 USFWS. Species are listed as threatened, endangered, proposed for either category, or
8 federal species of concern. The federal ESA prohibits the take of any listed species.
9 Take includes "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or
10 collect, or to attempt to engage in any such conduct." Harass is further defined as "an
11 intentional or negligent act or omission that creates the likelihood of injury to a listed
12 species by annoying it to such an extent as to significantly disrupt normal behavior
13 patterns that include, but are not limited to, breeding, feeding, or sheltering."
14

15 **Federal Migratory Bird Treaty Act of 1918** – The federal Migratory Bird Treaty Act of
16 1918 (16 USC 703-712) bars the take, possession, purchase, sale, or barter of any
17 migratory bird listed in 50 Code of Federal Regulations (CFR) Section 10 (50 CFR 10).
18

19 **Magnuson-Stevens Fishery Conservation and Management Act and Sustainable**
20 **Fisheries Act of 1996** – The Magnuson-Stevens Fishery Conservation and
21 Management Act (16 USC 1801 et seq.) was intended to result in processes to
22 conserve and manage fishery resources. Projects likely to affect federally managed
23 fishery species are required to assess the Project's likely impact on Essential Fish
24 Habitat.
25

26 **Marine Protection, Research, and Sanctuaries Act of 1972 (MPRSA)** – The MPRSA
27 (33 USC 1401-1445, 16 USC 1431-1447f, 33 USC 2801-2805) regulates the transport
28 for disposal and subsequent dumping of material in the territorial seas and seaward
29 including specific criteria and conditions for permissible dumping, including dredged
30 material.
31

32 **Marine Mammal Protection Act (MMPA)** – The MMPA (16 USC 1361 et seq.) serves to
33 protect and conserve marine mammals and their habitats in the U.S. territorial waters.
34 Implemented by NMFS, MMPA prohibits the take of marine mammals without prior
35 approval. "Take" under the Act is consistent with that defined for the federal ESA.
36

37 **Rivers and Harbors Act** – Section 10 of the Rivers and Harbors Act (33 USC 401)
38 regulates construction and fill discharge into navigable waters of the U.S. Under the
39 implementation of USACE, this regulation provides the authority to control and permit
40 structural construction or vessel operation in the waters of the U.S. Nationwide Permits,
41 used to authorize specific activities that have been previously assessed under the

1 National Environmental Policy Act (NEPA), expedite the permitting process for more
2 “routine” construction activities.

3
4 **Federal Clean Water Act (CWA)** – The CWA (33 USC 1251 et seq.) is comprehensive
5 legislation that generally includes reference to the federal Water Pollution Control Act of
6 1972, the CWA of 1977, and subsequent amendments. As the U.S. primary law
7 protecting water quality, the CWA sets water quality standards for surface water and
8 discharge effluents into waters of the U.S. Implemented by the U.S. Environmental
9 Protection Agency (EPA), often issued through the State Water Resources Control
10 Board (SWRCB), RWQCBs, and USACE. Permits are issued under CWA Section 404
11 (dredge and fill) and Section 401 (water quality certification).

12
13 **Federal Clean Air Act Waiver** – The EPA is the federal agency responsible for
14 implementing the federal Clean Air Act (CAA) (42 USC 7401 et seq.). The U.S.
15 Supreme Court ruled on April 2, 2007 that carbon dioxide (CO₂) is an air pollutant as
16 defined under the CAA, and that EPA has the authority to regulate emissions of
17 greenhouse gases (GHGs). However, there are no federal regulations or policies
18 regarding GHG emissions applicable to the Project or alternatives under consideration.

19 20 State

21
22 **California State Lands Commission** – CSLC authority is set forth in Division 6 of the
23 California Public Resources Code and it is regulated by the California Code of
24 Regulations, Title 2, sections 1900–2970. It is within the Commission's authority to
25 lease sovereign lands held in the public trust, including subtidal lands located between
26 the mean high tide line out to 3 nautical miles offshore.

27
28 **Porter-Cologne Water Quality Control Act of 1969** – The Porter-Cologne Water
29 Quality Control Act of 1969 (Cal. Water Code, § 13000 et seq.) mandates that State
30 waters be protected and regulated to attain the highest quality. The SWRCB is charged
31 with implementing the Act and providing regulations that mandate a “non-degradation
32 policy” for State waters. SWRCB is subdivided into nine RWQCBs that have been
33 delegated authority to issue permits or waive water quality conditions under Section 401
34 of the CWA.

35
36 On May 4, 2010, SWRCB adopted the Policy on the Use of Coastal and Estuarine
37 Waters for Power Plant Cooling (Once-Through Cooling [OTC] Policy) (effective on
38 October 1, 2010). The OTC Policy establishes requirements for the implementation of
39 CWA section 316(b), and applies to existing coastal and estuarine power plants,
40 including SONGS. The OTC Policy includes “Immediate and Interim Requirements” that
41 must be implemented prior to the final compliance deadline. These requirements
42 include a provision (Section 2.C(1)) requiring owners/operators of existing power plants

1 with offshore intakes to install LOEDs by October 1, 2011. Section 2.C(1) specifies that
2 the distance between exclusion bars may not exceed 9 inches.

3
4 Another water quality program applicable to the Project is the SWRCB Division of Water
5 Quality Water Quality Certification Program. Pursuant to federal law (33 USC 1341;
6 CWA § 401), applicants for a federal license or permit for activities that may result in
7 any discharge to waters of the United States must seek a Water Quality Certification
8 (Certification) from the State in which the discharge originates. Such Certification is
9 based on a finding that the discharge will meet water quality standards and other
10 appropriate requirements of State law. In California, RWQCBs issue or deny
11 certification for discharges within their jurisdiction. The SWRCB has this responsibility
12 where projects or activities affect waters in more than one regional water board's
13 jurisdiction. In 2008, California issued the National Pollutant Discharge Elimination
14 System (NPDES) Vessel General Permit (VGP), which included, among other things,
15 the requirement for vessels to control ballast water, washdown water, and hull
16 fouling/maintenance related discharges. The 2013 draft VGP being proposed would
17 replace the 2008 VGP, which expires on December 19, 2013.

18
19 **California Coastal Act of 1976** – The California Coastal Act (Pub. Resources Code, §
20 30000 et seq.), administered by the CCC, was established to protect the ecological
21 balance of the coastal zone and prevent its deterioration and destruction. The Coastal
22 Act requires project review and approval, and issuance of a coastal development permit
23 or waiver prior to initiating any development projects in the California coastal zone.
24 Under the California Coastal Act, the CCC has permitting authority for development
25 within a land-side and water area mapped by the State legislature. The Coastal Act
26 requires anyone who proposes any development in the coastal zone to secure a coastal
27 development permit from either the CCC or local jurisdiction with a certified Local
28 Coastal Plan. The Project area is not in an area covered by a Local Coastal Plan. The
29 CCC issued a coastal development permit to SCE for SONGS Units 2 and 3 in February
30 1974, has continually monitored the SONGS cooling system facilities' effects on the
31 marine environment, and has established and amended conditions in SCE's permit to
32 implement wetland mitigation and artificial reef projects.

33
34 **California Endangered Species Act (CESA)** – The CESA (Fish & Game Code, § 2050
35 et seq.) designates a number of laws and programs designed to protect fish and wildlife
36 resources and is administered by CDFG.

37
38 **Marine Life Protection Act of 1999** – The Marine Life Protection Act of 1999 (Fish &
39 Game Code, § 2850 et seq.) directs CDFG and the Fish and Game Commission to
40 redesign California's Marine Protected Area system to function as a network.

1 **California Clean Air Act of 1988, amended in 1992 (CCAA)** – The CCAA requires all
2 air districts in the State to endeavor to achieve and maintain State ambient air quality
3 standards for ozone, carbon monoxide, sulfur dioxide, nitrogen dioxide, and particulate
4 matter by the earliest practicable date. California's ambient air standards are generally
5 stricter than national standards for the same pollutants. California also has established
6 its own standards for sulfates, hydrogen sulfide, vinyl chloride, and visibility-reducing
7 particles.

8
9 Based on pollutant levels, the 1992 amendments to the CCAA divide ozone
10 nonattainment areas into four categories (moderate, serious, severe, and extreme) to
11 which progressively more stringent requirements apply. An extreme ozone
12 nonattainment area is one in which ozone concentrations were greater than 0.20 parts
13 per million (ppm) during 1989-91. The 1988 CCAA, upon which the 1991 regional air
14 quality management plan was based, specified that attainment plans for areas which
15 could not demonstrate attainment of State standards until after December 31, 1997,
16 must include specified emission reduction strategies and meet milestones in
17 implementing emission controls and achieving more healthful air quality. Air quality
18 agencies associated with the Project include the following.

- 19 1. California Air Resources Board – The California Air Resources Board (CARB)
20 has established standards for criteria air pollutants, known as the California
21 Ambient Air Quality Standards (CAAQS) that are generally more restrictive than
22 the National Ambient Air Quality Standards (NAAQS). CARB has also
23 established standards for pollutants in addition to the criteria air pollutants.
- 24 2. In the San Diego Air Basin (SDAB), the San Diego Air Pollution Control District
25 (SDAPCD) is the agency responsible for protecting the public health and welfare
26 through the administration of federal and State air quality laws and policies.
27 Included in the SDAPCD's tasks are the monitoring of air pollution, the
28 preparation of the County's portion of the State Implementation Plan (SIP), and
29 the promulgation of rules and regulations. The SIP includes strategies and tactics
30 to be used to attain and maintain acceptable air quality in the County; this list of
31 strategies is called the San Diego Regional Air Quality Strategy (RAQS). The
32 rules and regulations include procedures and requirements to control the
33 emission of pollutants and prevent significant adverse impacts.

34 Greenhouse Gas Regulations

35
36
37 **Executive Order S-3-05** – This Executive Order proclaims that California is vulnerable
38 to the impacts of climate change. It declares that increased temperatures could reduce
39 the Sierra Nevada snowpack, further exacerbate California's air quality problems, and
40 potentially cause a rise in sea level. To combat those concerns, the Executive Order
41 established total GHG emission targets. Specifically, emissions are to be reduced to the

1 2000 level by 2010, the 1990 level by 2020, and to 80 percent below the 1990 level by
2 2050.

3

4 Assembly Bill (AB) 32, the California Global Warming Solutions Act of 2006 – In
5 September 2006, AB 32 was signed into law. AB 32:

6 • establishes regulatory, reporting, and market mechanisms to achieve
7 quantifiable reductions in GHG emissions and a cap on Statewide GHG
8 emissions;

9 • requires that Statewide GHG emissions be reduced to 1990 levels by 2020;

10 • requires that CARB: adopt a quantified cap on GHG emissions representing
11 1990 emissions levels and disclose how it arrives at the cap; institute a schedule
12 to meet the emissions cap; and develop tracking, reporting, and enforcement
13 mechanisms to ensure that the State achieves the reductions in GHG emissions
14 necessary to meet the cap; and

15 • includes guidance to institute emissions reductions in an economically efficient
16 manner and conditions to ensure that businesses and consumers are not
17 unfairly affected by the reductions.

18

19 On December 11, 2008, CARB adopted its AB 32 Climate Change Scoping Plan
20 (Scoping Plan), which functions as a roadmap of CARB's plans to achieve GHG
21 reductions in California required by AB 32 through subsequently enacted regulations
22 (CARB 2009). The Scoping Plan contains the main strategies California will implement
23 to reduce carbon dioxide equivalent (CO₂e) emissions by 169 million metric tons (MMT),
24 or approximately 30 percent, from the State's projected 2020 emissions level of 596
25 MMT of CO₂e under a business-as-usual scenario. The Scoping Plan also breaks down
26 the amount of GHG emissions reductions CARB recommends for each emissions
27 sector of the State's GHG inventory. The Scoping Plan does not include any direct
28 discussion about GHG emissions generated by construction activity.

29

30 Senate Bill 97 – Senate Bill 97 acknowledges that climate change is a prominent
31 environmental issue that requires analysis under CEQA. This bill directs the California
32 Office of Planning and Research (OPR) to prepare, develop, and transmit to the
33 California Natural Resources Agency guidelines for the feasible mitigation of GHG
34 emissions or the effects of GHG emissions, as required by CEQA by July 1, 2009. The
35 Natural Resources Agency adopted those guidelines on December 30, 2009, and the
36 guidelines became effective March 18, 2010.

37

38 **Resource Conservation and Recovery Act (RCRA)** -- The California Environmental
39 Protection Agency, Department of Toxic Substances Control is the lead state agency for

1 corrective action associated with RCRA hazardous waste at the San Onofre Nuclear
2 Generating Station.

4 **1.8 DOCUMENT ORGANIZATION**

6 The document is organized as follows:

- 7 • Section 1 provides an introduction to the environmental review process. It
8 describes the purpose and organization of this document and presents a
9 summary of findings.
- 10 • Section 2 describes the proposed Project, including the background and need,
11 the schedule for construction and future maintenance, and provides a summary
12 of the design features.
- 13 • Section 3 presents an analysis on a range of environmental issues identified in
14 the CEQA Initial Study Checklist. From this analysis, the following identifications
15 are made:
 - 16 ○ The existing setting for each issue;
 - 17 ○ The corresponding range of impacts that would result; and
 - 18 ○ A discussion of various Project changes and/or mitigation measures that,
19 if incorporated into the Project, would mitigate or avoid such impacts, such
20 that no significant effect on the environment would occur.

21 The range of impacts includes no impact, less than significant impact, less than
22 significant impact with mitigation, or a potentially significant impact.

- 23 • Section 4 presents the CSLC Environmental Justice Policy.
- 24 • Section 5 presents the Mitigation Monitoring Program.
- 25 • Chapter 6 provides information on report preparation of this IS/MND.
- 26 • Chapter 7 lists the references used in preparation of this IS/MND.
- 27 • Appendices - The appendices include plans, data, and other information
28 submitted by the Applicant and analyzed in this IS/MND.
 - 29 ○ Appendix A: Air Emissions Calculations;
 - 30 ○ Appendix B: SONGS LOED Marine Biology Resources Technical
31 Appendix; and
 - 32 ○ Appendix C: Marine Mammal Monitoring and Protection Plan.